

HOUSE BILL No. 5191

October 11, 2001, Introduced by Reps. Raczkowski, Richardville, Neumann, Vander Veen, Kooiman, Ruth Johnson, Pappageorge, Gilbert, George and Lemmons and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 303 and 732 (MCL 257.303 and 257.732), as
amended by 2000 PA 460.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 303. (1) The secretary of state shall not issue a
2 license under this act to any of the following:

3 (a) A person, as an operator, who is less than 18 years of
4 age, except as otherwise provided in this act.

5 (b) A person, as a chauffeur, who is less than 18 years of
6 age, except as otherwise provided in this act.

7 (c) A person whose license has been suspended during the
8 period for which the license was suspended.

1 (d) A person who has been convicted of or received a
2 juvenile disposition for a violation of section 625(4) or (5),
3 section 653a(4), or section 904(4) or (5).

4 (e) A person who has been convicted of or received a juve-
5 nile disposition for negligent homicide, manslaughter, or murder
6 resulting from the operation of a vehicle.

7 (f) A person who is an habitual violator of the criminal
8 laws relating to operating a vehicle while impaired by or under
9 the influence of intoxicating liquor, a controlled substance, or
10 a combination of intoxicating liquor and a controlled substance
11 or with an alcohol content of 0.10 grams or more per 100 millili-
12 ters of blood, per 210 liters of breath, or per 67 milliliters of
13 urine. Convictions of any of the following, whether under a law
14 of this state, a local ordinance substantially corresponding to a
15 law of this state, or a law of another state substantially corre-
16 sponding to a law of this state, are prima facie evidence that
17 the person is an habitual violator as described in this
18 subdivision:

19 (i) Any combination of 2 convictions within 7 years for any
20 of the following or a combination of 1 conviction for a violation
21 or attempted violation of section 625(6) and 1 conviction for any
22 of the following within 7 years:

23 (A) A violation or attempted violation of section 625(1),
24 (3), (4), (5), or (7), section 653a(4), or section 904(4) or
25 (5).

26 (B) A violation of former section 625(1) or (2) or former
27 section 625b.

1 (C) A violation or attempted violation of section 625m.

2 (D) Negligent homicide, manslaughter, or murder resulting
3 from the operation of a vehicle or an attempt to commit any of
4 those crimes.

5 (ii) Any combination of 3 convictions within 10 years for
6 any of the following or 1 conviction for a violation or attempted
7 violation of section 625(6) and any combination of 2 convictions
8 for any of the following within 10 years, if any of the convic-
9 tions resulted from an arrest on or after January 1, 1992:

10 (A) A violation or attempted violation of section 625(1),
11 (3), (4), (5), or (7), section 653a(4), or section 904(4) or
12 (5).

13 (B) A violation of former section 625(1) or (2) or former
14 section 625b.

15 (C) A violation or attempted violation of section 625m.

16 (D) Negligent homicide, manslaughter, or murder resulting
17 from the operation of a vehicle or an attempt to commit any of
18 those crimes.

19 (g) A person who in the opinion of the secretary of state is
20 afflicted with or suffering from a physical or mental disability
21 or disease preventing that person from exercising reasonable and
22 ordinary control over a motor vehicle while operating the motor
23 vehicle upon the highways.

24 (h) A person who is unable to understand highway warning or
25 direction signs in the English language.

26 (i) A person who is an habitually reckless driver. Two
27 convictions within 7 years for violating any combination of

1 section 626 or section 653a(3) or a local ordinance of this state
2 or a law of another state substantially similar to section 626 or
3 section 653a(3) are prima facie evidence that the person is an
4 habitually reckless driver.

5 (j) A person who is an habitual criminal. Two convictions
6 of a felony in which a motor vehicle was used in this or another
7 state are prima facie evidence that the person is an habitual
8 criminal.

9 (k) A person who is unable to pass a knowledge, skill, or
10 ability test administered by the secretary of state in connection
11 with the issuance of an original operator's or chauffeur's
12 license, original motorcycle indorsement, or an original or
13 renewal of a vehicle group designation or vehicle indorsement.

14 (l) A person who has been convicted of, has received a juve-
15 nile disposition for, or has been determined responsible for 2 or
16 more moving violations under a law of this state, a local ordi-
17 nance substantially corresponding to a law of this state, or a
18 law of another state substantially corresponding to a law of this
19 state within the preceding 3 years, if the violations occurred
20 before issuance of an original license to the person in this or
21 another state.

