

HOUSE BILL No. 4288

February 23, 1989, Introduced by Reps. Bennane, Weeks, Leland, DeMars, Willis Bullard, Stallworth, Sofio, Allen, Kosteva and Pitoniak and referred to the Committee on Transportation.

A bill to amend sections 204, 249, 254, and 303 of Act No. 300 of the Public Acts of 1949, entitled as amended "Michigan vehicle code," section 249 as amended by Act No. 255 of the Public Acts of 1988 and section 303 as amended by Act No. 346 of the Public Acts of 1988, being sections 257.204, 257.249, 257.254, and 257.303 of the Michigan Compiled Laws; and to add section 254a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 204, 249, 254, and 303 of Act No. 300
2 of the Public Acts of 1949, section 249 as amended by Act No. 255
3 of the Public Acts of 1988 and section 303 as amended by Act
4 No. 346 of the Public Acts of 1988, being sections 257.204,
5 257.249, 257.254, and 257.303 of the Michigan Compiled Laws, are
6 amended and section 254a is added to read as follows:

1 Sec. 204. (1) Except as OTHERWISE provided in this act, the
2 secretary of state shall observe, enforce, and administer this
3 act. The secretary of state shall not establish a highway
4 patrol.

5 (2) The secretary of state may promulgate rules pursuant to
6 THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act No. 306 of the
7 Public Acts of 1969, as amended, being sections 24.201 to
8 ~~24.315~~ 24.328 of the Michigan Compiled Laws, necessary to
9 administer this act.

10 (3) The secretary of state may adopt an official seal.

11 (4) THE PROSECUTING ATTORNEY MAY ENFORCE ANY VIOLATION OF
12 THIS ACT THAT IS A MISDEMEANOR OR A FELONY.

13 Sec. 249. (1) The secretary of state may deny the applica-
14 tion of a person for a license as a dealer and refuse to issue
15 the person a license as a dealer, or may suspend or revoke a
16 license already issued, if the secretary of state finds that ~~the~~
17 ~~applicant or licensee has done~~ 1 or more of the following
18 APPLY:

19 (a) ~~Has~~ THE APPLICANT OR LICENSEE HAS made a false state-
20 ment of a material fact in his or her application.

21 (b) ~~Has~~ THE APPLICANT OR LICENSEE HAS not complied with
22 the provisions of this chapter.

23 (c) ~~Has~~ THE APPLICANT OR LICENSEE HAS sold or offered for
24 sale a new vehicle of a type required to be registered under this
25 act without having authority of a contract with a manufacturer or
26 distributor of the new vehicle.

1 (d) ~~Has~~ THE APPLICANT OR LICENSEE HAS been guilty of a
2 fraudulent act in connection with selling or otherwise dealing in
3 vehicles of a type required to be registered under this act.

4 (e) ~~Has~~ THE APPLICANT OR LICENSEE HAS entered into or is
5 about to enter into a contract or agreement with a manufacturer
6 or distributor of vehicles of a type required to be registered
7 under this act ~~, which~~ THAT is contrary to any provision of
8 this act.

9 (f) ~~Has~~ THE APPLICANT OR LICENSEE HAS no established place
10 of business ~~which~~ THAT is used or will be used for the purpose
11 of selling, displaying, and offering for sale or dealing in vehi-
12 cles of a type required to be registered, and does not have
13 proper servicing facilities.

14 (g) If the applicant is a corporation or partnership, a
15 stockholder, officer, director, or partner of the applicant has
16 been guilty of any act or omission ~~which~~ THAT would be cause
17 for refusing, revoking, or suspending a license issued to the
18 officer, director, or partner as an individual.

