

REQUEST FOR ACTION
Implied Consent MCL 257.625f

MICHIGAN DEPARTMENT OF STATE, DRIVER ASSESSMENT AND APPEAL DIVISION
CIRCUIT COURT UNIT, PO BOX 30196, LANSING, MI 48909-7696
<http://www.michigan.gov/sos> - Click on "Driver License & State ID"

TO: Assistant Prosecuting Attorney/Assistant Attorney General

Petitioner's Name:

License Number:

On behalf of the Secretary of State, **please ensure the enclosed certified master driving record is entered in the record** and please take action in accordance with the action checked below:

(Please also ensure that the final order includes all actions considered by the circuit court.)

- I. Driver is appealing a **FIRST** implied consent suspension. This appeal is based on:
- EQUITIES MERITS NO PETITION

Please note new limitations on restrictions the court may order for appeal on a first implied consent suspension within seven years [MCLA 257.323c(1); MSA 9.2023c(1)]. The court may not order the length of suspension to be shortened nor grant full relief unless on the merits. [MCLA 257.323(4); MSA 9.2023]. **For a MERIT appeal, Petitioner MUST request a transcript.**

- If a conviction for OUIL/UBAC or OWI overlaps the implied consent suspension, the circuit court has no jurisdiction to review the secretary of state's license action. [MCLA 57.323(4), MSA 9.2023]. Therefore, the circuit court may not grant any relief on the implied consent suspension appeal greater than the secretary of state's order for the OUIL/UBAC or OWI conviction.

- II. Driver is appealing a **SECOND** implied consent suspension. This appeal may only be on the merits for full relief Kester v SOS, 152 Mich App 329; (1986) and [MCLA 257.323(4), MSA 9.2023c]. A transcript must be requested from the Driver Assessment and Appeal Division by the defense. If the petitioner prevails, the entire suspension will be set aside.

No restrictions are allowed for a second implied consent suspension within seven years (MCLA 257.323c(2); MSA 9.2023c).

For a MERIT appeal, Petitioner MUST request a transcript.

- No transcript requested** **Transcript enclosed** **Transcript to follow.**

- (1) If the court finds the department made a procedural error, such as a notice problem or a 14-day statutory appeal deadline problem, the remedy should be a remand rather than a dismissal or grant relief.
- (2) For purposes of further appeal, please enter the enclosed certified master driving record in the record of this action.
- (3) **OTHER:**

257.66 Suspension [MSA 9.1866] "Suspension "means that the driver's license and privileges to drive a motor vehicle on the public highways are temporarily withdrawn but only during the period of the suspension..."

257.52 Revocation [MSA 9.1852] "Revocation" means that the operator's or chauffeur's license and privilege to operate a motor vehicle on the public highways are terminated and shall not be renewed or restored, except that an application for a new license may be presented and acted upon by the secretary of state as provided in '303.

If you have any questions please call DAAD (517) 373-1682.