

SUBSTITUTE FOR
HOUSE BILL NO. 4576

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 8a, 44a, 625b, and 732 (MCL 257.8a, 257.44a,
257.625b, and 257.732), section 8a as amended by 1994 PA 449,
section 44a as added by 1993 PA 359, section 625b as amended by
1994 PA 450, and section 732 as amended by 1996 PA 493, and by
adding section 23b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8a. "Conviction" means a final conviction, the payment
2 of a fine, a plea of guilty or nolo contendere if accepted by the
3 court, or a finding of guilt for a criminal law violation or a
4 juvenile adjudication, ~~or~~ probate court disposition, OR JUVENILE
5 DISPOSITION for a violation that if committed by an adult
6 would be a crime, regardless of whether the penalty is rebated or
7 suspended.

HB4576, As Passed House, July 1, 1998

House Bill No. 4576

2

1 SEC. 23B. "JUVENILE DISPOSITION" MEANS THE ENTRY OF AN
2 ORDER OF DISPOSITION FOR A JUVENILE FOUND TO BE WITHIN THE
3 COURT'S JURISDICTION UNDER CHAPTER XIIIA OF 1939 PA 288,
4 MCL 712A.1 TO 712A.32.

5 Sec. 44a. "Probate court disposition" means the entry of ~~a~~
6 ~~probate court~~ AN order of disposition for a ~~child~~ JUVENILE
7 found to be within the ~~provisions of~~ COURT'S JURISDICTION UNDER
8 chapter XIIIA of ~~Act No. 288 of the Public Acts of 1939, being~~
9 ~~sections 712A.1 to 712A.28 of the Michigan Compiled Laws 1939~~
10 PA 288, MCL 712A.1 TO 712A.32.

11 Sec. 625b. (1) A person arrested for a misdemeanor viola-
12 tion of section 625(1), (3), or (6) or section 625m or a local
13 ordinance substantially corresponding to section 625(1), (3), or
14 (6) or section 625m shall be arraigned on the citation, com-
15 plaint, or warrant not more than 14 days after the arrest for the
16 violation or, if an arrest warrant is issued or reissued, not
17 more than 14 days after the issued or reissued arrest warrant is
18 served, whichever is later. The court shall not dismiss a case
19 or impose any other sanction for a failure to comply with this
20 time limit. The time limit does not apply to a violation of
21 section 625(1) OR (3) OR SECTION 625M punishable ~~under section~~
22 ~~625(7)(d)~~ AS A FELONY or a violation of section 625(1), (3), or
23 (6) or section 625m joined with a felony charge.

24 (2) The court shall schedule a pretrial conference between
25 the prosecuting attorney, the defendant, and the defendant's
26 attorney in each case in which the defendant is charged with a
27 misdemeanor violation of section 625(1), (3), or (6) or

1 section 625m or a local ordinance substantially corresponding to
2 section 625(1), (3), or (6) or section 625m. The pretrial con-
3 ference shall be held not more than 35 days after the person's
4 arrest for the violation or, if an arrest warrant is issued or
5 reissued, not more than 35 days after the issued or reissued
6 arrest warrant is served, whichever is later. If the court has
7 only 1 judge who sits in more than 1 location in that district,
8 the pretrial conference shall be held not more than 42 days after
9 the person's arrest for the violation or, if an arrest warrant is
10 issued or reissued, not more than 42 days after the date the
11 issued or reissued arrest warrant is served, whichever is later.
12 The court shall not dismiss a case or impose any other sanction
13 for a failure to comply with the applicable time limit. The 35-
14 and 42-day time limits do not apply to a violation of
15 section 625(1) OR (3) OR SECTION 625M punishable ~~under~~
16 ~~section 625(7)(d)~~ AS A FELONY or a violation of section 625(1),
17 (3), or (6) or section 625m joined with a felony charge. The
18 court shall order the defendant to attend the pretrial conference
19 and may accept a plea by the defendant at the conclusion of the
20 pretrial conference. The court may adjourn the pretrial confer-
21 ence upon the motion of a party for good cause shown. Not more
22 than 1 adjournment shall be granted to a party, and the length of
23 an adjournment shall not exceed 14 days.

