

HOUSE BILL No. 6366

September 25, 2018, Introduced by Rep. Howrylak and referred to the Committee on Transportation and Infrastructure.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 320a, 602b, 602c, 732, and 907 (MCL 257.320a, 257.602b, 257.602c, 257.732, and 257.907), section 320a as amended by 2016 PA 448, section 602b as amended by 2016 PA 332, section 602c as added by 2012 PA 592, section 732 as amended by 2017 PA 160, and section 907 as amended by 2015 PA 126.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 320a. (1) Within 5 days after receipt of a properly
2 prepared abstract from a court of this state or another state, the
3 secretary of state shall record the date of conviction, civil
4 infraction determination, or probate court disposition, and the
5 number of points for each, based on the following formula, except

1 as otherwise provided in this section and section 629c:

2 (a) Manslaughter, negligent homicide, or a
3 felony resulting from the operation of a motor
4 vehicle, ORV, or snowmobile.....6 points

5 (b) A violation of section 601b(2) or (3),
6 601c(1) or (2), or 653a(3) or (4) or, beginning
7 October 31, 2010, a violation of section 601d.....6 points

8 (c) A violation of section 625(1), (4), (5),
9 (7), or (8), section 81134 or 82127(1) of the
10 natural resources and environmental protection act,
11 1994 PA 451, MCL 324.81134 and 324.82127, or a law
12 or ordinance substantially corresponding to section
13 625(1), (4), (5), (7), or (8), or section 81134
14 or 82127(1) of the natural resources and
15 environmental protection act, 1994 PA 451,
16 MCL 324.81134 and 324.82127.....6 points

17 (d) Failing to stop and disclose identity
18 at the scene of an accident when required by law.....6 points

19 (e) Operating a motor vehicle in violation
20 of section 626.....6 points

21 (f) Fleeing or eluding an officer.....6 points

22 (g) A violation of section 627(6) pertaining
23 to speed in a work zone described in that section
24 by exceeding the lawful maximum by more than
25 15 miles per hour.....5 points

26 (h) A violation of any law or ordinance
27 pertaining to speed by exceeding the lawful

- 1 maximum by more than 15 miles per hour.....4 points
- 2 (i) A violation of section 625(3) or (6),
- 3 section 81135 or 82127(3) of the natural
- 4 resources and environmental protection act,
- 5 1994 PA 451, MCL 324.81135 and 324.82127,
- 6 or a law or ordinance substantially corresponding
- 7 to section 625(3) or (6) or section 81135
- 8 or 82127(3) of the natural resources and
- 9 environmental protection act, 1994 PA 451,
- 10 MCL 324.81135 and 324.82127.....4 points
- 11 (j) A violation of section 626a or a law
- 12 or ordinance substantially corresponding to
- 13 section 626a.....4 points
- 14 (k) A violation of section 653a(2).....4 points
- 15 (l) A violation of section 627(6) pertaining
- 16 to speed in a work zone described in that section
- 17 by exceeding the lawful maximum by more than 10
- 18 but not more than 15 miles per hour.....4 points
- 19 (m) Beginning October 31, 2010, a moving
- 20 violation resulting in an at-fault collision with
- 21 another vehicle, a person, or any other object.....4 points
- 22 (n) Careless driving in violation of section
- 23 626b or a law or ordinance substantially
- 24 corresponding to section 626b.....3 points
- 25 (o) A violation of any law or ordinance
- 26 pertaining to speed by exceeding the lawful
- 27 maximum by more than 10 miles per hour but not

- 1 more than 15 miles per hour.....3 points
- 2 (p) A violation of any law or ordinance
- 3 pertaining to speed by exceeding the lawful
- 4 maximum by more than 5 miles per hour but not
- 5 more than 10 miles per hour2 points
- 6 (q) A violation of any law or ordinance
- 7 pertaining to speed by exceeding the lawful
- 8 maximum by more than 1 mile per hour but not
- 9 more than 5 miles per hour.....1 point
- 10 (r) Disobeying a traffic signal or stop sign,
- 11 or improper passing.....3 points
- 12 (s) A violation of section 624a, 624b, or
- 13 a law or ordinance substantially corresponding to
- 14 section 624a or 624b.....2 points
- 15 (t) A violation of section 310e(4) or (6) or
- 16 a law or ordinance substantially corresponding
- 17 to section 310e(4) or (6).....2 points
- 18 (u) All other moving violations pertaining to
- 19 the operation of motor vehicles reported under
- 20 this section.....2 points
- 21 (v) A refusal by a person less than 21 years
- 22 of age to submit to a preliminary breath test
- 23 required by a peace officer under section 625a.....2 points
- 24 (w) A violation of section 627(6) pertaining
- 25 to speed in a work zone described in that
- 26 section by exceeding the lawful maximum by
- 27 10 miles per hour or less.....3 points

1 (X) A THIRD OR SUBSEQUENT VIOLATION OF
2 SECTION 602B(4).....2 POINTS

3 (Y) A SECOND VIOLATION OF SECTION 602B(4).....1 POINT

4 (2) Points shall not be entered for a violation of section
5 310e(14), 311, 602b(1), 602c, 625m, 658, 710d, 717, 719, 719a, or
6 723. POINTS SHALL NOT BE ENTERED FOR A FIRST VIOLATION OF SECTION
7 602B(4) .