22 (m) A nonresident including a foreign exchange student.

23 (n) A person who has failed to answer a citation or notice
24 to appear in court or for any matter pending or fails to comply
25 with an order or judgment of the court, including, but not
26 limited to, paying all fines, costs, fees, and assessments, in
27 violation of section 321a, until that person answers the citation

1 or notice to appear in court or for any matter pending or
2 complies with an order or judgment of the court, including, but
3 not limited to, paying all fines, costs, fees, and assessments,
4 as provided under section 321a.

5 (o) A person not licensed under this act who has been con-
6 victed of, has received a juvenile disposition for, or has been
7 determined responsible for a crime or civil infraction described
8 in section 319, 324, or 904. A person shall be denied a license
9 under this subdivision for the length of time corresponding to
10 the period of the licensing sanction that would have been imposed
11 under section 319, 324, or 904 if the person had been licensed at
12 the time of the violation.

13 (p) A person not licensed under this act who has been con-
14 victed of or received a juvenile disposition for committing a
15 crime described in section 319e. A person shall be denied a
16 license under this subdivision for the length of time that corre-
17 sponds to the period of the licensing sanction that would have
18 been imposed under section 319e if the person had been licensed
19 at the time of the violation.

20 (q) A person not licensed under this act who is determined
21 to have violated section 33b(1) of former 1933 (Ex Sess) PA 8,
22 section 703(1) of the Michigan liquor control code of 1998, 1998
23 PA 58, MCL 436.1703, or section 624a or 624b of this act. The
24 person shall be denied a license under this subdivision for a
25 period of time that corresponds to the period of the licensing
26 sanction that would have been imposed under those sections had
27 the person been licensed at the time of the violation.

1 (r) A person who has been convicted of a violation of
2 section 602a(4) or (5) of this act or a violation of section
3 479a(4) or (5) of the Michigan penal code, 1931 PA 328,
4 MCL 750.479a.

5 (S) A PERSON WHO IS CONVICTED OF A VIOLATION DESCRIBED IN
6 SUBSECTION (2)(H) OR WHO IS SUSPENDED OR EXPELLED FROM SCHOOL
7 UNDER SECTION 1311A(2) OF THE REVISED SCHOOL CODE, 1976 PA 451,
8 MCL 380.1311A, FOR MAKING A BOMB THREAT.

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

15 (a) Any combination of 2 convictions within 7 years for any
16 of the following:

17 (i) Reckless driving in violation of section 626.

18 (ii) A violation or attempted violation of section 653a(3).

19 (b) Two convictions of a felony in which a motor vehicle was
20 used within 7 years.

21 (c) Any combination of 2 convictions within 7 years for any
22 of the following or a combination of 1 conviction for a violation
23 or attempted violation of section 625(6) and 1 conviction for any
24 of the following within 7 years:

25 (i) A violation or attempted violation of section 625(1),
26 (3), (4), (5), or (7), section 653a(4), or section 904(4) or
27 (5).

1 (ii) A violation of former section 625(1) or (2) or former
2 section 625b.

3 (iii) A violation or attempted violation of section 625m.

4 (iv) Negligent homicide, manslaughter, or murder resulting
5 from the operation of a vehicle or an attempt to commit any of
6 those crimes.

7 (d) One conviction for a violation or attempted violation of
8 section 625(4) or (5), section 653a(4), or section 904(4) or
9 (5).

10 (e) One conviction of negligent homicide, manslaughter, or
11 murder resulting from the operation of a vehicle or an attempt to
12 commit any of those crimes.

13 (f) Any combination of 3 convictions within 10 years for any
14 of the following or 1 conviction for a violation or attempted
15 violation of section 625(6) and any combination of 2 convictions
16 for any of the following within 10 years, if any of the convic-
17 tions resulted from an arrest on or after January 1, 1992:

18 (i) A violation or attempted violation of section 625(1),
19 (3), (4), (5), or (7), section 653a(4), or section 904(4) or
20 (5).

21 (ii) A violation of former section 625(1) or (2) or former
22 section 625b.

23 (iii) A violation or attempted violation of section 625m.

