

# SENATE BILL No. 1193

June 14, 2012, Introduced by Senator GLEASON and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled  
"Michigan vehicle code,"  
by amending sections 303 and 320 (MCL 257.303 and 257.320), section  
303 as amended by 2011 PA 159 and section 320 as amended by 2004 PA  
362.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

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 is suspended, revoked, denied, or  
8 canceled in any state. If the suspension, revocation, denial, or

1 cancellation is not from the jurisdiction that issued the last  
2 license to the person, the secretary of state may issue a license  
3 after the expiration of 5 years from the effective date of the most  
4 recent suspension, revocation, denial, or cancellation.

5 (d) A person who in the opinion of the secretary of state is  
6 afflicted with or suffering from a physical or mental disability or  
7 disease preventing that person from exercising reasonable and  
8 ordinary control over a motor vehicle while operating the motor  
9 vehicle upon the highways. **A PERSON WHO RECEIVED THE INSTALLATION  
10 OF A VENTRICULAR ASSIST DEVICE AT LEAST 180 DAYS BEFORE HE OR SHE  
11 APPLIED FOR A LICENSE UNDER THIS SECTION SHALL NOT BE CONSIDERED TO  
12 BE INELIGIBLE UNDER THIS SUBDIVISION DUE TO A PHYSICAL DISABILITY  
13 OR DISEASE BASED UPON THE INSTALLATION OF THAT DEVICE OR THE  
14 MEDICAL REASON FOR THE INSTALLATION OF THE DEVICE IF THE SECRETARY  
15 OF STATE RECEIVES A REPORT FROM A PHYSICIAN STATING THAT THE PERSON  
16 IS PHYSICALLY ABLE TO OPERATE A MOTOR VEHICLE, AND THE SECRETARY OF  
17 STATE HAS NO REPORT OF ANY OTHER PHYSICAL OR MENTAL DISABILITY OR  
18 DISEASE THAT WOULD DISQUALIFY THE PERSON FROM RECEIVING A LICENSE.  
19 AS USED IN THIS SUBDIVISION, "VENTRICULAR ASSIST DEVICE" MEANS A  
20 MEDICAL DEVICE THAT IS USED TO PARTIALLY OR COMPLETELY REPLACE THE  
21 FUNCTION OF A FAILING HEART.**

22 (e) A person who is unable to understand highway warning or  
23 direction signs in the English language.

24 (f) A person who is unable to pass a knowledge, skill, or  
25 ability test administered by the secretary of state in connection  
26 with the issuance of an original operator's or chauffeur's license,  
27 original motorcycle indorsement, or an original or renewal of a

1 vehicle group designation or vehicle indorsement.

2 (g) A person who has been convicted of, has received a  
3 juvenile disposition for, or has been determined responsible for 2  
4 or more moving violations under a law of this state, a local  
5 ordinance substantially corresponding to a law of this state, or a  
6 law of another state substantially corresponding to a law of this  
7 state within the preceding 3 years, if the violations occurred  
8 before issuance of an original license to the person in this state,  
9 another state, or another country.

10 (h) A nonresident, including, but not limited to, a foreign  
11 exchange student.

12 (i) A person who has failed to answer a citation or notice to  
13 appear in court or for any matter pending or fails to comply with  
14 an order or judgment of the court, including, but not limited to,  
15 paying all fines, costs, fees, and assessments, in violation of  
16 section 321a, until that person answers the citation or notice to  
17 appear in court or for any matter pending or complies with an order  
18 or judgment of the court, including, but not limited to, paying all  
19 fines, costs, fees, and assessments, as provided under section  
20 321a.

21 (j) A person not licensed under this act who has been  
22 convicted of, has received a juvenile disposition for, or has been  
23 determined responsible for a crime or civil infraction described in  
24 section 319, 324, or 904. A person shall be denied a license under  
25 this subdivision for the length of time corresponding to the period  
26 of the licensing sanction that would have been imposed under  
27 section 319, 324, or 904 if the person had been licensed at the

1 time of the violation.

2 (k) A person not licensed under this act who has been  
3 convicted of or received a juvenile disposition for committing a  
4 crime described in section 319e. A person shall be denied a license  
5 under this subdivision for the length of time that corresponds to  
6 the period of the licensing sanction that would have been imposed  
7 under section 319e if the person had been licensed at the time of  
8 the violation.

9 (l) A person not licensed under this act who is determined to  
10 have violated section 33b(1) of former 1933 (Ex Sess) PA 8, section  
11 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL  
12 436.1703, or section 624a or 624b. The person shall be denied a  
13 license under this subdivision for a period of time that  
14 corresponds to the period of the licensing sanction that would have  
15 been imposed under those sections had the person been licensed at  
16 the time of the violation.

17 (m) A person whose commercial driver license application is  
18 canceled under section 324(2).

19 (n) Unless otherwise eligible under section 307(1), a person  
20 who is not a citizen of the United States.

