

HOUSE BILL No. 4042

January 18, 2017, Introduced by Rep. Lucido and referred to the Committee on Law and Justice.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 904 and 904a (MCL 257.904 and 257.904a), section 904 as amended by 2015 PA 11 and section 904a as amended by 1985 PA 53.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 904. (1) A person whose operator's or chauffeur's license
2 or registration certificate has been suspended or revoked, whose
3 application for license has been denied, or who has never applied
4 for a license, shall not operate a motor vehicle upon a highway or
5 other place open to the general public or generally accessible to
6 motor vehicles, including an area designated for the parking of
7 motor vehicles, within this state. **A PEACE OFFICER WHO DETERMINES**
8 **THAT A PERSON IS OPERATING A MOTOR VEHICLE IN VIOLATION OF THIS**
9 **SUBSECTION AND THAT THE PERSON IS THE OWNER OF THE MOTOR VEHICLE**

1 SHALL IMMEDIATELY CONFISCATE THE MOTOR VEHICLE'S REGISTRATION PLATE
2 AND NOTIFY THE SECRETARY OF STATE THROUGH THE LAW ENFORCEMENT
3 INFORMATION NETWORK IN A FORM PRESCRIBED BY THE SECRETARY OF STATE
4 THAT THE REGISTRATION PLATE WAS CONFISCATED. A REGISTRATION PLATE
5 THAT HAS BEEN CONFISCATED UNDER THIS SUBSECTION MUST BE HELD FOR A
6 PERIOD OF 10 DAYS AFTER THE CONFISCATION AND, UNLESS THE OWNER OF
7 THE MOTOR VEHICLE PROVIDES PROOF WITHIN THAT 10-DAY PERIOD THAT THE
8 MOTOR VEHICLE IS INSURED UNDER CHAPTER 31 OF THE INSURANCE CODE OF
9 1956, 1956 PA 218, MCL 500.3101 TO 500.3179, MUST BE DESTROYED. A
10 POLICE OFFICER WHO DESTROYS A REGISTRATION PLATE AS PROVIDED IN
11 THIS SUBSECTION SHALL NOTIFY THE SECRETARY OF STATE THROUGH THE LAW
12 ENFORCEMENT INFORMATION NETWORK IN A FORM PRESCRIBED BY THE
13 SECRETARY OF STATE THAT THE REGISTRATION PLATE WAS DESTROYED.

14 (2) A person shall not knowingly permit a motor vehicle owned
15 by the person to be operated upon a highway or other place open to
16 the general public or generally accessible to motor vehicles,
17 including an area designated for the parking of vehicles, within
18 this state by a person whose license or registration certificate is
19 suspended or revoked, whose application for license has been
20 denied, or who has never applied for a license, except as permitted
21 under this act.

22 (3) Except as otherwise provided in this section, a person who
23 violates subsection (1) or (2) is guilty of a misdemeanor
24 punishable as follows:

25 (a) For a first violation, by imprisonment for not more than
26 93 days or a fine of not more than \$500.00, or both. Unless the
27 vehicle was stolen or used with the permission of a person who did

1 not knowingly permit an unlicensed driver to operate the vehicle,
2 the registration plates of the vehicle shall be canceled by the
3 secretary of state upon notification by a peace officer.

4 (b) For a violation that occurs after a prior conviction, by
5 imprisonment for not more than 1 year or a fine of not more than
6 \$1,000.00, or both. Unless the vehicle was stolen, the registration
7 plates of the vehicle shall be canceled by the secretary of state
8 upon notification by a peace officer.

9 (4) A person who operates a motor vehicle in violation of
10 subsection (1) and who, by operation of that motor vehicle, causes
11 the death of another person is guilty of a felony punishable by
12 imprisonment for not more than 15 years or a fine of not less than
13 \$2,500.00 or more than \$10,000.00, or both. This subsection does
14 not apply to a person whose operator's or chauffeur's license was
15 suspended because that person failed to answer a citation or comply
16 with an order or judgment under section 321a.

17 (5) A person who operates a motor vehicle in violation of
18 subsection (1) and who, by operation of that motor vehicle, causes
19 the serious impairment of a body function of another person is
20 guilty of a felony punishable by imprisonment for not more than 5
21 years or a fine of not less than \$1,000.00 or more than \$5,000.00,
22 or both. This subsection does not apply to a person whose
23 operator's or chauffeur's license was suspended because that person
24 failed to answer a citation or comply with an order or judgment
25 under section 321a.

26 (6) In addition to being subject to any other penalty provided
27 for in this act, if a person is convicted under subsection (4) or

1 (5), the court may impose the sanction permitted under section
2 625n. If the vehicle is not ordered forfeited under section 625n,
3 the court shall order vehicle immobilization under section 904d in
4 the judgment of sentence.