19 (h) ~~Has~~ THE APPLICANT OR LICENSEE HAS possessed a vehicle
20 or a vehicle part ~~which~~ THAT has been confiscated under section
21 415 of the Michigan penal code, Act No. 328 of the Public Acts
22 of 1931, as amended, being section 750.415 of the Michigan
23 Compiled Laws, OR HAS POSSESSED A VEHICLE, A MAJOR COMPONENT
24 PART, OR OTHER PROPERTY THAT HAS BEEN FORFEITED PURSUANT TO
25 SECTION 535A OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING
26 SECTION 750.535A OF THE MICHIGAN COMPILED LAWS. The secretary of
27 state shall conduct a hearing pursuant to the administrative

1 procedures act of 1969, Act No. 306 of the Public Acts of 1969,
2 as amended, being sections 24.201 to 24.328 of the Michigan
3 Compiled Laws, before the secretary of state takes any action
4 under this subdivision.

5 (i) ~~Has~~ THE APPLICANT OR LICENSEE HAS been convicted under
6 SECTION 254 OF THIS ACT OR section ~~415~~ 415(1) of the Michigan
7 penal code, Act No. 328 of the Public Acts of 1931, as amended.

8 (j) Until January 1, 1993, THE APPLICANT OR LICENSEE has
9 been convicted of violating Act No. 119 of the Public Acts of
10 1986, being sections 257.1351 to 257.1355 of the Michigan
11 Compiled Laws.

12 (2) THE SECRETARY OF STATE SHALL REVOKE THE LICENSE OF A
13 PERSON AS A DEALER, UPON RECEIPT OF THE APPROPRIATE ABSTRACTS OF
14 CONVICTION, AND SHALL DENY THE APPLICATION OF A PERSON FOR A
15 LICENSE AS A DEALER, UNTIL THE EXPIRATION OF NOT LESS THAN 5
16 YEARS AFTER THE DATE OF THE PERSON'S LAST CONVICTION IF 1 OR MORE
17 OF THE FOLLOWING APPLY:

18 (A) THE APPLICANT OR LICENSEE HAS BEEN CONVICTED UNDER SEC-
19 TION 415(2) OR 535A OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931,
20 BEING SECTIONS 750.415 AND 750.535A OF THE MICHIGAN COMPILED
21 LAWS.

22 (B) THE APPLICANT OR LICENSEE HAS BEEN CONVICTED UNDER SEC-
23 TION 413 OR 535C OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931 AND
24 HAS 1 OR MORE PRIOR CONVICTIONS FOR VIOLATIONS OR ATTEMPTED VIO-
25 LATIONS OF SECTION 413, 414, 415, 535, 535A, OR 535C OF ACT
26 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.413,

1 750.414, 750.415, 750.535, 750.535A, AND 750.535C OF THE MICHIGAN
2 COMPILED LAWS.

3 (3) THE SECRETARY OF STATE SHALL DENY THE APPLICATION OF A
4 PERSON FOR A LICENSE AS A DEALER IF 1 OR MORE OF THE FOLLOWING
5 APPLY:

6 (A) THE PERSON HAS 3 OR MORE CONVICTIONS UNDER SECTION 413
7 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931.

8 (B) THE PERSON HAS 3 OR MORE CONVICTIONS UNDER SECTION 535A
9 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931.

10 (C) THE PERSON HAS 3 OR MORE CONVICTIONS UNDER SECTION 535C
11 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931.

12 Sec. 254. (1) ~~Any person who shall knowingly make any~~
13 ~~false statement of a material fact, either in his application for~~
14 ~~the certificate of title herein provided for, or in any assign-~~
15 ~~ment thereof, or who, with intent to procure or pass title to a~~
16 ~~motor vehicle which he knows or has reason to believe has been~~
17 ~~stolen, shall receive or transfer possession of the same from or~~
18 ~~to another, or who shall have in his possession any motor vehicle~~
19 ~~which he knows or has reason to believe has been stolen, and who~~
20 ~~is not an officer of the law engaged at the time in the per-~~
21 ~~formance of his duty as such officer, shall be deemed guilty of a~~
22 ~~felony and upon conviction shall be punished by a fine of not~~
23 ~~more than \$5,000.00 or by imprisonment in any penal institution~~
24 ~~within the state for not more than 10 years, or both, in the dis-~~
25 ~~cretion of the court. This provision shall not be exclusive of~~
26 ~~any other penalties prescribed by any law for the larceny of the~~
27 ~~unauthorized taking of a motor vehicle.~~ A PERSON WHO DOES EITHER

