

HOUSE BILL No. 5765

April 10, 2018, Introduced by Rep. VanderWall and referred to the Committee on Law and Justice.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 319 (MCL 257.319), as amended by 2016 PA 358.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 319. (1) The secretary of state shall immediately suspend
2 a person's license as provided in this section on receiving a
3 record of the person's conviction for a crime described in this
4 section, whether the conviction is under a law of this state, a
5 local ordinance substantially corresponding to a law of this state,
6 a law of another state substantially corresponding to a law of this
7 state, or, beginning October 31, 2010, a law of the United States
8 substantially corresponding to a law of this state.

9 (2) The secretary of state shall suspend the person's license
10 for 1 year for any of the following crimes:

11 (a) Fraudulently altering or forging documents pertaining to

1 motor vehicles in violation of section 257.

2 (b) A violation of section 413 of the Michigan penal code,
3 1931 PA 328, MCL 750.413.

4 (c) A violation of section 1 of former 1931 PA 214, MCL
5 752.191, or former section 626c.

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

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

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

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

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

17 (e) A violation of section 602a(2) or (3) of this act or
18 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL
19 750.479a.

20 (f) Beginning October 31, 2010, a violation of section 601d.

21 **THE SECRETARY OF STATE MAY ISSUE THE PERSON A RESTRICTED LICENSE**
22 **DURING ALL OR A SPECIFIED PORTION OF THE SUSPENSION.**

23 (3) The secretary of state shall suspend the person's license
24 for 90 days for any of the following crimes:

25 (a) Failing to stop and disclose identity at the scene of an
26 accident resulting in injury in violation of section 617a.

27 (b) A violation of section 601b(2), section 601c(1), section

1 653a(3), section 626 before October 31, 2010, or, beginning October
2 31, 2010, section 626(2).

3 (c) Malicious destruction resulting from the operation of a
4 vehicle under section 382(1)(b), (c), or (d) of the Michigan penal
5 code, 1931 PA 328, MCL 750.382.

6 (d) A violation of section 703(2) of the Michigan liquor
7 control code of 1998, 1998 PA 58, MCL 436.1703.

8 (4) The secretary of state shall suspend the person's license
9 for 30 days for malicious destruction resulting from the operation
10 of a vehicle under section 382(1)(a) of the Michigan penal code,
11 1931 PA 328, MCL 750.382.

12 (5) For perjury or making a false certification to the
13 secretary of state under any law requiring the registration of a
14 motor vehicle or regulating the operation of a vehicle on a
15 highway, or for conduct prohibited under section 324(1) or a local
16 ordinance substantially corresponding to section 324(1), the
17 secretary of state shall suspend the person's license as follows:

18 (a) If the person has no prior conviction for an offense
19 described in this subsection within 7 years, for 90 days.

20 (b) If the person has 1 or more prior convictions for an
21 offense described in this subsection within 7 years, for 1 year.

22 (6) For a violation of section 414 of the Michigan penal code,
23 1931 PA 328, MCL 750.414, the secretary of state shall suspend the
24 person's license as follows:

25 (a) If the person has no prior conviction for that offense
26 within 7 years, for 90 days.

27 (b) If the person has 1 or more prior convictions for that

1 offense within 7 years, for 1 year.

2 (7) For a violation of section 624a or 624b of this act or
3 section 703(1) of the Michigan liquor control code of 1998, 1998 PA
4 58, MCL 436.1703, the secretary of state shall suspend the person's
5 license as follows:

6 (a) Subject to subsection (24), if the person has 1 prior
7 conviction for an offense described in section 624a or 624b of this
8 act or section 33b(1) of former 1933 (Ex Sess) PA 8, for 90 days.
9 The secretary of state may issue the person a restricted license
10 after the first 30 days of suspension.

11 (b) Subject to subsection (24), if the person has 2 or more
12 prior convictions for an offense described in this subsection or
13 section 33b(1) of former 1933 (Ex Sess) PA 8, for 1 year. The
14 secretary of state may issue the person a restricted license after
15 the first 60 days of suspension.

16 (8) The secretary of state shall suspend the person's license
17 for a violation of section 625 or 625m as follows:

18 (a) For 180 days for a violation of section 625(1) or (8)
19 before October 31, 2010 or, beginning October 31, 2010, section
20 625(1) (a) or (b) or (8) if the person has no prior convictions
21 within 7 years. The secretary of state may issue the person a
22 restricted license during a specified portion of the suspension,
23 except that the secretary of state shall not issue a restricted
24 license during the first 30 days of suspension.