5 (7) ~~A person shall not knowingly permit a motor vehicle owned~~
6 ~~by the person to be operated upon a highway or other place open to~~
7 ~~the general public or generally accessible to motor vehicles,~~
8 ~~including an area designated for the parking of vehicles, within~~
9 ~~this state, by a person whose license or registration certificate~~
10 ~~is suspended or revoked, whose application for license has been~~
11 ~~denied, or who has never been licensed except as permitted by this~~
12 ~~act.~~ If a person permitted to operate a motor vehicle in violation
13 of ~~this~~ subsection **(2)** causes the serious impairment of a body
14 function of another person by operation of that motor vehicle, the
15 person **WHO** knowingly ~~permitting~~ **PERMITTED** the operation of that
16 motor vehicle **IN VIOLATION OF SUBSECTION (2)** is guilty of a felony
17 punishable by imprisonment for not more than 2 years, or a fine of
18 not less than \$1,000.00 or more than \$5,000.00, or both. If a
19 person permitted to operate a motor vehicle in violation of ~~this~~
20 subsection **(2)** causes the death of another person by operation of
21 that motor vehicle, the person **WHO** knowingly ~~permitting~~ **PERMITTED**
22 the operation of that motor vehicle **IN VIOLATION OF SUBSECTION (2)**
23 is guilty of a felony punishable by imprisonment for not more than
24 5 years, or a fine of not less than \$1,000.00 or more than
25 \$5,000.00, or both.

26 (8) If the prosecuting attorney intends to seek an enhanced
27 sentence under this section based upon the defendant having 1 or

1 more prior convictions, the prosecuting attorney shall include on
2 the complaint and information, or an amended complaint and
3 information, filed in district court, circuit court, municipal
4 court, or family division of circuit court, a statement listing the
5 defendant's prior convictions.

6 (9) A prior conviction under this section ~~shall~~**MUST** be
7 established at or before sentencing by 1 or more of the following:

8 (a) A copy of a judgment of conviction.

9 (b) An abstract of conviction.

10 (c) A transcript of a prior trial, plea, or sentencing.

11 (d) A copy of a court register of action.

12 (e) A copy of the defendant's driving record.

13 (f) Information contained in a presentence report.

14 (g) An admission by the defendant.

15 (10) Upon receiving a record of a person's conviction or civil
16 infraction determination for the unlawful operation of a motor
17 vehicle or a moving violation reportable under section 732 while
18 the person's operator's or chauffeur's license is suspended or
19 revoked, the secretary of state immediately shall impose an
20 additional like period of suspension or revocation. This subsection
21 applies only if the violation occurs during a suspension of
22 definite length or if the violation occurs before the person is
23 approved for a license following a revocation.

24 (11) Upon receiving a record of a person's conviction or civil
25 infraction determination for the unlawful operation of a motor
26 vehicle or a moving violation reportable under section 732 while
27 the person's operator's or chauffeur's license is indefinitely

1 suspended or whose application for a license has been denied, the
2 secretary of state immediately shall impose a 30-day period of
3 suspension or denial.

4 (12) Upon receiving a record of the conviction, bond
5 forfeiture, or a civil infraction determination of a person for
6 unlawful operation of a motor vehicle requiring a vehicle group
7 designation while the designation is suspended or revoked under
8 section 319b, or while the person is disqualified from operating a
9 commercial motor vehicle by the United States Secretary of
10 Transportation or under 49 USC 31301 to 31317, the secretary of
11 state immediately shall impose an additional like period of
12 suspension or revocation. This subsection applies only if the
13 violation occurs during a suspension of definite length or if the
14 violation occurs before the person is approved for a license
15 following a revocation.

16 (13) If the secretary of state receives records of more than 1
17 conviction or civil infraction determination resulting from the
18 same incident, all of the convictions or civil infraction
19 determinations shall be treated as a single violation for purposes
20 of imposing an additional period of suspension or revocation under
21 subsection (10), (11), or (12).

22 (14) Before a person is arraigned before a district court
23 magistrate or judge on a charge of violating this section, the
24 arresting officer shall obtain the person's driving record from the
25 secretary of state and shall furnish the record to the court. The
26 driving record of the person may be obtained from the secretary of
27 state's computer information network.

1 (15) This section does not apply to a person who operates a
2 vehicle solely for the purpose of protecting human life or property
3 if the life or property is endangered and summoning prompt aid is
4 essential.

5 (16) A person whose vehicle group designation is suspended or
6 revoked and who has been notified as provided in section 212 of
7 that suspension or revocation, or whose application for a vehicle
8 group designation has been denied as provided in this act, or who
9 has never applied for a vehicle group designation and who operates
10 a commercial motor vehicle within this state, except as permitted
11 under this act, while any of those conditions exist is guilty of a
12 misdemeanor punishable, except as otherwise provided in this
13 section, by imprisonment for not less than 3 days or more than 93
14 days or a fine of not more than \$100.00, or both.

15 (17) If a person has a second or subsequent suspension or
16 revocation under this section within 7 years as indicated on the
17 person's Michigan driving record, the court shall proceed as
18 provided in section 904d.