1 OF THE FOLLOWING IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT
2 FOR NOT MORE THAN 10 YEARS OR A FINE OF NOT MORE THAN \$20,000.00,
3 OR BOTH:

4 (A) KNOWINGLY MAKES A FALSE STATEMENT OF A MATERIAL FACT,
5 EITHER IN HIS OR HER APPLICATION FOR THE CERTIFICATE OF TITLE
6 PROVIDED FOR IN THIS ACT OR IN AN ASSIGNMENT OF THE CERTIFICATE
7 OF TITLE.

8 (B) WITH INTENT TO PROCURE OR PASS TITLE TO A MOTOR VEHICLE
9 THAT HE OR SHE KNOWS OR HAS REASON TO BELIEVE HAS BEEN STOLEN OR
10 HAS 1 OR MORE MAJOR COMPONENT PARTS THAT HAVE BEEN STOLEN,
11 RECEIVES OR TRANSFERS POSSESSION OF THE VEHICLE FROM OR TO
12 ANOTHER.

13 (2) THIS SECTION DOES NOT PROHIBIT THE PROSECUTION OF A
14 PERSON UNDER ANY OTHER LAW FOR THE LARCENY OR THE UNAUTHORIZED
15 TAKING OF A MOTOR VEHICLE OR MAJOR COMPONENT PART.

16 SEC. 254A. (1) A PERSON WHO DOES EITHER OF THE FOLLOWING IS
17 GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN
18 10 YEARS OR A FINE OF NOT MORE THAN \$20,000.00, OR BOTH:

19 (A) KNOWINGLY SELLS, GIVES TO A PERSON, OR EXCHANGES A MOTOR
20 VEHICLE CERTIFICATE OF TITLE WITHOUT ALSO SELLING, GIVING TO THE
21 PERSON, OR EXCHANGING THE MOTOR VEHICLE FOR WHICH THE TITLE WAS
22 ISSUED.

23 (B) SELLS, GIVES TO A PERSON, OR EXCHANGES A MOTOR VEHICLE
24 CERTIFICATE OF TITLE OR IDENTIFYING MARKER KNOWING THAT THE CER-
25 TIFICATE OF TITLE OR IDENTIFYING MARKER WILL BE USED TO DISGUISE
26 THE IDENTITY OF A STOLEN MOTOR VEHICLE OR A MOTOR VEHICLE THAT
27 HAS 1 OR MORE MAJOR COMPONENT PARTS THAT ARE STOLEN.

1 (2) A PERSON WHO, WITH THE INTENT TO MISLEAD ANOTHER PERSON
2 AS TO THE IDENTITY OF A MOTOR VEHICLE, BUYS, RECEIVES, OR POS-
3 SESSES A MOTOR VEHICLE CERTIFICATE OF TITLE OR IDENTIFYING MARKER
4 THAT BELONGS TO ANOTHER VEHICLE, IS GUILTY OF A FELONY PUNISHABLE
5 BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR BY A FINE OF NOT
6 MORE THAN \$20,000.00, OR BOTH.

7 (3) A PERSON WHO KNOWINGLY MAKES OR PRESENTS A FALSE,
8 FORGED; OR ALTERED DOCUMENT TO OBTAIN A MOTOR VEHICLE CERTIFICATE
9 OF TITLE FROM THE SECRETARY OF STATE IS GUILTY OF A FELONY PUN-
10 ISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR BY A FINE OF
11 NOT MORE THAN \$10,000.00, OR BOTH.