24 (3) Except for delay attributable to the unavailability of
25 the defendant, a witness, or material evidence or due to an
26 interlocutory appeal or exceptional circumstances, but not a
27 delay caused by docket congestion, the court shall finally

1 adjudicate, by a plea of guilty or nolo contendere, entry of a
2 verdict, or other final disposition, a case in which the
3 defendant is charged with a misdemeanor violation of
4 section 625(1), (3), or (6) or section 625m or a local ordinance
5 substantially corresponding to section 625(1), (3), or (6) or
6 section 625m, within 77 days after the person is arrested for the
7 violation or, if an arrest warrant is issued or reissued, not
8 more than 77 days after the date the issued or reissued arrest
9 warrant is served, whichever is later. The court shall not dis-
10 miss a case or impose any other sanction for a failure to comply
11 with this time limit. The 77-day time limit does not apply to a
12 violation of section 625(1) OR (3) OR SECTION 625M punishable
13 ~~under section 625(7)(d)~~ AS A FELONY or a violation of section
14 625(1), (3), or (6) or section 625m joined with a felony charge.

15 (4) Before accepting a plea of guilty or nolo contendere
16 under section 625 or a local ordinance substantially correspond-
17 ing to section 625(1), (2), (3), or (6), the court shall advise
18 the accused of the maximum possible term of imprisonment and the
19 maximum possible fine that may be imposed for the violation ~~—~~
20 and shall advise the defendant that the maximum possible license
21 sanctions that may be imposed will be based upon the master driv-
22 ing record maintained by the secretary of state ~~pursuant to~~
23 UNDER section 204a.

24 (5) Before imposing sentence ~~—, other than court-ordered~~
25 ~~license sanctions,~~ for a violation of section 625(1), (3), (4),
26 (5), or (6) or a local ordinance substantially corresponding to
27 section 625(1), (3), or (6), the court shall order the person to

1 undergo screening and assessment by a person or agency designated
2 by the office of substance abuse services to determine whether
3 the person is likely to benefit from rehabilitative services,
4 including alcohol or drug education and alcohol or drug treatment
5 programs. ~~As part of the sentence~~ EXCEPT AS OTHERWISE PROVIDED
6 IN THIS SUBSECTION, the court may order the person to participate
7 in and successfully complete 1 or more appropriate rehabilitative
8 programs AS PART OF THE SENTENCE. IF THE PERSON HAS 1 OR MORE
9 PRIOR CONVICTIONS, THE COURT SHALL ORDER THE PERSON TO PARTICI-
10 PATE IN AND SUCCESSFULLY COMPLETE 1 OR MORE APPROPRIATE REHABILI-
11 TATIVE PROGRAMS AS PART OF THE SENTENCE. The person shall pay for
12 the costs of the screening, ~~reassessment~~ ASSESSMENT, and reha-
13 bilitative services.

14 ~~-(6) Immediately upon acceptance by the court of a plea of~~
15 ~~guilty or nolo contendere or upon entry of a verdict of guilty~~
16 ~~for a violation of section 625(1), (3), (4), (5), or (6) or a~~
17 ~~local ordinance substantially corresponding to section 625(1),~~
18 ~~(3), or (6), whether or not the person is eligible to be sen-~~
19 ~~tenced as a multiple offender, the court shall consider all prior~~
20 ~~convictions currently entered upon the person's Michigan driving~~
21 ~~record, except convictions the court determines upon the~~
22 ~~defendant's motion to be constitutionally invalid, and shall~~
23 ~~impose the following licensing sanctions:~~

24 ~~(a) For a conviction under section 625(4) or (5), the court~~
25 ~~shall order the secretary of state to revoke the person's~~
26 ~~operator's or chauffeur's license and shall not order the~~
27 ~~secretary of state to issue a restricted license to the person.~~

~~(b) For a conviction under section 625(1) or a local ordinance substantially corresponding to section 625(1):~~

~~(i) If the court finds that the person has no prior convictions within 7 years for a violation of section 625(1), (3), (4), or (5), former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), former section 625(1) or (2) or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5), former section 625(1) or (2), or former section 625b, the court shall order the secretary of state to suspend the person's operator's or chauffeur's license for not less than 6 months or more than 2 years. If the court finds compelling circumstances under subsection (10) sufficient to warrant the issuance of a restricted license to a person, the court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the suspension, except that a restricted license shall not be issued during the first 30 days of the suspension.~~

~~(ii) If the court finds that the person has 1 prior conviction within 7 years for a violation of section 625(3) or former section 625b, a local ordinance substantially corresponding to section 625(3) or former section 625b, or a law of another state substantially corresponding to section 625(3) or former section 625b, the court shall order the secretary of state to suspend the person's operator's or chauffeur's license for not less than 6 months or more than 2 years. If the court finds compelling circumstances under subsection (10) sufficient to~~