24 (iv) Negligent homicide, manslaughter, or murder resulting
25 from the operation of a vehicle or an attempt to commit any of
26 those crimes.

1 (g) A violation of section 602a(4) or (5) of this act or
2 section 479a(4) or (5) of the Michigan penal code, 1931 PA 328,
3 MCL 750.479a.

4 (H) A CONVICTION FOR A VIOLATION OF SECTION 411A(2)(A) OR
5 (B) OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.411A, FOR
6 KNOWINGLY MAKING A FALSE REPORT OF A VIOLATION OR ATTEMPTED VIO-
7 LATION OF CHAPTER XXXIII OF THE MICHIGAN PENAL CODE, 1931 PA 328,
8 MCL 750.200 TO 750.212A, TO A SCHOOL, COMMUNITY COLLEGE, OR A
9 MICHIGAN UNIVERSITY.

10 (3) The secretary of state shall revoke a license under sub-
11 section (2) notwithstanding a court order.

12 (4) The secretary of state shall not issue a license under
13 this act to a person whose license has been revoked under this
14 act or denied under subsection (1)(d), (e), (f), (i), (j), or (r)
15 until all of the following occur, as applicable:

16 (a) The later of the following:

17 (i) The expiration of not less than 1 year after the license
18 was revoked or denied.

19 (ii) THE EXPIRATION OF NOT LESS THAN 3 YEARS AFTER THE DATE
20 OF A CONVICTION UNDER SUBSECTION (2)(H) OR NOT LESS THAN 3 YEARS
21 AFTER THE DATE THE PERSON COMPLETES THE REQUIREMENT FOR A DRIVER
22 LICENSE UNDER SECTION 310E IF THE PERSON IS LESS THAN 18 YEARS
23 AND IS EITHER CONVICTED OF A VIOLATION DESCRIBED IN SUBSECTION
24 (2)(H) OR IS SUSPENDED OR EXPELLED FROM SCHOOL UNDER SECTION
25 1311A(2) OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1311A,
26 FOR MAKING A BOMB THREAT.

1 (iii) ~~(ii)~~ The expiration of not less than 5 years after
2 the date of a subsequent revocation or denial occurring within 7
3 years after the date of any prior revocation or denial.

4 (b) For a denial under subsection (1)(f), (i), or (j) based
5 on prima facie evidence, the person rebuts the presumption
6 resulting from the prima facie evidence by clear and convincing
7 evidence.

8 (c) The person meets the requirements of the department.

9 (5) Multiple convictions or civil infraction determinations
10 resulting from the same incident shall be treated as a single
11 violation for purposes of denial or revocation of a license under
12 this section.

13 (6) As used in this section, "felony in which a motor vehi-
14 cle was used" means a felony during the commission of which the
15 person operated a motor vehicle and while operating the vehicle
16 presented real or potential harm to persons or property and 1 or
17 more of the following circumstances existed:

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

19 (b) The vehicle was used to transport a victim of the
20 felony.

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

22 (d) The vehicle was necessary for the commission of the
23 felony.

24 Sec. 732. (1) Each municipal judge and each clerk of a
25 court of record shall keep a full record of every case in which a
26 person is charged with or cited for a violation of this act or a
27 local ordinance substantially corresponding to this act

1 regulating the operation of vehicles on highways and, beginning
2 October 1, 2000, with those offenses pertaining to the operation
3 of ORVs or snowmobiles for which points are assessed under sec-
4 tion 320a(1)(b) or (f). Except as provided in subsection (15),
5 the municipal judge or clerk of the court of record shall prepare
6 and forward to the secretary of state an abstract of the court
7 record as follows:

8 (a) Within 14 days after a conviction, forfeiture of bail,
9 or entry of a civil infraction determination or default judgment
10 upon a charge of or citation for violating or attempting to vio-
11 late this act or a local ordinance substantially corresponding to
12 this act regulating the operation of vehicles on highways.

13 (b) Immediately for each case charging a violation of
14 section 625(1), (3), (4), (5), (6), or (7) or section 625m or a
15 local ordinance substantially corresponding to section 625(1),
16 (3), or (6) or section 625m in which the charge is dismissed or
17 the defendant is acquitted.