21 (2) Upon receiving the appropriate records of conviction, the  
22 secretary of state shall revoke the operator's or chauffeur's  
23 license of a person and deny issuance of an operator's or  
24 chauffeur's license to a person having any of the following,  
25 whether under a law of this state, a local ordinance substantially  
26 corresponding to a law of this state, a law of another state  
27 substantially corresponding to a law of this state, or, beginning

1 October 31, 2010, a law of the United States substantially  
2 corresponding to a law of this state:

3 (a) Any combination of 2 convictions within 7 years for  
4 reckless driving in violation of section 626 before October 31,  
5 2010 or, beginning October 31, 2010, 626(2).

6 (b) Any combination of 2 or more convictions within 7 years  
7 for any of the following:

8 (i) A felony in which a motor vehicle was used.

9 (ii) A violation or attempted violation of section 601b(2) or  
10 (3), section 601c(1) or (2), section 602a(4) or (5), section 617,  
11 section 653a(3) or (4), or section 904(4) or (5).

12 (iii) Negligent homicide, manslaughter, or murder resulting from  
13 the operation of a vehicle or an attempt to commit any of those  
14 crimes.

15 (iv) A violation or attempted violation of section 479a(4) or  
16 (5) of the Michigan penal code, 1931 PA 328, MCL 750.479a.

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

21 (i) A violation or attempted violation of section 625, except a  
22 violation of section 625(2), or a violation of any prior enactment  
23 of section 625 in which the defendant operated a vehicle while  
24 under the influence of intoxicating or alcoholic liquor or a  
25 controlled substance, or a combination of intoxicating or alcoholic  
26 liquor and a controlled substance, or while visibly impaired, or  
27 with an unlawful bodily alcohol content.

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

2           (iii) A violation or attempted violation of former section 625b.

3           (d) One conviction for a violation or attempted violation of  
4 section 315(5), section 601b(3), section 601c(2), section 602a(4)  
5 or (5), section 617, section 625(4) or (5), section 653a(4),  
6 section 904(4) or (5), or, beginning October 31, 2010, section  
7 626(3) or (4).

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

11           (f) One conviction for a violation or attempted violation of  
12 section 479a(4) or (5) of the Michigan penal code, 1931 PA 328, MCL  
13 750.479a.

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

19           (i) A violation or attempted violation of section 625, except a  
20 violation of section 625(2), or a violation of any prior enactment  
21 of section 625 in which the defendant operated a vehicle while  
22 under the influence of intoxicating or alcoholic liquor or a  
23 controlled substance, or a combination of intoxicating or alcoholic  
24 liquor and a controlled substance, or while visibly impaired, or  
25 with an unlawful bodily alcohol content.

26           (ii) A violation or attempted violation of section 625m.

27           (iii) A violation or attempted violation of former section 625b.

1           (3) The secretary of state shall revoke a license under  
2 subsection (2) notwithstanding a court order unless the court order  
3 complies with section 323.

4           (4) Except as otherwise provided under section 304, the  
5 secretary of state shall not issue a license under this act to a  
6 person whose license has been revoked under this act or revoked and  
7 denied under subsection (2) until all of the following occur, as  
8 applicable:

9           (a) The later of the following:

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

12           (ii) The expiration of not less than 5 years after the date of  
13 a subsequent revocation or denial occurring within 7 years after  
14 the date of any prior revocation or denial.

15           (b) For a denial under subsection (2)(a), (b), (c), ~~and~~ **OR**  
16 (g), the person rebuts by clear and convincing evidence the  
17 presumption resulting from the prima facie evidence that he or she  
18 is a habitual offender. The convictions that resulted in the  
19 revocation and denial constitute prima facie evidence that he or  
20 she is a habitual offender.

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

22           (5) The secretary of state may deny issuance of an operator's  
23 license as follows:

24           (a) Until the age of 17, to a person not licensed under this  
25 act who was convicted of or received a juvenile disposition for  
26 violating or attempting to violate section 411a(2) of the Michigan  
27 penal code, 1931 PA 328, MCL 750.411a, involving a school when he

1 or she was less than 14 years of age. A person not issued a license  
2 under this subdivision is not eligible to begin graduated licensing  
3 training until he or she attains 16 years of age.

4 (b) To a person less than 21 years of age not licensed under  
5 this act who was convicted of or received a juvenile disposition  
6 for violating or attempting to violate section 411a(2) of the  
7 Michigan penal code, 1931 PA 328, MCL 750.411a, involving a school  
8 when he or she was 14 years of age or older, until 3 years after  
9 the date of the conviction or juvenile disposition. A person not  
10 issued a license under this subdivision is not eligible to begin  
11 graduated licensing training or otherwise obtain an original  
12 operator's or chauffeur's license until 3 years after the date of  
13 the conviction or juvenile disposition.

14 (6) The secretary of state shall deny issuance of a vehicle  
15 group designation to a person under either of the following  
16 circumstances:

17 (a) The person has been disqualified by the United States  
18 secretary of transportation from operating a commercial motor  
19 vehicle.

