

HOUSE BILL No. 4365

March 7, 1989, Introduced by Reps. Clack, DeMars and Leland and referred to the Committee on Transportation.

A bill to amend sections 319 and 732 of Act No. 300 of the Public Acts of 1949, entitled as amended

"Michigan vehicle code,"

section 319 as amended by Act No. 406 of the Public Acts of 1988 and section 732 as amended by Act No. 346 of the Public Acts of 1988, being sections 257.319 and 257.732 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 319 and 732 of Act No. 300 of the
2 Public Acts of 1949, section 319 as amended by Act No. 406 of the
3 Public Acts of 1988 and section 732 as amended by Act No. 346 of
4 the Public Acts of 1988, being sections 257.319 and 257.732 of
5 the Michigan Compiled Laws, are amended to read as follows:

6 Sec. 319. (1) The secretary of state shall immediately
7 suspend for a period of not less than 90 days, nor more than 2

1 years, the license of a person upon receiving a record of the
2 conviction of the person or the entry of a probate court order of
3 disposition for a child found to be within the provisions of
4 chapter XIIIA of Act No. 288 of the Public Acts of 1939, being
5 sections 712A.1 to 712A.28 of the Michigan Compiled Laws, for any
6 of the following crimes or attempts to commit any of the follow-
7 ing crimes, whether the conviction or probate court disposition
8 is under a law of this state, a local ordinance substantially
9 corresponding to a law of this state, or a law of another state
10 substantially corresponding to a law of this state:

11 (a) Fraudulently altering or forging documents pertaining to
12 motor vehicles, in violation of section 257.

13 (b) Perjury or the making of a false certification to the
14 secretary of state under any law requiring the registration of a
15 motor vehicle or regulating the operation of a motor vehicle on a
16 highway.

17 (c) A violation of section 324, 413, or 414 of the Michigan
18 penal code, Act No. 328 of the Public Acts of 1931, being sec-
19 tions 750.324, 750.413, and 750.414 of the Michigan Compiled
20 Laws; or a violation of section 1 of Act No. 214 of the Public
21 Acts of 1931, being section 752.191 of the Michigan Compiled
22 Laws.

23 (d) Conviction upon 3 charges of reckless driving within the
24 preceding 12 months.

25 (e) Failing to stop and disclose identity at the scene of an
26 accident resulting in death or injury to another person, in
27 violation of section 617.

1 (f) A felony in which a motor vehicle was used. As used in
2 this section, "felony in which a motor vehicle was used" means a
3 felony during the commission of which the person convicted oper-
4 ated a motor vehicle and while operating the vehicle presented
5 real or potential harm to persons or property and 1 or more of
6 the following circumstances existed:

7 (i) The vehicle was used as an instrument of the felony.

8 (ii) The vehicle was used to transport a victim of the
9 felony.

10 (iii) The vehicle was used to flee the scene of the felony.

11 (iv) The vehicle was necessary for the commission of the
12 felony.

13 (2) The secretary of state shall suspend, for the period
14 described in subsection (1), the license of a person upon receiv-
15 ing the record of conviction of the person for a violation of a
16 law of another state substantially corresponding to section
17 625(1) or (2).

18 (3) The secretary of state shall suspend the license of a
19 person convicted of malicious destruction resulting from the
20 operation of a motor vehicle under section 382 of the Michigan
21 penal code, Act No. 328 of the Public Acts of 1931, as amended,
22 being section 750.382 of the Michigan Compiled Laws, for a period
23 of not more than 1 year as ordered by the court as part of the
24 sentence.

25 (4) The secretary of state shall immediately suspend the
26 license of a person for the period specified in the certificate
27 of conviction upon receipt of the person's license and

1 certificate of conviction forwarded to the secretary of state
2 pursuant to section 367c of the Michigan penal code, Act No. 328
3 of the Public Acts of 1931, being section 750.367c of the
4 Michigan Compiled Laws.