1 ~~warrant the issuance of a restricted license to a person, the~~
2 ~~court may order the secretary of state to issue to the person a~~
3 ~~restricted license during all or any portion of the suspension,~~
4 ~~except that a restricted license shall not be issued during the~~
5 ~~first 60 days of the suspension.~~

6 ~~(iii) If the court finds that the person has 1 or more prior~~
7 ~~convictions within 7 years for a violation of section 625(1),~~
8 ~~(4), or (5) or former section 625(1) or (2), a local ordinance~~
9 ~~substantially corresponding to section 625(1) or former section~~
10 ~~625(1) or (2), or a law of another state substantially corre=~~
11 ~~sponding to section 625(1), (4), or (5) or former section 625(1)~~
12 ~~or (2), or that the person has 2 or more prior convictions within~~
13 ~~10 years for a violation of section 625(1), (3), (4), or (5),~~
14 ~~former section 625(1) or (2), or former section 625b, a local~~
15 ~~ordinance substantially corresponding to section 625(1) or (3),~~
16 ~~former section 625(1) or (2), or former section 625b, or a law of~~
17 ~~another state substantially corresponding to section 625(1), (3),~~
18 ~~(4), or (5), former section 625(1) or (2), or former section~~
19 ~~625b, the court shall order the secretary of state to revoke the~~
20 ~~person's operator's or chauffeur's license and shall not order~~
21 ~~the secretary of state to issue a restricted license to the~~
22 ~~person.~~

23 ~~(c) For a conviction under section 625(3) or a local ordi=~~
24 ~~nance substantially corresponding to section 625(3):~~

25 ~~(i) If the court finds that the convicted person has no~~
26 ~~prior conviction within 7 years for a violation of section~~
27 ~~625(1), (3), (4), or (5), former section 625(1) or (2), or former~~

~~1 section 625b, a local ordinance substantially corresponding to
2 section 625(1) or (3), former section 625(1) or (2), or former
3 section 625b, or a law of another state substantially correspond-
4 ing to section 625(1), (3), (4), or (5), former section 625(1) or
5 (2), or former section 625b, the court shall order the secretary
6 of state to suspend the person's operator's or chauffeur's
7 license for not less than 90 days or more than 1 year. However,
8 if the person is convicted of a violation of section 625(3) or a
9 local ordinance substantially corresponding to section 625(3) for
10 operating a vehicle when, due to the consumption of a controlled
11 substance or a combination of intoxicating liquor and a con-
12 trolled substance, the person's ability to operate the vehicle
13 was visibly impaired, the court shall order the secretary of
14 state to suspend the operator's or chauffeur's license of the
15 person for not less than 6 months or more than 1 year. If the
16 court finds compelling circumstances under subsection (10) suffi-
17 cient to warrant the issuance of a restricted license to a
18 person, the court may order the secretary of state to issue to
19 the person a restricted license during all or a specified portion
20 of the suspension.~~

~~21 (ii) If the court finds that the person has 1 prior convic-
22 tion within 7 years for a violation of section 625(1), (3), (4),
23 or (5), former section 625(1) or (2), or former section 625b, a
24 local ordinance substantially corresponding to section 625(1) or
25 (3), former section 625(1) or (2), or former section 625b, or a
26 law of another state substantially corresponding to section
27 625(1), (3), (4), or (5), former section 625(1) or (2), or former~~

~~1 section 625b, the court shall order the secretary of state to
2 suspend the person's operator's or chauffeur's license for not
3 less than 6 months or more than 2 years. If the court finds com-
4 pelling circumstances under subsection (10) sufficient to warrant
5 the issuance of a restricted license to a person, the court may
6 order the secretary of state to issue to the person a restricted
7 license during all or any portion of the suspension, except that
8 a restricted license shall not be issued during the first 60 days
9 of the suspension.~~

~~10 (iii) If the court finds that the person has 2 or more prior
11 convictions within 10 years for a violation of section 625(1),
12 (3), (4), or (5), former section 625(1) or (2), or former section
13 625b, a local ordinance substantially corresponding to section
14 625(1) or (3), former section 625(1) or (2), or former section
15 625b, or a law of another state substantially corresponding to
16 section 625(1), (3), (4), or (5), former section 625(1) or (2),
17 or former section 625b, the court shall order the secretary of
18 state to revoke the person's operator's or chauffeur's license
19 and shall not order the secretary of state to issue a restricted
20 license to the person.~~