25 (b) For 90 days for a violation of section 625(3) if the
26 person has no prior convictions within 7 years. However, if the
27 person is convicted of a violation of section 625(3), for operating

1 a vehicle when, due to the consumption of a controlled substance or
2 a combination of alcoholic liquor and a controlled substance, the
3 person's ability to operate the vehicle was visibly impaired, the
4 secretary of state shall suspend the person's license under this
5 subdivision for 180 days. The secretary of state may issue the
6 person a restricted license during all or a specified portion of
7 the suspension.

8 (c) For 30 days for a violation of section 625(6) if the
9 person has no prior convictions within 7 years. The secretary of
10 state may issue the person a restricted license during all or a
11 specified portion of the suspension.

12 (d) For 90 days for a violation of section 625(6) if the
13 person has 1 or more prior convictions for that offense within 7
14 years.

15 (e) For 180 days for a violation of section 625(7) if the
16 person has no prior convictions within 7 years. The secretary of
17 state may issue the person a restricted license after the first 90
18 days of suspension.

19 (f) For 90 days for a violation of section 625m if the person
20 has no prior convictions within 7 years. The secretary of state may
21 issue the person a restricted license during all or a specified
22 portion of the suspension.

23 (g) Beginning October 31, 2010, for 1 year for a violation of
24 section 625(1)(c) if the person has no prior convictions within 7
25 years or not more than 2 convictions within 10 years. The secretary
26 of state may issue the person a restricted license, except that the
27 secretary of state shall not issue a restricted license during the

1 first 45 days of suspension.

2 (h) Beginning October 31, 2010, the department shall order a
3 person convicted of violating section 625(1)(c) not to operate a
4 motor vehicle under a restricted license issued under subdivision
5 (g) unless the vehicle is equipped with an ignition interlock
6 device approved, certified, and installed as required under
7 sections 625k and 625l. The ignition interlock device may be
8 removed after the interlock device provider provides the department
9 with verification that the person has operated the vehicle with no
10 instances of reaching or exceeding a blood alcohol level of 0.025
11 grams per 210 liters of breath. This subdivision does not prohibit
12 the removal of the ignition interlock device for any of the
13 following:

14 (i) A start-up test failure that occurs within the first 2
15 months after installation of the device. As used in this
16 subdivision, "start-up test failure" means that the ignition
17 interlock device has prevented the motor vehicle from being
18 started. Multiple unsuccessful attempts at 1 time to start the
19 vehicle are treated as 1 start-up test failure only under this
20 subparagraph.

21 (ii) A start-up test failure occurring more than 2 months
22 after installation of the device, if not more than 15 minutes after
23 detecting the start-up test failure the person delivers a breath
24 sample that the ignition interlock device analyzes as having an
25 alcohol level of less than 0.025 grams per 210 liters of breath.

26 (iii) A retest prompted by the device, if not more than 5
27 minutes after detecting the retest failure the person delivers a

1 breath sample that the ignition interlock device analyzes as having
2 an alcohol level of less than 0.025 grams per 210 liters of breath.

3 (i) Beginning October 31, 2010, if an individual violates the
4 conditions of the restricted license issued under subdivision (g)
5 or operates or attempts to operate a motor vehicle with a blood
6 alcohol level of 0.025 grams per 210 liters of breath, the
7 secretary of state shall impose an additional like period of
8 suspension and restriction as prescribed under subdivision (g).
9 This subdivision does not require an additional like period of
10 suspension and restriction for any of the following:

11 (i) A start-up test failure within the first 2 months after
12 installation of the ignition interlock device. As used in this
13 subdivision, "start-up test failure" means that the ignition
14 interlock device has prevented the motor vehicle from being
15 started. Multiple unsuccessful attempts at 1 time to start the
16 vehicle are treated as 1 start-up test failure only under this
17 subparagraph.

18 (ii) A start-up test failure occurring more than 2 months
19 after installation of the device, if not more than 15 minutes after
20 detecting the start-up test failure the person delivers a breath
21 sample that the ignition interlock device analyzes as having an
22 alcohol level of less than 0.025 grams per 210 liters of breath.

23 (iii) Any retest prompted by the device, if not more than 5
24 minutes after detecting the retest failure the person delivers a
25 breath sample that the ignition interlock device analyzes as having
26 an alcohol level of less than 0.025 grams per 210 liters of breath.