12 (4) THIS SECTION DOES NOT PROHIBIT THE PROSECUTION OF A
13 PERSON UNDER ANY OTHER LAW FOR THE LARCENY OR THE UNAUTHORIZED
14 TAKING OF A MOTOR VEHICLE OR MAJOR COMPONENT PART.

15 (5) AS USED IN THIS SECTION:

16 (A) "IDENTIFYING MARKER" MEANS A VEHICLE IDENTIFICATION
17 NUMBER, FEDERAL SAFETY STICKER, ENGINE NUMBER, TRANSMISSION
18 NUMBER, BODY TAG, OR COMPONENT PART NUMBER, OR AN IDENTITY PLATE
19 OR STICKER THAT IS STAMPED OR OTHERWISE MARKED WITH THE VEHICLE
20 IDENTIFICATION NUMBER OR VEHICLE IDENTIFICATION NUMBER
21 DERIVATIVE.

22 (B) "VEHICLE IDENTIFICATION NUMBER" MEANS AN IDENTIFICATION
23 NUMBER ASSIGNED TO A VEHICLE BY THE MANUFACTURER OR A SPECIAL
24 IDENTIFYING NUMBER ASSIGNED TO A VEHICLE BY THE SECRETARY OF
25 STATE UNDER SECTION 230.

26 (C) "VEHICLE IDENTIFICATION NUMBER DERIVATIVE" MEANS A PART
27 OF THE VEHICLE IDENTIFICATION NUMBER THAT IS UNIQUE IN ITSELF BUT

1 IS ALPHABETICALLY AND NUMERICALLY IDENTIFIABLE TO THE VEHICLE
2 IDENTIFICATION NUMBER.

3 Sec. 303. (1) The secretary of state shall not issue a
4 license under this act TO ANY OF THE FOLLOWING:

5 (a) ~~To a~~ A person, as an operator, who is ~~+17 years of age~~
6 ~~or~~ less THAN 18 YEARS OF AGE, except that the secretary of state
7 may issue a license to a person who is not less than 16 years of
8 age and who has satisfactorily passed a driver education course
9 and examination given by a public school or nonpublic school of
10 this or another state offering a course approved by the depart-
11 ment of education, or an equivalent COURSE AND examination as
12 prescribed in section 811. The secretary of state may issue to a
13 person not less than 14 years of age a restricted license as pro-
14 vided in this act. This subdivision shall not apply to a person
15 who has been the holder of a valid driver's license issued by
16 another state, territory, or possession of the United States or
17 another sovereignty for at least 1 year immediately before appli-
18 cation for a driver's license under this act.

19 (b) ~~To a~~ A person, as a chauffeur, who is ~~+17 years of age~~
20 ~~or~~ less THAN 18 YEARS OF AGE, except that the secretary of state
21 may issue a license to a person who is not less than 16 years of
22 age and who has satisfactorily passed a driver education course
23 and examination given by a public school or nonpublic school of
24 this or another state offering a course approved by the depart-
25 ment of education, or an equivalent COURSE AND examination as
26 prescribed in section 811.

1 (c) ~~To a~~ A person whose license has been suspended during
2 the period for which the license was suspended.

3 (d) ~~To a~~ A person whose license has been revoked under
4 this act until the later of the following:

5 (i) The expiration of not less than 1 year after the license
6 was revoked.

7 (ii) The expiration of not less than 5 years after the date
8 of a subsequent revocation occurring within 7 years after the
9 date of any prior revocation.

10 (iii) IF THE LICENSE WAS REVOKED UNDER SUBSECTION (2)(E) TO
11 (G), THE EXPIRATION OF NOT LESS THAN 2 YEARS AFTER THE DATE OF
12 THE PERSON'S LAST CONVICTION.