8 (3) Points shall not be entered for bond forfeitures.

9 (4) Points shall not be entered for overweight loads or for
10 defective equipment.

11 (5) If more than 1 conviction, civil infraction determination,
12 or probate court disposition results from the same incident, points
13 shall be entered only for the violation that receives the highest
14 number of points under this section.

15 (6) If a person has accumulated 9 points as provided in this
16 section, the secretary of state may call the person in for an
17 interview as to the person's driving ability and record after due
18 notice as to time and place of the interview. If the person fails
19 to appear as provided in this subsection, the secretary of state
20 shall add 3 points to the person's record.

21 (7) If a person violates a speed restriction established by an
22 executive order issued during a state of energy emergency as
23 provided by 1982 PA 191, MCL 10.81 to 10.89, the secretary of state
24 shall enter points for the violation under subsection (1).

25 (8) The secretary of state shall enter 6 points upon the
26 record of a person whose license is suspended or denied under
27 section 625f. However, if a conviction, civil infraction

1 determination, or probate court disposition results from the same
2 incident, additional points for that offense shall not be entered.

3 (9) If a Michigan driver commits a violation in another state
4 that would be a civil infraction if committed in Michigan, and a
5 conviction results solely because of the failure of the Michigan
6 driver to appear in that state to contest the violation, upon
7 receipt of the abstract of conviction by the secretary of state,
8 the violation shall be noted on the driver's record, but no points
9 shall be assessed against his or her ~~driver's~~**DRIVER** license.

10 Sec. 602b. (1) Except as otherwise provided in this section, a
11 person shall not read, manually type, or send a text message on a
12 wireless 2-way communication device that is located in the person's
13 hand or in the person's lap, including a wireless telephone used in
14 cellular telephone service or personal communication service, while
15 operating a motor vehicle that is moving on a highway or street in
16 this state, . As used in this subsection, a wireless 2-way
17 communication device does not include a global positioning or
18 navigation system that is affixed to the motor vehicle. This
19 subsection does not apply to a person operating a commercial
20 vehicle.

21 (2) Except as otherwise provided in this section, a person
22 shall not read, manually type, or send a text message on a wireless
23 2-way communication device that is located in the person's hand or
24 in the person's lap, including a wireless telephone used in
25 cellular telephone service or personal communication service, while
26 operating a commercial motor vehicle or a school bus on a highway
27 or street in this state. As used in this subsection, ~~a wireless~~

1 **"WIRELESS 2-WAY COMMUNICATION DEVICE" MEANS A MOBILE TELEPHONE AS**
2 **THAT TERM IS DEFINED IN 49 CFR 390.5. WIRELESS** 2-way communication
3 device does not include a global positioning or navigation system
4 that is affixed to the commercial motor vehicle or school bus.

5 (3) Except as otherwise provided in this section, a person
6 shall not use a hand-held mobile telephone to conduct a voice
7 communication while operating a commercial motor vehicle or a
8 school bus on a highway, including while temporarily stationary due
9 to traffic, a traffic control device, or other momentary delays.

10 This subsection does not apply if the operator of the commercial
11 vehicle or school bus has moved the vehicle to the side of, or off,
12 a highway and has stopped in a location where the vehicle can
13 safely remain stationary. As used in this subsection, "mobile
14 telephone" **MEANS THAT TERM AS DEFINED IN 49 CFR 390.5. MOBILE**

15 **TELEPHONE** does not include a 2-way radio service or citizens band
16 radio service. As used in this subsection, "use a hand-held mobile
17 telephone" means 1 or more of the following:

18 (a) Using at least 1 hand to hold a mobile telephone to
19 conduct a voice communication.

20 (b) Dialing or answering a mobile telephone by pressing more
21 than a single button.

22 (c) Reaching for a mobile telephone in a manner that requires
23 a driver to maneuver so that he or she is no longer in a seated
24 driving position, restrained by a seat belt that is installed as
25 required by 49 CFR 393.93 and adjusted in accordance with the
26 vehicle manufacturer's instructions.