~~21 (d) For a conviction under section 625(6) or a local ordi-
22 nance substantially corresponding to section 625(6):~~

~~23 (i) If the court finds that the convicted person has no
24 prior conviction within 7 years for a violation of section
25 625(1), (3), (4), (5), or (6), former section 625(1) or (2), or
26 former section 625b, a local ordinance substantially
27 corresponding to section 625(1), (3), or (6), former section~~

1 ~~625(1) or (2), or former section 625b, or a law of another state~~
2 ~~substantially corresponding to section 625(1), (3), (4), (5), or~~
3 ~~(6), former section 625(1) or (2), or former section 625b, the~~
4 ~~court shall order the secretary of state to suspend the~~
5 ~~operator's or chauffeur's license of the person for not less than~~
6 ~~30 days or more than 90 days. The court may order the secretary~~
7 ~~of state to issue to the person a restricted license during all~~
8 ~~or a specified portion of the suspension.~~

9 ~~(ii) If the court finds that the person has 1 or more prior~~
10 ~~convictions within 7 years for a violation of section 625(1),~~
11 ~~(3), (4), (5), or (6), former section 625(1) or (2), or former~~
12 ~~section 625b, a local ordinance substantially corresponding to~~
13 ~~section 625(1), (3), or (6), former section 625(1) or (2), or~~
14 ~~former section 625b, or a law of another state substantially cor-~~
15 ~~responding to section 625(1), (3), (4), (5), or (6), former sec-~~
16 ~~tion 625(1) or (2), or former section 625b, the court shall order~~
17 ~~the secretary of state to suspend the operator's or chauffeur's~~
18 ~~license of the person for not less than 90 days or more than~~
19 ~~1 year. The court may order the secretary of state to issue to~~
20 ~~the person a restricted license during all or any portion of the~~
21 ~~suspension, except that a restricted license shall not be issued~~
22 ~~during the first 90 days of the suspension.~~

23 ~~(7) A restricted license issued pursuant to an order under~~
24 ~~subsection (6) shall permit the person to whom it is issued to~~
25 ~~drive under 1 or more of the following circumstances:~~

26 ~~(a) To and from the person's residence and work location.~~

1 ~~(b) In the course of the person's employment or occupation.~~

2 ~~(c) To and from the person's residence and an alcohol or~~
3 ~~drug education or treatment program as ordered by the court.~~

4 ~~(d) To and from the person's residence and the court proba-~~
5 ~~tion department or a court-ordered community service program, or~~
6 ~~both.~~

7 ~~(e) To and from the person's residence and an educational~~
8 ~~institution at which the person is enrolled as a student.~~

9 ~~(f) To and from the person's residence or work location and~~
10 ~~a place of regularly occurring medical treatment for a serious~~
11 ~~condition for the person or a member of the person's household or~~
12 ~~immediate family.~~

13 (6) ~~-(8)-~~ The court may order that ~~the~~ A restricted
14 license issued ~~pursuant to subsection (6)~~ UNDER THIS ACT
15 include the requirement that the person shall not operate a motor
16 vehicle unless the vehicle is equipped with a functioning igni-
17 tion interlock device OR ANOTHER DEVICE APPROVED BY THE COURT
18 THAT RENDERS A MOTOR VEHICLE INOPERABLE BASED UPON A DIRECT OR
19 INDIRECT DETERMINATION OF THE PERSON'S BODILY ALCOHOL CONTENT,
20 INCLUDING BUT NOT LIMITED TO A DETERMINATION OF THE PERSON'S
21 ABILITY TO OPERATE THE MOTOR VEHICLE AS A RESULT OF THE PERSON'S
22 BODILY ALCOHOL CONTENT. ~~The~~ AN IGNITION INTERLOCK device shall
23 be set to render the motor vehicle inoperable if the device
24 detects an alcohol content of 0.02 grams or more per 210 liters
25 of breath of the person who offers a breath sample. The court
26 may order installation of an ignition interlock device OR OTHER
27 DEVICE on any motor vehicle ~~that~~ the person owns or operates,

1 the costs of which the person whose license is restricted shall
2 bear.