19 (18) Any period of suspension or revocation required under
20 subsection (10), (11), or (12) does not apply to a person who has
21 only 1 currently effective suspension or denial on his or her
22 Michigan driving record under section 321a and was convicted of or
23 received a civil infraction determination for a violation that
24 occurred during that suspension or denial. This subsection may only
25 be applied once during the person's lifetime.

26 (19) For purposes of this section, a person who never applied
27 for a license includes a person who applied for a license, was

1 denied, and never applied again.

2 (20) IF THE SECRETARY OF STATE IS NOTIFIED THAT A REGISTRATION
3 PLATE WAS DESTROYED UNDER SUBSECTION (1), THE SECRETARY OF STATE
4 SHALL CANCEL THE REGISTRATION PLATE OF THE MOTOR VEHICLE.

5 (21) THE OWNER OF A MOTOR VEHICLE FOR WHICH THE REGISTRATION
6 PLATE WAS CANCELED UNDER SUBSECTION (20) WHO SEEKS TO REGISTER HIS
7 OR HER MOTOR VEHICLE SHALL OBTAIN A NEW REGISTRATION PLATE FOR THE
8 MOTOR VEHICLE FROM THE SECRETARY OF STATE.

9 Sec. 904a. (1) Any person ~~WHO IS~~ not exempt from ~~THE~~ license
10 REQUIREMENTS under this act, who ~~shall operate~~ OPERATES a motor
11 vehicle upon the highways of this state, and who UPON THE REQUEST
12 OF A POLICE OFFICER is unable to ~~show~~ PRODUCE EVIDENCE that he or
13 she has been issued a license to operate a motor vehicle by any
14 state or foreign country valid within the PRECEDING 3 years
15 ~~preceding~~ is guilty of a misdemeanor, ~~and upon conviction shall be~~
16 ~~punished~~ PUNISHABLE AS FOLLOWS:

17 (A) FOR A FIRST VIOLATION, by imprisonment for not more than
18 90 days ~~or~~ by a fine of not less than \$50.00 ~~nor~~ OR more than
19 \$100.00, or both. ~~Any person convicted of a second offense under~~
20 ~~this section shall be punished~~

21 (B) FOR A SECOND OR SUBSEQUENT VIOLATION, by imprisonment for
22 not less than 2 ~~nor~~ OR more than 90 days ~~or~~ by a fine of \$100.00,
23 or both.

24 (2) A PEACE OFFICER WHO DETERMINES THAT A PERSON IS OPERATING
25 A MOTOR VEHICLE IN VIOLATION OF SUBSECTION (1) AND THAT THE PERSON
26 IS THE OWNER OF THAT MOTOR VEHICLE SHALL IMMEDIATELY CONFISCATE THE
27 MOTOR VEHICLE'S REGISTRATION PLATE AND NOTIFY THE SECRETARY OF

1 STATE THROUGH THE LAW ENFORCEMENT INFORMATION NETWORK IN A FORM
2 PRESCRIBED BY THE SECRETARY OF STATE THAT THE REGISTRATION PLATE
3 WAS CONFISCATED. A REGISTRATION PLATE THAT HAS BEEN CONFISCATED
4 UNDER THIS SUBSECTION MUST BE HELD FOR A PERIOD OF 10 DAYS AFTER
5 THE CONFISCATION AND, UNLESS THE OWNER OF THE MOTOR VEHICLE
6 PROVIDES PROOF WITHIN THAT 10-DAY PERIOD THAT THE MOTOR VEHICLE IS
7 INSURED UNDER CHAPTER 31 OF THE INSURANCE CODE OF 1956, 1956 PA
8 218, MCL 500.3101 TO 500.3179, SHALL BE DESTROYED. A PEACE OFFICER
9 WHO DESTROYS A REGISTRATION PLATE AS PROVIDED IN THIS SUBSECTION
10 SHALL NOTIFY THE SECRETARY OF STATE THROUGH THE LAW ENFORCEMENT
11 INFORMATION NETWORK IN A FORM PRESCRIBED BY THE SECRETARY OF STATE
12 THAT THE REGISTRATION PLATE WAS DESTROYED.

13 (3) IF THE SECRETARY OF STATE IS NOTIFIED THAT A REGISTRATION
14 PLATE WAS DESTROYED UNDER SUBSECTION (2), THE SECRETARY OF STATE
15 SHALL CANCEL THE REGISTRATION PLATE.

16 (4) THE OWNER OF A MOTOR VEHICLE FOR WHICH THE REGISTRATION
17 PLATE WAS CANCELED UNDER SUBSECTION (3) WHO SEEKS TO REGISTER HIS
18 OR HER MOTOR VEHICLE SHALL OBTAIN A NEW REGISTRATION PLATE FOR THE
19 MOTOR VEHICLE FROM THE SECRETARY OF STATE.

20 Enacting section 1. This amendatory act takes effect 90 days
21 after the date it is enacted into law.