5 (5) The secretary of state shall suspend, for a period of
6 not less than 6 months nor more than 18 months, the license of a
7 person having the following convictions within a 7-year period,
8 whether under the law of this state, a local ordinance substan-
9 tially corresponding to a law of this state, or a law of another
10 state substantially corresponding to a law of this state:

11 (a) Two convictions under section 625b.

12 (b) One conviction under section 625(1) or (2) followed by 1
13 conviction under section 625b.

14 (6) Upon receipt of a certificate of conviction pursuant to
15 section 33b(3) of the Michigan liquor control act, Act No. 8 of
16 the Public Acts of the Extra Session of 1933, being section
17 436.33b of the Michigan Compiled Laws, or a local ordinance or
18 law of another state substantially corresponding to section
19 33b(3) of Act No. 8 of the Public Acts of the Extra Session of
20 1933, the secretary of state shall suspend the person's
21 operator's or chauffeur's license for a period of 90 days. A
22 suspension under this subsection shall be in addition to any
23 other suspension of the person's license.

24 (7) Upon receipt of the record of the conviction of a
25 person, or the entry of a probate court order of disposition for
26 a child found to be within the provisions of chapter XIIA of Act
27 No. 288 of the Public Acts of 1939, for a violation of section

1 602a of this act or section 479a(1), (4), or (5) of Act No. 328
2 of the Public Acts of 1931, being section 750.479a of the
3 Michigan Compiled Laws, the secretary of state immediately shall
4 suspend the license of the person for the period ordered by the
5 court as part of the sentence or disposition.

6 (8) THE SECRETARY OF STATE SHALL SUSPEND, FOR A PERIOD OF 1
7 YEAR, THE LICENSE OF A PERSON CONVICTED OF VIOLATING SECTION 7401
8 OR 7403 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS
9 OF 1978, BEING SECTIONS 333.7401 AND 333.7403 OF THE MICHIGAN
10 COMPILED LAWS, IF THE PERSON POSSESSED 5 OR MORE GRAMS OF A CON-
11 TROLLED SUBSTANCE OTHER THAN MARIHUANA, OR 30 OR MORE GRAMS OF
12 MARIHUANA, WHILE OPERATING A MOTOR VEHICLE UPON A PUBLIC HIGHWAY
13 OR OTHER PLACE OPEN TO THE GENERAL PUBLIC, AT THE TIME OF THE
14 VIOLATION.

15 (9) ~~-(8)-~~ For purposes of this section, the secretary of
16 state shall treat a conviction or probate court disposition for a
17 child found to be within the provisions of chapter XIIA of Act
18 No. 288 of the Public Acts of 1939 for an attempted offense as if
19 the offense had been completed.

20 Sec. 732. (1) Each municipal judge and each clerk of a
21 court of record shall keep a full record of every case in which a
22 person is charged with or cited for a violation of this act or of
23 a law corresponding to this act regulating the operation of vehi-
24 cles on highways.

25 (2) Within 14 days after the conviction or forfeiture of
26 bail of a person, or entry of a civil infraction determination,
27 default judgment, or probate court order of disposition for a

1 child found to be within the provisions of chapter XIIA of Act
2 No. 288 of the Public Acts of 1939, being sections 712A.1 to
3 712A.28 of the Michigan Compiled Laws, upon a charge of, or
4 citation for, violating this act or a local ordinance correspond-
5 ing to this act regulating the operation of vehicles on highways,
6 except as provided in subsection ~~(+2)~~ (13), the municipal judge
7 or clerk of the court of record shall prepare and immediately
8 forward to the secretary of state an abstract of the record of
9 the court for the case. The abstract shall be certified by sig-
10 nature, stamp, or facsimile signature by the person required to
11 prepare the abstract to be true and correct. If a city or vil-
12 lage department, bureau, or person is authorized to accept a pay-
13 ment of money as a settlement for a violation of a local ordi-
14 nance corresponding to this act, the city or village department,
15 bureau, or person shall send a full report of each case in which
16 a person pays any amount of money to the city or village depart-
17 ment, bureau, or person to the secretary of state upon a form
18 prescribed by the secretary of state.