3 ~~(9) The court shall not order the secretary of state under~~
4 ~~subsection (6) to issue a restricted license that would permit a~~
5 ~~person to operate a commercial motor vehicle that hauls hazardous~~
6 ~~materials.~~

7 ~~(10) The court shall not order the secretary of state to~~
8 ~~issue a restricted license unless the person states under oath,~~
9 ~~and the court finds pursuant to testimony taken in open court or~~
10 ~~pursuant to statements contained in a sworn affidavit on a form~~
11 ~~prescribed by the state court administrator, that both of the~~
12 ~~following are true:~~

13 ~~(a) The person needs vehicular transportation to and from~~
14 ~~his or her work location, place of alcohol or drug education~~
15 ~~treatment, court probation department, court-ordered community~~
16 ~~service program, or educational institution, or a place of regu-~~
17 ~~larly occurring medical treatment for a serious condition, or in~~
18 ~~the course of the person's employment or occupation.~~

19 ~~(b) The person is unable to take public transportation and~~
20 ~~does not have any family members or other individuals able to~~
21 ~~provide transportation to a destination or for a purpose~~
22 ~~described in subdivision (a).~~

23 ~~(11) The court order issued under subsection (6) and the~~
24 ~~restricted license shall indicate the permitted destinations of~~
25 ~~the person or the permitted purposes for which the person may~~
26 ~~operate a vehicle, the approved route or routes if specified by~~
27 ~~the court, and permitted times of travel.~~

1 (7) ~~-(12) Immediately upon acceptance by the court of a plea~~
2 ~~of guilty or nolo contendere or upon entry of a verdict of guilty~~
3 ~~for a violation of section 625(1), (3), (4), (5), or (6) or a~~
4 ~~local ordinance substantially corresponding to section 625(1),~~
5 ~~(3), or (6), the person shall surrender to the court his or her~~
6 ~~operator's or chauffeur's license or permit. The court shall~~
7 ~~immediately destroy the license or permit and forward an abstract~~
8 ~~of conviction with court-ordered license sanctions to the secre-~~
9 ~~tary of state. Upon receipt of, and pursuant to, the abstract~~
10 ~~of conviction with court-ordered license sanctions, the secretary~~
11 ~~of state shall suspend or revoke the person's license and, if~~
12 ~~ordered by the court and the person is otherwise eligible for a~~
13 ~~license, issue to the person a restricted license stating the~~
14 ~~limited driving privileges indicated on the abstract. If the~~
15 ~~judgment and sentence is ARE appealed to circuit court, the~~
16 ~~court may ex parte order the secretary of state to stay the sus-~~
17 ~~pension, revocation, or restricted license issued pursuant to~~
18 ~~this section~~ BY THE SECRETARY OF STATE pending the outcome of
19 the appeal.

20 ~~-(13) In addition to any other suspension or revocation~~
21 ~~ordered under this section and as part of the sentence imposed~~
22 ~~upon a person who violates section 625(1), (3), (4), or (5) or a~~
23 ~~local ordinance substantially corresponding to section 625(1) or~~
24 ~~(3) while operating a commercial motor vehicle, the court shall~~
25 ~~order the secretary of state to suspend the vehicle group desig-~~
26 ~~nations on the person's operator's or chauffeur's license in~~
27 ~~accordance with section 319b(1)(c). If the vehicle was~~

1 ~~transporting hazardous material required to have a placard~~
2 ~~pursuant to 49 C.F.R. parts 100 to 199, the court shall order the~~
3 ~~secretary of state to suspend the vehicle group designations on~~
4 ~~the person's operator's or chauffeur's license in accordance with~~
5 ~~section 319b(1)(d). The court shall not order the secretary of~~
6 ~~state to issue a restricted license that would permit the person~~
7 ~~to operate a commercial motor vehicle.~~

8 ~~(14) In addition to any other suspension or revocation~~
9 ~~ordered under this section and as part of the sentence imposed~~
10 ~~upon a person who is convicted of a violation of section 625(1),~~
11 ~~(3), (4), or (5) or a local ordinance substantially corresponding~~
12 ~~to section 625(1) or (3) while operating a commercial motor vehi-~~
13 ~~cle within 10 years of a prior conviction, the court shall order~~
14 ~~the secretary of state to revoke the vehicle group designations~~
15 ~~on the person's operator's or chauffeur's license in accordance~~
16 ~~with section 319b(1)(e). The court shall not order the secretary~~
17 ~~of state to issue a restricted license that would permit the~~
18 ~~person to operate a commercial motor vehicle. As used in this~~
19 ~~subsection, "prior conviction" means a conviction under section~~
20 ~~625(1), (3), (4), or (5), former section 625(1) or (2), or former~~
21 ~~section 625b, a local ordinance substantially corresponding to~~
22 ~~section 625(1) or (3), former section 625(1) or (2), or former~~
23 ~~section 625b, or a law of another state substantially correspond-~~
24 ~~ing to section 625(1), (3), (4), or (5), former section 625(1) or~~
25 ~~(2), or former section 625b involving the operation of a commer-~~
26 ~~cial motor vehicle, or a conviction under section 625m, a local~~