27 (9) For a violation of section 367c of the Michigan penal

1 code, 1931 PA 328, MCL 750.367c, the secretary of state shall
2 suspend the person's license as follows:

3 (a) If the person has no prior conviction for an offense
4 described in this subsection within 7 years, for 6 months.

5 (b) If the person has 1 or more convictions for an offense
6 described in this subsection within 7 years, for 1 year.

7 (10) For a violation of section 315(4), the secretary of state
8 may suspend the person's license for 6 months.

9 (11) For a violation or attempted violation of section 411a(2)
10 of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a
11 school, the secretary of state shall suspend the license of a
12 person 14 years of age or over but less than 21 years of age until
13 3 years after the date of the conviction or juvenile disposition
14 for the violation. The secretary of state may issue the person a
15 restricted license after the first 365 days of suspension.

16 (12) For a second or subsequent violation of section 701(1) of
17 the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701,
18 by an individual who is not a retail licensee or a retail
19 licensee's clerk, agent, or employee, the secretary of state shall
20 suspend the person's license for 180 days. The secretary of state
21 may issue a person a restricted license during all or a specified
22 portion of the suspension.

23 (13) Except as provided in subsection (15), a suspension under
24 this section shall be imposed notwithstanding a court order unless
25 the court order complies with section 323.

26 (14) If the secretary of state receives records of more than 1
27 conviction of a person resulting from the same incident, a

1 suspension shall be imposed only for the violation to which the
2 longest period of suspension applies under this section.

3 (15) The secretary of state may waive a restriction,
4 suspension, or revocation of a person's license imposed under this
5 act if the person submits proof that a court in another state
6 revoked, suspended, or restricted his or her license for a period
7 equal to or greater than the period of a restriction, suspension,
8 or revocation prescribed under this act for the violation and that
9 the revocation, suspension, or restriction was served for the
10 violation, or may grant a restricted license.

11 (16) The secretary of state shall not issue a restricted
12 license to a person whose license is suspended under this section
13 unless a restricted license is authorized under this section and
14 the person is otherwise eligible for a license.

15 (17) The secretary of state shall not issue a restricted
16 license to a person under subsection (8) that would permit the
17 person to operate a commercial motor vehicle.

18 (18) Except as provided in subsection (17), a restricted
19 license issued under this section shall permit the person to whom
20 it is issued to take any driving skills test required by the
21 secretary of state and to operate a vehicle under 1 or more of the
22 following circumstances:

23 (a) In the course of the person's employment or occupation.

24 (b) To and from any combination of the following:

25 (i) The person's residence.

26 (ii) The person's work location.

27 (iii) An alcohol or drug education or treatment program as

1 ordered by the court.

2 (iv) The court probation department.

3 (v) A court-ordered community service program.

4 (vi) An educational institution at which the person is
5 enrolled as a student.

6 (vii) A place of regularly occurring medical treatment for a
7 serious condition for the person or a member of the person's
8 household or immediate family.

9 (viii) An ignition interlock service provider as required.

10 (19) While driving with a restricted license, the person shall
11 carry proof of his or her destination and the hours of any
12 employment, class, or other reason for traveling and shall display
13 that proof upon a peace officer's request.

14 (20) Subject to subsection (22), as used in subsection (8),
15 "prior conviction" means a conviction for any of the following,
16 whether under a law of this state, a local ordinance substantially
17 corresponding to a law of this state, or a law of another state
18 substantially corresponding to a law of this state:

19 (a) Except as provided in subsection (21), a violation or
20 attempted violation of any of the following:

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

1 (ii) Section 625m.

2 (iii) Former section 625b.

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

6 (c) Beginning October 31, 2010, a violation of section 601d or
7 section 626(3) or (4).

8 (21) Except for purposes of the suspensions described in
9 subsection (8)(c) and (d), only 1 violation or attempted violation
10 of section 625(6), a local ordinance substantially corresponding to
11 section 625(6), or a law of another state substantially
12 corresponding to section 625(6) may be used as a prior conviction.

13 (22) If 2 or more convictions described in subsection (20) are
14 convictions for violations arising out of the same transaction,
15 only 1 conviction shall be used to determine whether the person has
16 a prior conviction.

17 (23) Any period of suspension or restriction required under
18 this section is not subject to appeal to the secretary of state.

19 (24) For purposes of subsection (7), "prior conviction" means
20 either a misdemeanor conviction or a civil infraction determination
21 for a violation of section 703(1) of the liquor control code of
22 1998, 1998 PA 58, MCL 436.1703.

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