27 **(4) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A PERSON**

1 SHALL NOT USE OR HOLD A PORTABLE ELECTRONIC DEVICE WHILE OPERATING
2 A MOTOR VEHICLE THAT IS MOVING IN A WORK ZONE OR A SCHOOL ZONE
3 INCLUDING OPERATION WHILE TEMPORARILY STATIONARY BECAUSE OF
4 TRAFFIC, A TRAFFIC LIGHT OR STOP SIGN, OR OTHERWISE, BUT NOT
5 INCLUDING OPERATION WHEN THE VEHICLE HAS BEEN PULLED OVER TO THE
6 SIDE OF OR OFF OF THE ROADWAY AND IS STOPPED IN A LOCATION WHERE IT
7 CAN SAFELY REMAIN STATIONARY. A PERSON MAY ACTIVATE OR DEACTIVATE A
8 PORTABLE ELECTRONIC DEVICE WHILE HE OR SHE IS OPERATING A MOTOR
9 VEHICLE IN A WORK ZONE OR A SCHOOL ZONE IF THE PORTABLE ELECTRONIC
10 DEVICE IS MOUNTED ON THE WINDSHIELD, DASHBOARD, OR CENTER CONSOLE
11 IN A MANNER THAT DOES NOT HINDER THE PERSON'S VIEW OF THE ROAD AND
12 IF THE PERSON'S HAND IS USED TO ACTIVATE OR DEACTIVATE A FEATURE OR
13 FUNCTION OF THE PORTABLE ELECTRONIC DEVICE WITH A SINGLE SWIPE OR
14 TAP OF THE PERSON'S FINGER. THIS SUBSECTION DOES NOT APPLY TO A
15 PERSON WHO USES A PORTABLE ELECTRONIC DEVICE WHILE OPERATING A
16 MOTOR VEHICLE IN A WORK ZONE OR A SCHOOL ZONE IF THE PORTABLE
17 ELECTRONIC DEVICE IS SPECIFICALLY DESIGNED AND CONFIGURED TO ALLOW
18 VOICE-OPERATED AND HANDS-FREE OPERATION AND IS BEING USED IN THAT
19 MANNER BY THE PERSON WHILE OPERATING THE MOTOR VEHICLE. THIS
20 SUBSECTION DOES NOT APPLY TO A PERSON WHO HOLDS OR USES A PORTABLE
21 ELECTRONIC DEVICE WHILE OPERATING A MOTOR VEHICLE IN A WORK ZONE OR
22 A SCHOOL ZONE IF THE VEHICLE IS STOPPED AT THE SIDE OF OR OFF OF A
23 PUBLIC HIGHWAY IN A LOCATION WHERE THE VEHICLE IS NOT OTHERWISE
24 PROHIBITED FROM STOPPING BY LAW, RULE, REGULATION, OR A LAWFUL
25 ORDER OR DIRECTION OF A POLICE OFFICER.

26 (5) ~~(4)~~ Subsections (1), (2), ~~and~~ (3), AND (4) do not apply to
27 an individual who is using a device described in subsection (1) or

1 (3) to do any of the following:

2 (a) Report a traffic accident, medical emergency, or serious
3 road hazard.

4 (b) Report a situation in which the person believes his or her
5 personal safety is in jeopardy.

6 (c) Report or avert the perpetration or potential perpetration
7 of a criminal act against the individual or another person.

8 (d) Carry out official duties as a police officer, law
9 enforcement official, member of a paid or volunteer fire
10 department, or operator of an emergency vehicle.

11 (e) Operate or program the operation of an automated motor
12 vehicle while testing or operating the automated motor vehicle
13 without a human operator **WHILE THE AUTOMATED DRIVING SYSTEM IS**
14 **ENGAGED.**

15 (6) ~~(5)~~—Subsection (1) does not apply to a person using an on-
16 demand automated motor vehicle network.

17 (7) ~~(6)~~—An individual who violates this section is responsible
18 for a civil infraction and shall be ordered to pay a civil fine as
19 follows:

20 (a) For a first violation, ~~\$100.00.~~ **\$250.00.**

21 (b) For a second or subsequent violation, ~~\$200.00.~~ **\$500.00.**

22 (8) ~~(7)~~—This section supersedes all local ordinances
23 regulating the use of a communications device while operating a
24 motor vehicle in motion on a highway or street, except that a unit
25 of local government may adopt an ordinance or enforce an existing
26 ordinance substantially corresponding to this section.

27 (9) **THIS SECTION DOES NOT AUTHORIZE THE SEIZURE OR FORFEITURE**

1 OF A PORTABLE ELECTRONIC DEVICE, UNLESS SEIZURE OR FORFEITURE IS
2 OTHERWISE REQUIRED BY LAW.

3 (10) AS USED IN THIS SECTION:

4 (A) "PORTABLE ELECTRONIC DEVICE" MEANS ANY OF THE FOLLOWING:

5 (i) A WIRELESS TELEPHONE.