~~1 ordinance substantially corresponding to section 625m, or a law
2 of another state substantially corresponding to section 625m.~~

~~3 (15) As used in this section, "work location" means, as
4 applicable, the specific place or places of employment or the
5 territory or territories regularly visited by the person in pur-
6 suance of the person's occupation, or both.~~

7 Sec. 732. (1) Each municipal judge and each clerk of a
8 court of record shall keep a full record of every case in which a
9 person is charged with or cited for a violation of this act or a
10 local ordinance substantially corresponding to this act regulat-
11 ing the operation of vehicles on highways. Except as provided in
12 subsection (15), the municipal judge or clerk of the court of
13 record shall prepare and forward to the secretary of state an
14 abstract of the court record as follows:

15 (a) Within 14 days after a conviction, forfeiture of bail,
16 or entry of a civil infraction determination or default judgment
17 ~~—~~ upon a charge of or citation for violating this act or a
18 local ordinance SUBSTANTIALLY corresponding to this act regulat-
19 ing the operation of vehicles on highways.

20 (b) Immediately for each case charging a violation of
21 section 625(1), (3), (4), (5), or (6) ~~—~~ or [SECTION 625M OR] a
local ordinance

22 substantially corresponding to section 625(1), (3), or (6) [OR
SECTION 625M] in
23 which the charge is dismissed or the defendant is acquitted.

24 (2) If a city or village department, bureau, or person is
25 authorized to accept a payment of money as a settlement for a
26 violation of a local ordinance SUBSTANTIALLY corresponding to
27 this act, the city or village department, bureau, or person shall

1 send a full report of each case in which a person pays any amount
2 of money to the city or village department, bureau, or person to
3 the secretary of state upon a form prescribed by the secretary of
4 state.

5 (3) The abstract or report required under this section shall
6 be made upon a form furnished by the secretary of state. An
7 abstract shall be certified by signature, stamp, or facsimile
8 signature of the person required to prepare the abstract as
9 correct. An abstract or report shall include all of the
10 following:

11 (a) The name, address, and date of birth of the person
12 charged or cited.

13 (b) The number of the person's operator's or chauffeur's
14 license, if any.

15 (c) The date and nature of the violation.

16 (d) The type of vehicle driven at the time of the violation
17 and, if the vehicle is a commercial motor vehicle, that vehicle's
18 group designation and indorsement classification.

19 (e) The date of the conviction, finding, forfeiture, judg-
20 ment, or civil infraction determination.

21 (f) Whether bail was forfeited.

22 (g) Any license revocation, restriction, suspension, or
23 denial ordered by the court ~~pursuant to~~ UNDER this act.

24 (H) THE VEHICLE IDENTIFICATION NUMBER AND REGISTRATION PLATE
25 NUMBER OF ALL VEHICLES THAT ARE ORDERED IMMOBILIZED OR FORFEITED.

26 (I) ~~(h)~~ Other information considered necessary to the
27 secretary of state.

HB4576, As Passed House, July 1, 1998

House Bill No. 4576

17

1 (4) The clerk of the court also shall forward an abstract of
2 the court record to the secretary of state upon a person's con-
3 viction involving any of the following:

4 (a) A violation of section 413, 414, or 479a of the Michigan
5 penal code, ~~Act No. 328 of the Public Acts of 1931, being sec-~~
6 ~~tions 750.413, 750.414, and 750.479a of the Michigan Compiled~~
7 ~~Laws~~ 1931 PA 328, MCL 750.413, 750.414, AND 750.479A.

8 (b) A violation of section 1 of ~~Act No. 214 of the Public~~
9 ~~Acts of 1931, being section 752.191 of the Michigan Compiled~~
10 ~~Laws~~ 1931 PA 214, MCL 752.191.

11 (c) Negligent homicide, manslaughter, or murder resulting
12 from the operation of a ~~motor~~ vehicle.

13 (d) A violation of section ~~33b~~ 703 of the Michigan liquor
14 control ~~act, Act No. 8 of the Public Acts of the Extra Session~~
15 ~~of 1933, being section 436.33b of the Michigan Compiled Laws~~
16 CODE OF 1998, 1998 PA 58, MCL 436.1703, or a local ordinance sub-
17 stantially corresponding to that section.