18 (c) Beginning October 1, 2000, immediately for each case
19 charging a violation of section 82127(1) or (3), 81134, or 81135
20 of the natural resources and environmental protection act, 1994
21 PA 451, MCL 324.82127, 324.81134, and 324.81135, or a local ordi-
22 nance substantially corresponding to those sections.

23 (2) If a city or village department, bureau, or person is
24 authorized to accept a payment of money as a settlement for a
25 violation of a local ordinance substantially corresponding to
26 this act, the city or village department, bureau, or person shall
27 send a full report of each case in which a person pays any amount

1 of money to the city or village department, bureau, or person to
2 the secretary of state upon a form prescribed by the secretary of
3 state.

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

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

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

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

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

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

20 (f) Whether bail was forfeited.

21 (g) Any license restriction, suspension, or denial ordered
22 by the court as provided by law.

23 (h) The vehicle identification number and registration plate
24 number of all vehicles that are ordered immobilized or
25 forfeited.

26 (i) Other information considered necessary to the secretary
27 of state.

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, 1931 PA 328, MCL 750.413, 750.414, and 750.479a.

6 (b) A violation of section 1 of 1931 PA 214, MCL 752.191.

7 (c) Negligent homicide, manslaughter, or murder resulting
8 from the operation of a vehicle.

9 (d) A violation of section 653a(4).

10 (e) A violation of section 703 of the Michigan liquor con-
11 trol code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance
12 substantially corresponding to that section.

13 (F) A VIOLATION OF SECTION 411A(2)(A) OR (B) OF THE MICHIGAN
14 PENAL CODE, 1931 PA 328, MCL 750.411A.

15 (G) ~~(f)~~ An attempt to violate, a conspiracy to violate, or
16 a violation of part 74 or section 17766a of the public health
17 code, 1978 PA 368, MCL 333.7401 to 333.7461 and 333.17766a, or a
18 local ordinance that prohibits conduct prohibited under part 74
19 or section 17766a of the public health code, 1978 PA 368,
20 MCL 333.7401 to 333.7461 and 333.17766a, unless the convicted
21 person is sentenced to life imprisonment or a minimum term of
22 imprisonment that exceeds 1 year for the offense.

23 (H) ~~(g)~~ An attempt to commit an offense described in sub-
24 divisions (a) to ~~(e)~~ (F).

25 (5) As used in subsections (6) to (8), "felony in which a
26 motor vehicle was used" means a felony during the commission of
27 which the person operated a motor vehicle and while operating the

1 vehicle presented real or potential harm to persons or property
2 and 1 or more of the following circumstances existed:

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

4 (b) The vehicle was used to transport a victim of the
5 felony.

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

7 (d) The vehicle was necessary for the commission of the
8 felony.

9 (6) If a person is charged with a felony in which a motor
10 vehicle was used, other than a felony specified in subsection (4)
11 or section 319, the prosecuting attorney shall include the fol-
12 lowing statement on the complaint and information filed in dis-
13 trict or circuit court:

14 "You are charged with the commission of a felony in which a
15 motor vehicle was used. If you are convicted and the judge finds
16 that the conviction is for a felony in which a motor vehicle was
17 used, as defined in section 319 of the Michigan vehicle code,
18 1949 PA 300, MCL 257.319, your driver's license shall be sus-
19 pended by the secretary of state."

20 (7) If a juvenile is accused of an act, the nature of which
21 constitutes a felony in which a motor vehicle was used, other
22 than a felony specified in subsection (4) or section 319, the
23 prosecuting attorney or family division of circuit court shall
24 include the following statement on the petition filed in the
25 court:

26 "You are accused of an act the nature of which constitutes a
27 felony in which a motor vehicle was used. If the accusation is

1 found to be true and the judge or referee finds that the nature
2 of the act constitutes a felony in which a motor vehicle was
3 used, as defined in section 319 of the Michigan vehicle code,
4 1949 PA 300, MCL 257.319, your driver's license shall be sus-
5 pended by the secretary of state."

6 (8) If the court determines as part of the sentence or dis-
7 position that the felony for which the person was convicted or
8 adjudicated and with respect to which notice was given under sub-
9 section (6) or (7) is a felony in which a motor vehicle was used,
10 the clerk of the court shall forward an abstract of the court
11 record of that conviction to the secretary of state.