19 (3) The abstract or report required under this section shall
20 be made upon a form furnished by the secretary of state and shall
21 include the name, address, and date of birth of the person
22 charged or cited; the number of the person's operator's or
23 chauffeur's license, if any; the date and nature of the viola-
24 tion; the type of vehicle driven at the time of the violation and
25 if the vehicle is a commercial motor vehicle, that vehicle's
26 group designation and indorsement classification; the date of the
27 conviction, finding, forfeiture, judgment, or determination;

1 whether bail was forfeited; any license revocation, restriction,
2 suspension, or denial ordered by the court pursuant to this act;
3 and other information considered necessary to the secretary of
4 state.

5 (4) The clerk of the court also shall forward an abstract of
6 the record of the court to the secretary of state upon the con-
7 viction of a person or entry of a probate court order of disposi-
8 tion for a child found to be within the provisions of chapter
9 XIIIA of Act No. 288 of the Public Acts of 1939, being sections
10 712A.1 to 712A.28 of the Michigan Compiled Laws, involving a vio-
11 lation of section 324, 413, 414, or 479a of the Michigan penal
12 code, Act No. 328 of the Public Acts of 1931, being sections
13 750.324, 750.413, 750.414, and 750.479a of the Michigan Compiled
14 Laws; a violation of section 1 of Act No. 214 of the Public Acts
15 of 1931, being section 752.191 of the Michigan Compiled Laws; or
16 an attempt to commit any of these offenses.

17 (5) As used in subsections (6) to (8), "felony in which a
18 motor vehicle was used" means a felony during the commission of
19 which the person operated a motor vehicle and while operating the
20 vehicle presented real or potential harm to persons or property
21 and 1 or more of the following circumstances existed:

22 (a) The vehicle was used as an instrument of the felony.

23 (b) The vehicle was used to transport a victim of the
24 felony.

25 (c) The vehicle was used to flee the scene of the felony.

26 (d) The vehicle was necessary for the commission of the
27 felony.

1 (6) If a person is charged with a felony in which a motor
2 vehicle was used, other than a felony specified in subsection (4)
3 ~~or~~ or section 319(1)(a) to (f), the prosecuting attorney shall
4 include the following statement on the complaint and information
5 filed in district or circuit court:

6 "You are charged with the commission of a felony in which a
7 motor vehicle was used. If you are convicted and the judge finds
8 that the conviction is for a felony in which a motor vehicle was
9 used, as defined in section 319 of the Michigan vehicle code, Act
10 No. 300 of the Public Acts of 1949, being section 257.319 of the
11 Michigan Compiled Laws, your driver's license shall be suspended
12 by the secretary of state."

13 (7) If a child is accused of an act the nature of which con-
14 stitutes a felony in which a motor vehicle was used, other than a
15 felony specified in subsection (4) or section 319(1)(a) to (f),
16 the prosecuting attorney or juvenile court shall include on the
17 petition filed in the probate court:

18 "You are accused of an act the nature of which constitutes a
19 felony in which a motor vehicle was used. If the accusation is
20 found to be true and the judge or referee finds that the nature
21 of the act constitutes a felony in which a motor vehicle was
22 used, as defined in section 319 of the Michigan vehicle code, Act
23 No. 300 of the Public Acts of 1949, being section 257.319 of the
24 Michigan Compiled Laws, your driver's license shall be suspended
25 by the secretary of state."

26 (8) If the judge or juvenile court referee determines as
27 part of the sentence or disposition that the felony for which the

1 defendant was convicted or adjudicated and with respect to which
2 notice was given pursuant to subsection (6) or (7) is a felony in
3 which a motor vehicle was used, the clerk of the court shall for-
4 ward an abstract of the court record of that conviction or adju-
5 dication to the secretary of state.