18 (e) An attempt to violate, a conspiracy to violate, or a
19 violation of part 74 or section 17766a of the public health code,
20 ~~Act No. 368 of the Public Acts of 1978, being sections 333.7401~~
21 ~~to 333.7461 and 333.17766a of the Michigan Compiled Laws~~ 1978
22 PA 368, MCL 333.7401 TO 333.7461 AND 333.17766A, or a local ordi-
23 nance that prohibits conduct prohibited under part 74 or section
24 17766a of ~~Act No. 368 of the Public Acts of 1978~~ THE PUBLIC
25 HEALTH CODE, 1978 PA 368, MCL 333.7401 TO 333.7461 AND
26 333.17766A, unless the convicted person is sentenced to life

1 imprisonment or a minimum term of imprisonment that exceeds 1
2 year for the offense.

3 (f) An attempt to commit ~~any of the offenses~~ AN OFFENSE
4 described in subdivisions (a) to (d).

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

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

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

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

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

16 (6) If a person is charged with a felony in which a motor
17 vehicle was used, other than a felony specified in subsection (4)
18 or section 319(1)(a) to (e), the prosecuting attorney shall
19 include the following statement on the complaint and information
20 filed in district or circuit court:

21 "You are charged with the commission of a felony in which a
22 motor vehicle was used. If you are convicted and the judge finds
23 that the conviction is for a felony in which a motor vehicle was
24 used, as defined in section 319 of the Michigan vehicle code,
25 ~~Act No. 300 of the Public Acts of 1949, being section 257.319 of~~
26 ~~the Michigan Compiled Laws~~ 1949 PA 300, MCL 257.319, your
27 driver's license shall be suspended by the secretary of state.".

1 (7) If a juvenile is accused of an act, the nature of which
2 constitutes a felony in which a motor vehicle was used, other
3 than a felony specified in subsection (4) or section 319(1)(a) to
4 (e), the prosecuting attorney, ~~or~~ juvenile division of the pro-
5 bate court, OR FAMILY DIVISION OF CIRCUIT COURT shall include the
6 following statement on the petition filed in the ~~probate~~
7 court:

8 "You are accused of an act the nature of which constitutes a
9 felony in which a motor vehicle was used. If the accusation is
10 found to be true and the judge or referee finds that the nature
11 of the act constitutes a felony in which a motor vehicle was
12 used, as defined in section 319 of the Michigan vehicle code,
13 ~~Act No. 300 of the Public Acts of 1949, being section 257.319 of~~
14 ~~the Michigan Compiled Laws~~ 1949 PA 300, MCL 257.319, your
15 driver's license shall be suspended by the secretary of state.".

16 (8) If the judge or ~~juvenile court~~ referee determines as
17 part of the sentence or disposition that the felony for which the
18 defendant was convicted or adjudicated and with respect to which
19 notice was given ~~pursuant to~~ UNDER subsection (6) or (7) is a
20 felony in which a motor vehicle was used, the clerk of the court
21 shall forward an abstract of the court record of that conviction
22 to the secretary of state.

23 (9) As used in subsections (10) and (11), "felony in which a
24 commercial motor vehicle was used" means a felony during the com-
25 mission of which the person operated a commercial motor vehicle
26 and while the person was operating the vehicle 1 or more of the
27 following circumstances existed:

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

2 (b) The vehicle was used to transport a victim of the
3 felony.

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

5 (d) The vehicle was necessary for the commission of the
6 felony.

7 (10) If a person is charged with a felony in which a commer-
8 cial motor vehicle was used and for which a vehicle group desig-
9 nation on a license is subject to suspension or revocation under
10 section 319b(1)(c)(iii), 319b(1)(d), or ~~319b(1)(e)(iii) or (vi)~~
11 319B(1)(E)(v) OR (viii), the prosecuting attorney shall include
12 the following statement on the complaint and information filed in
13 district or circuit court:

14 "You are charged with the commission of a felony in which a
15 commercial motor vehicle was used. If you are convicted and the
16 judge finds that the conviction is for a felony in which a com-
17 mercial motor vehicle was used, as defined in section 319b of the
18 Michigan vehicle code, ~~Act No. 300 of the Public Acts of 1949,~~
19 ~~being section 257.319b of the Michigan Compiled Laws~~ 1949
20 PA 300, MCL 257.319B, all vehicle group designations on your
21 driver's license shall be suspended or revoked by the secretary
22 of state.".