12 (9) As used in subsections (10) and (11), "felony in which a
13 commercial motor vehicle was used" means a felony during the com-
14 mission of which the person operated a commercial motor vehicle
15 and while the person was operating the vehicle 1 or more of the
16 following circumstances existed:

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

18 (b) The vehicle was used to transport a victim of the
19 felony.

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

21 (d) The vehicle was necessary for the commission of the
22 felony.

23 (10) If a person is charged with a felony in which a commer-
24 cial motor vehicle was used and for which a vehicle group desig-
25 nation on a license is subject to suspension or revocation under
26 section 319b(1)(c)(iii), 319b(1)(d), or 319b(1)(e)(iii), or
27 319b(1)(f)(i), the prosecuting attorney shall include the

1 following statement on the complaint and information filed in
2 district or circuit court:

3 "You are charged with the commission of a felony in which a
4 commercial motor vehicle was used. If you are convicted and the
5 judge finds that the conviction is for a felony in which a com-
6 mercial motor vehicle was used, as defined in section 319b of the
7 Michigan vehicle code, 1949 PA 300, MCL 257.319b, all vehicle
8 group designations on your driver's license shall be suspended or
9 revoked by the secretary of state."

10 (11) If the judge determines as part of the sentence that
11 the felony for which the defendant was convicted and with respect
12 to which notice was given under subsection (10) is a felony in
13 which a commercial motor vehicle was used, the clerk of the court
14 shall forward an abstract of the court record of that conviction
15 to the secretary of state.

16 (12) Every person required to forward abstracts to the sec-
17 retary of state under this section shall certify for the period
18 from January 1 through June 30 and for the period from July 1
19 through December 31 that all abstracts required to be forwarded
20 during the period have been forwarded. The certification shall
21 be filed with the secretary of state not later than 28 days after
22 the end of the period covered by the certification. The certifi-
23 cation shall be made upon a form furnished by the secretary of
24 state and shall include all of the following:

25 (a) The name and title of the person required to forward
26 abstracts.

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

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

3 (d) The following statement:

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

8 (e) Other information the secretary of state considers
9 necessary.

10 (f) The signature of the person required to forward
11 abstracts.

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

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

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

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

1 (b) A nonmoving violation that is not the basis for the
2 secretary of state's suspension, revocation, or denial of an
3 operator's or chauffeur's license.

4 (c) A violation of chapter II that is not the basis for the
5 secretary of state's suspension, revocation, or denial of an
6 operator's or chauffeur's license.

7 (d) A pedestrian, passenger, or bicycle violation, other
8 than a violation of section 703(1) or (2) of the Michigan liquor
9 control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordi-
10 nance substantially corresponding to section 703(1) or (2) of the
11 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703,
12 or section 624a or 624b or a local ordinance substantially corre-
13 sponding to section 624a or 624b.

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

16 (16) The secretary of state shall discard and not enter on
17 the master driving record an abstract for a bond forfeiture that
18 occurred outside this state. However, the secretary of state
19 shall retain and enter on the master driving record an abstract
20 of an out-of-state bond forfeiture for an offense that occurred
21 after January 1, 1990 in connection with the operation of a com-
22 mercial motor vehicle.

23 (17) The secretary of state shall inform the courts of this
24 state of the nonmoving violations and violations of chapter II
25 that are used by the secretary of state as the basis for the sus-
26 pension, restriction, revocation, or denial of an operator's or
27 chauffeur's license.

1 (18) If a conviction or civil infraction determination is
2 reversed upon appeal, the person whose conviction or determina-
3 tion has been reversed may serve on the secretary of state a cer-
4 tified copy of the order of reversal. The secretary of state
5 shall enter the order in the proper book or index in connection
6 with the record of the conviction or civil infraction
7 determination.

8 (19) The secretary of state may permit a city or village
9 department, bureau, person, or court to modify the requirement as
10 to the time and manner of reporting a conviction, civil infrac-
11 tion determination, or settlement to the secretary of state if
12 the modification will increase the economy and efficiency of col-
13 lecting and utilizing the records. If the permitted abstract of
14 court record reporting a conviction, civil infraction determina-
15 tion, or settlement originates as a part of the written notice as
16 appear, authorized in section 728(1) or 742(1), the form of the
17 written notice and report shall be as prescribed by the secretary
18 of state.

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