6 (9) As used in subsections (10) and (11), "Felony in which a
7 commercial motor vehicle was used" means a felony during the com-
8 mission of which the person operated a commercial motor vehicle
9 and while operating the vehicle 1 or more of the following cir-
10 cumstances existed:

11 (a) The vehicle was used as an instrument of the felony.

12 (b) The vehicle was used to transport a victim of the
13 felony.

14 (c) The vehicle was used to flee the scene of the felony.

15 (d) The vehicle was necessary for the commission of the
16 felony.

17 (10) If a person is charged with a felony in which a commer-
18 cial motor vehicle was used and for which a vehicle group desig-
19 nation on a license is subject to suspension under section
20 319b(1)(c)(iii), (d), or (e)(iii) or (v), the prosecuting attor-
21 ney shall include the following statement on the complaint and
22 information filed in district or circuit court:

23 "You are charged with the commission of a felony in which a
24 commercial motor vehicle was used. If you are convicted and the
25 judge finds that the conviction is for a felony in which a com-
26 mercial motor vehicle was used, as defined in section 319b of the
27 Michigan vehicle code, Act No. 300 of the Public Acts of 1949,

1 being section 257.319b of the Michigan Compiled Laws, all vehicle
2 group designations on your driver's license shall be suspended by
3 the secretary of state."

4 (11) If the judge determines as part of the sentence that
5 the felony for which the defendant was convicted and with respect
6 to which notice was given pursuant to subsection (10) is a felony
7 in which a commercial motor vehicle was used, the clerk of the
8 court shall forward an abstract of the court record of that con-
9 viction to the secretary of state.

10 (12) IF A PERSON IS CHARGED WITH VIOLATING SECTION 7401 OR
11 7403 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF
12 1978, BEING SECTIONS 333.7401 AND 333.7403 OF THE MICHIGAN
13 COMPILED LAWS, AND THE PERSON ALLEGEDLY POSSESSED 5 OR MORE GRAMS
14 OF A CONTROLLED SUBSTANCE OTHER THAN MARIHUANA, OR 30 OR MORE
15 GRAMS OF MARIHUANA, AND ALLEGEDLY WAS OPERATING A MOTOR VEHICLE
16 UPON A PUBLIC HIGHWAY OR OTHER PLACE OPEN TO THE GENERAL PUBLIC
17 AT THE TIME OF THE VIOLATION, THE PROSECUTING ATTORNEY SHALL
18 INCLUDE THE FOLLOWING STATEMENT ON THE COMPLAINT OR INFORMATION
19 FILED IN DISTRICT OR CIRCUIT COURT:

20 "YOU ARE CHARGED WITH VIOLATING SECTION 7401 OR 7403 OF THE
21 PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING
22 SECTIONS 333.7401 AND 333.7403 OF THE MICHIGAN COMPILED LAWS. IF
23 YOU ARE CONVICTED OF VIOLATING SECTION 7401 OR 7403 OF ACT
24 NO. 368 OF THE PUBLIC ACTS OF 1978, AND THE TRIER OF FACT DETER-
25 MINES THAT YOU POSSESSED 5 OR MORE GRAMS OF A CONTROLLED SUB-
26 STANCE OTHER THAN MARIHUANA, OR 30 OR MORE GRAMS OF MARIHUANA,
27 AND WERE OPERATING A MOTOR VEHICLE UPON A PUBLIC HIGHWAY OR OTHER

1 PLACE OPEN TO THE GENERAL PUBLIC AT THE TIME OF THE VIOLATION,
2 YOUR LICENSE TO OPERATE A MOTOR VEHICLE SHALL BE SUSPENDED FOR A
3 PERIOD OF 1 YEAR."