23 (11) If the judge determines as part of the sentence that
24 the felony for which the defendant was convicted and with respect
25 to which notice was given ~~pursuant to~~ UNDER subsection (10) is
26 a felony in which a commercial motor vehicle was used, the clerk

1 of the court shall forward an abstract of the court record of
2 that conviction to the secretary of state.

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

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

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

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

16 (d) The following statement:

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

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

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

25 (13) The failure, refusal, or neglect of a person to comply
26 with this section constitutes misconduct in office and is grounds
27 for removal from office.

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

7 (15) Except for controlled substance offenses described in
8 subsection (4), the court shall not submit, and the secretary of
9 state shall discard and not enter on the master driving record,
10 an abstract for a conviction or civil infraction determination
11 for any of the following violations:

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

13 (b) A nonmoving violation that is not the basis for the sec-
14 retary of state's suspension, revocation, or denial of an
15 operator's or chauffeur's license.

16 (c) A violation of chapter II that 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 (d) ~~Except for~~ A PEDESTRIAN, PASSENGER, OR BICYCLE VIOLA-
20 TION, OTHER THAN a violation of section ~~33b(1) or (2) of Act~~
21 ~~No. 8 of the Public Acts of the Extra Session of 1933~~ 703(1) OR
22 (2) OF THE MICHIGAN LIQUOR CONTROL CODE OF 1998, 1998 PA 58,
23 MCL 436.1703, or a local ordinance substantially corresponding to
24 section ~~33b(1) or (2) of Act No. 8 of the Public Acts of the~~
25 ~~Extra Session of 1933~~ 703(1) OR (2) OF THE MICHIGAN LIQUOR CON-
26 TROL CODE OF 1998, 1998 PA 58, MCL 436.1703, or section 624a or

1 624b or a local ordinance substantially corresponding to section
2 624a or 624b. ~~—, a pedestrian, passenger, or bicycle violation.—~~

3 (e) A violation of section 710e or a local ordinance sub-
4 stantially corresponding to section 710e.

5 (16) The secretary of state shall discard and not enter on
6 the master driving record an abstract for a bond forfeiture that
7 occurred outside this state. However, the secretary of state
8 shall retain and enter on the master driving record an abstract
9 of an out-of-state bond forfeiture for an offense that occurred
10 after January 1, 1990 in connection with the operation of a com-
11 mercial motor vehicle.

12 (17) The secretary of state shall inform the courts of this
13 state of the nonmoving violations and violations of chapter II
14 that are used by the secretary of state as the basis for the sus-
15 pension, restriction, revocation, or denial of an operator's or
16 chauffeur's license.

17 (18) If a conviction or civil infraction determination is
18 reversed upon appeal, the person whose conviction or determina-
19 tion has been reversed may serve on the secretary of state a cer-
20 tified copy of the order of reversal. The secretary of state
21 shall enter the order in the proper book or index in connection
22 with the record of the conviction or civil infraction
23 determination.

24 (19) The secretary of state may permit a city or village
25 department, bureau, person, or court to modify the requirement as
26 to the time and manner of reporting a conviction, civil
27 infraction determination, or settlement to the secretary of state

1 if the modification will increase the economy and efficiency of
2 collecting and utilizing the records. If the permitted abstract
3 of court record reporting a conviction, civil infraction determi-
4 nation, or settlement originates as a part of the written notice
5 to appear, authorized in section 728(1) or 742(1), the form of
6 the written notice and report shall be as prescribed by the sec-
7 retary of state.

8 (20) Except as provided in this act and notwithstanding any
9 other provision of law, a court shall not order expunction of any
10 violation reportable to the secretary of state under this
11 section.

12 Enacting section 1. This amendatory act takes effect
13 October 1, 1999.

14 Enacting section 2. This amendatory act does not take
15 effect unless all of the following bills of the 89th Legislature
16 are enacted into law:

- 17 (a) House Bill No. 4210.
- 18 (b) House Bill No. 4959.
- 19 (c) House Bill No. 4960.
- 20 (d) House Bill No. 4961.
- 21 (e) House Bill No. 5122.
- 22 (f) House Bill No. 5123.
- 23 (g) House Bill No. 5951.
- 24 (h) House Bill No. 5952.
- 25 (i) House Bill No. 5953.
- 26 (j) House Bill No. 5954.

HB4576, As Passed House, July 1, 1998

House Bill No. 4576

25

1 (k) House Bill No. 5955.

2 (l) House Bill No. 5956.