13 (e) ~~To a~~ A person who is an habitual violator of the crim-
14 inal laws relating to operating a vehicle while impaired by or
15 under the influence of intoxicating liquor or a controlled sub-
16 stance or a combination of intoxicating liquor and a controlled
17 substance, or with a blood alcohol content of 0.10% or more by
18 weight of alcohol. Convictions of any of the following, whether
19 under a law of this state, a local ordinance substantially corre-
20 sponding to a law of this state, or a law of another state sub-
21 stantially corresponding to a law of this state, shall be prima
22 facie evidence that the person is an habitual violator as
23 described in this subdivision:

24 (i) Two convictions under section 625(1) or (2), or 1 con-
25 viction under section 625(1) and 1 conviction under section
26 625(2) within 7 years.

1 (ii) Three convictions under section 625b within 10 years.

2 (f) ~~To a~~ A person who in the opinion of the secretary of
3 state is afflicted with or suffering from a physical or mental
4 disability or disease ~~which~~ THAT prevents that person from
5 exercising reasonable and ordinary control over a motor vehicle
6 while operating the motor vehicle upon the highways.

7 (g) ~~To a~~ A person who is unable to understand highway
8 warning or direction signs in the English language.

9 (h) ~~To a~~ A person who is an habitually reckless driver.
10 Four convictions of reckless driving under this act or any other
11 law of this state relating to reckless driving or under a local
12 ordinance of this state or a law of another state which defines
13 the term "reckless driving" substantially similar to the law of
14 this state shall be prima facie evidence that the person is an
15 habitually reckless driver.

16 (i) ~~To a~~ A person who is an habitual criminal. Two con-
17 victions of a felony involving the use of a motor vehicle in this
18 or another state shall be prima facie evidence that the person is
19 an habitual criminal.

20 (j) ~~To a~~ A person who is unable to pass a knowledge,
21 skill, or ability test administered by the secretary of state in
22 connection with the issuance of an original operator's or
23 chauffeur's license, original motorcycle indorsement, or an orig-
24 inal or renewal of a vehicle group designation or vehicle
25 indorsement.

26 (k) ~~To a~~ A person who has been convicted, received a
27 probate court finding, or been determined responsible for 2 or

1 more moving violations under a law of this state, a local
2 ordinance substantially corresponding to a law of this state, or
3 a law of another state substantially corresponding to a law of
4 this state, within the preceding 3 years, if the violations
5 occurred prior to the issuance of an original license to the
6 person in this or another state.

7 (1) ~~To a~~ A nonresident.

8 (2) Upon receipt of the appropriate records of conviction,
9 the secretary of state shall revoke the operator's or chauffeur's
10 license of a person having any of the following convictions,
11 whether under a law of this state, a local ordinance substan-
12 tially corresponding to a law of this state, or a law of another
13 state substantially corresponding to a law of this state:

14 (a) Four convictions of reckless driving within 7 years.

15 (b) Two convictions of a felony involving the use of a motor
16 vehicle within 7 years.

17 (c) Two convictions under section 625(1) or (2), or 1 con-
18 viction under section 625(1) and 1 conviction under section
19 625(2) within 7 years.

20 (d) Three convictions under section 625b within 10 years.

21 (E) ONE OR MORE CONVICTIONS UNDER SECTION 535A OF THE
22 MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF 1931,
23 BEING SECTION 750.535A OF THE MICHIGAN COMPILED LAWS.

24 (F) TWO OR MORE CONVICTIONS UNDER SECTION 413 OF ACT NO. 328
25 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.413 OF THE MICHIGAN
26 COMPILED LAWS.

1 (G) TWO OR MORE CONVICTIONS UNDER SECTION 535C OF ACT
 2 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.535C OF THE
 3 MICHIGAN COMPILED LAWS.

4 (3) The secretary of state shall revoke a license under sub-
 5 section (2) notwithstanding a court order issued under section
 6 625 or 625b, or a local ordinance substantially corresponding to
 7 section 625(1) or (2) or 625b.

8 Section 2. This amendatory act shall not take effect unless
 9 Senate Bill No. _____ or House Bill No. 4290 (request
 10 no. 00535'89) of the 85th Legislature is enacted into law.