4 (13) ~~(12)~~ Every person required to forward abstracts to
5 the secretary of state under this section shall certify for the
6 period from January 1 through June 30 and for the period from
7 July 1 through December 31 that all abstracts required to be for-
8 warded during the period have been forwarded. The certification
9 shall be filed with the secretary of state not later than 28 days
10 after the end of the period covered by the certification. The
11 certification shall be made upon a form furnished by the secre-
12 tary of state and shall include all of the following:

13 (a) The name and title of the person required to forward
14 abstracts.

15 (b) The court for which the certification is filed.

16 (c) The time period covered by the certification.

17 (d) The following statement:

18 "I certify that all abstracts required by section 732 of the
19 Michigan vehicle code, MCL 257.732; MSA 9.2432, for the period
20 _____ through _____ have been forwarded to the secre-
21 tary of state."

22 (e) Other information the secretary of state considers
23 necessary.

24 (f) The signature of the person required to forward
25 abstracts.

1 (14) ~~(13)~~ The failure, refusal, or neglect of a person to
2 comply with this section shall constitute misconduct in office
3 and shall be grounds for removal from office.

4 (15) ~~(14)~~ Except as provided in subsection ~~(12)~~ (16),
5 the secretary of state shall keep all abstracts received under
6 this section at the secretary of state's main office and the
7 abstracts shall be open for public inspection during the office's
8 usual business hours. Each abstract shall be entered upon the
9 master driving record of the person to whom it pertains.

10 (16) ~~(15)~~ The court shall not submit, and the secretary of
11 state shall discard and not enter on the master driving record,
12 an abstract for a conviction, civil infraction determination, or
13 probate court order of disposition for any of the following
14 offenses:

15 (a) The parking or standing of a vehicle.

16 (b) A nonmoving violation which is not the basis for the
17 secretary of state's suspension, revocation, or denial of an
18 operator's or chauffeur's license.

19 (c) A violation of chapter II which is not the basis for the
20 secretary of state's suspension, revocation, or denial of an
21 operator's or chauffeur's license.

22 (d) A pedestrian, passenger, or bicycle violation.

23 (e) A violation of section 710e.

24 (17) ~~(16)~~ The secretary of state shall discard and not
25 enter on the master driving record an abstract for a bond forfei-
26 ture which occurred outside this state. However, the secretary
27 of state shall retain and enter on the master driving record an

1 abstract of an out-of-state bond forfeiture for an offense which
2 occurred after October 1, 1989 in connection with the operation
3 of a commercial motor vehicle.

4 (18) ~~(+17)~~ The secretary of state shall inform the courts
5 of this state of the nonmoving violations and violations of chap-
6 ter II which are used by the secretary of state as the basis for
7 the suspension, restriction, revocation, or denial of an
8 operator's or chauffeur's license.

9 (19) ~~(+18)~~ If a conviction, civil infraction determination,
10 or probate court order of disposition is reversed upon appeal,
11 the person whose conviction, determination, or order of disposi-
12 tion has been reversed may serve on the secretary of state a cer-
13 tified copy of the order of reversal, and the secretary of state
14 shall enter the order in the proper book or index in connection
15 with the record of the conviction, civil infraction determina-
16 tion, or probate court order of disposition.

17 (20) ~~(+19)~~ The secretary of state may permit a city or vil-
18 lage department, bureau, person, or court to modify the require-
19 ment as to the time and manner of reporting a conviction, civil
20 infraction determination, settlement, or probate court order of
21 disposition to the secretary of state when the modification will
22 increase the economy and efficiency of collecting and utilizing
23 the records. If the permitted abstract of court record reporting
24 a conviction, civil infraction determination, settlement, or pro-
25 bate court order of disposition originates as a part of the writ-
26 ten notice to appear, authorized in section 728(1) or 742(1), the

1 form of the written notice and report shall be as prescribed by
2 the secretary of state.