20 (b) Beginning on and after January 30, 2012, the person does  
21 not meet the requirements of the federal regulations under parts  
22 383 and 391 by refusing to certify the type of commercial motor  
23 vehicle operation the person intends to perform and, if required,  
24 fails to present to the secretary of state a valid medical  
25 certification.

26 (7) Multiple convictions or civil infraction determinations  
27 resulting from the same incident shall be treated as a single



1 violation for purposes of denial or revocation of a license under  
2 this section.

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

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

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

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

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

13 Sec. 320. (1) The secretary of state after notice as provided  
14 in this section may conduct an investigation and reexamination of a  
15 person, based upon 1 or more of the following:

16 (a) ~~The~~ **SUBJECT TO SUBSECTION (3), THE** secretary of state has  
17 reason to believe that the person is incompetent to drive a motor  
18 vehicle or is afflicted with a mental or physical infirmity or  
19 disability rendering it unsafe for that person to drive a motor  
20 vehicle.

21 (b) The person, as a driver, has in 1 or more instances been  
22 involved in an accident resulting in the death of a person.

23 (c) The person, within a 24-month period, has been involved in  
24 3 accidents resulting in personal injury or damage to the property  
25 of a person, and the official police report indicates a moving  
26 violation on the part of the driver in each of the accidents.

27 (d) The person has charged against him or her a total of 12 or

1 more points as provided in section 320a within a period of 2 years.

2 (e) The person has been convicted of violating restrictions,  
3 terms, or conditions of the person's license.

4 (2) ~~The~~ **SUBJECT TO SUBSECTION (3), THE** secretary of state,  
5 upon good cause, may restrict, suspend, revoke, or impose other  
6 terms and conditions on the license of a person subject to  
7 reexamination and require the immediate surrender of the license of  
8 that person. The secretary of state shall, in all cases, prescribe  
9 the period of restriction, suspension, revocation, or other terms  
10 and conditions.

11 (3) **THE SECRETARY OF STATE SHALL REINSTATE THE DRIVING**  
12 **PRIVILEGES OF A PERSON WHOSE LICENSE IS RESTRICTED, SUSPENDED, OR**  
13 **REVOKED FOR A PHYSICAL DISABILITY OR DISEASE RELATING TO THE**  
14 **INSTALLATION OF A VENTRICULAR ASSIST DEVICE, OR UPON WHICH THE**  
15 **SECRETARY OF STATE HAS IMPOSED ANY OTHER TERM OR CONDITION, IF BOTH**  
16 **OF THE FOLLOWING APPLY:**

17 (A) **AT LEAST 180 DAYS HAVE EXPIRED SINCE THE VENTRICULAR**  
18 **ASSIST DEVICE WAS INSTALLED.**

19 (B) **THE SECRETARY OF STATE RECEIVES A REPORT FROM A PHYSICIAN**  
20 **STATING THAT THE PERSON IS PHYSICALLY ABLE TO OPERATE A MOTOR**  
21 **VEHICLE AND THE SECRETARY OF STATE HAS NO REPORT OF ANY OTHER**  
22 **PHYSICAL OR MENTAL DISABILITY OR DISEASE THAT WOULD DISQUALIFY THE**  
23 **PERSON FROM HOLDING A LICENSE TO OPERATE A MOTOR VEHICLE.**

24 (4) ~~(3)~~—Service of notice shall be made by regular mail to the  
25 last known address of the licensee as shown on the most recent  
26 license application or change of address on the license as provided  
27 by section 315.

1           (5) ~~(4)~~—A license shall not be suspended under this section  
2 for a period of more than 1 year.

3           (6) ~~(5)~~—The reexamination may be held by the secretary of  
4 state ~~pursuant to~~ **UNDER** this section notwithstanding any  
5 restriction, suspension, revocation, or denial of a license under  
6 this section, section 303 or 319, chapter V, section 625 or 625b,  
7 or under any other law of this state. A suspension ordered ~~pursuant~~  
8 ~~to~~ **UNDER** this section shall be in addition to other suspensions.

9           (7) ~~(6)~~—If a licensed operator or chauffeur fails to appear  
10 for a reexamination scheduled by the secretary of state ~~pursuant to~~  
11 **UNDER** this section, the licensed operator's or chauffeur's license  
12 may be suspended immediately and shall remain suspended until the  
13 licensed operator or chauffeur appears for a reexamination by the  
14 secretary of state. However, the secretary of state may restrict,  
15 suspend, or revoke the license based solely on the licensed  
16 operator's or chauffeur's driving record.

17           (8) ~~(7)~~—Notwithstanding any other provision of this act, the  
18 secretary of state shall not issue a restricted license to a person  
19 to operate a commercial motor vehicle when a vehicle group  
20 designation is required to operate that vehicle.

21           (9) **AS USED IN THIS SECTION, "VENTRICULAR ASSIST DEVICE" MEANS**  
22 **A MEDICAL DEVICE THAT IS USED TO PARTIALLY OR COMPLETELY REPLACE**  
23 **THE FUNCTION OF A FAILING HEART.**