6 (ii) AN ELECTRONIC WIRELESS COMMUNICATION DEVICE. AS USED IN
7 THIS SUBDIVISION, "ELECTRONIC WIRELESS COMMUNICATION DEVICE" DOES
8 NOT INCLUDE A TRANSCEIVER OR A TRANSMITTER-RECEIVER RADIO.

9 (iii) A PERSONAL DIGITAL ASSISTANT.

10 (iv) A DEVICE THAT HAS MOBILE DATA ACCESS.

11 (v) A LAPTOP COMPUTER.

12 (vi) A PAGER.

13 (vii) A BROADBAND PERSONAL COMMUNICATION DEVICE.

14 (viii) A 2-WAY MESSAGING DEVICE.

15 (ix) AN ELECTRONIC GAME.

16 (x) A PORTABLE COMPUTING DEVICE.

17 (xi) EXCEPT AS PROVIDED IN SUBDIVISION (B), A NAVIGATION
18 DEVICE OR A GPS DEVICE.

19 (xii) ANY OTHER ELECTRONIC DEVICE THAT IS USED TO CONDUCT A
20 SEARCH OR TO INPUT, WRITE, SEND, RECEIVE, OR READ TEXT FOR PRESENT
21 OR FUTURE COMMUNICATION.

22 (B) PORTABLE ELECTRONIC DEVICE DOES NOT INCLUDE AMATEUR RADIO
23 SERVICE EQUIPMENT USED BY A LICENSEE OF THE FEDERAL COMMUNICATIONS
24 COMMISSION.

25 (C) "USE" MEANS TO HOLD A PORTABLE ELECTRONIC DEVICE WHILE
26 DOING ANY OF THE FOLLOWING:

27 (i) CONDUCTING A SEARCH.

- 1 (ii) VIEWING, TAKING, OR TRANSMITTING AN IMAGE OR VIDEO.
 2 (iii) PLAYING GAMES.
 3 (iv) FOR THE PURPOSE OF PRESENT OR FUTURE COMMUNICATION, DOING
 4 1 OR MORE OF THE FOLLOWING:
 5 (A) PERFORMING A COMMAND OR REQUEST TO ACCESS AN INTERNET
 6 PAGE.
 7 (B) COMPOSING, SENDING, READING, VIEWING, ACCESSING, BROWSING,
 8 TRANSMITTING, SAVING, OR RETRIEVING AN EMAIL MESSAGE, TEXT MESSAGE,
 9 INSTANT MESSAGE, OR OTHER ELECTRONIC DATA.

10 Sec. 602c. (1) Except as provided in this section, **AND IN**
 11 **ADDITION TO THE REQUIREMENTS OF SECTION 602B**, an individual issued
 12 a level 1 or level 2 graduated license under section 310e shall not
 13 use a cellular telephone while operating a motor vehicle upon a
 14 highway or street. For purposes of this subsection, "use" means to
 15 initiate a call; answer a call; or listen to or engage in verbal
 16 communication through the cellular telephone.

17 (2) Subsection (1) does not apply to an individual who is
 18 using a cellular telephone to do any of the following:

19 (a) Report a traffic accident, medical emergency, or serious
 20 road hazard.

21 (b) Report a situation in which the person believes his or her
 22 personal safety is in jeopardy.

23 (c) Report or avert the perpetration or potential perpetration
 24 of a criminal act against the individual or another person.

25 ~~(3) Subsection (1) does not apply to an individual using a~~
 26 ~~voice operated system that is integrated into the motor vehicle.~~

27 **(3) (4)**—An individual who violates this section is responsible

1 for a civil infraction.

2 (4) ~~(5)~~—This section supersedes all local ordinances
3 regulating the use of a cellular telephone by an individual issued
4 a level 1 or level 2 graduated license while operating a motor
5 vehicle in motion on a highway or street, except that a unit of
6 local government may adopt an ordinance or enforce an existing
7 ordinance substantially corresponding to this section.

8 (5) ~~(6)~~—This section shall be known and may be cited as
9 "Kelsey's Law".

10 Sec. 732. (1) Each municipal judge and each clerk of a court
11 of record shall keep a full record of every case in which a person
12 is charged with or cited for a violation of this act or a local
13 ordinance substantially corresponding to this act regulating the
14 operation of vehicles on highways and with those offenses
15 pertaining to the operation of ORVs or snowmobiles for which points
16 are assessed under section 320a(1)(c) or (i). Except as provided in
17 subsection (16), the municipal judge or clerk of the court of
18 record shall prepare and forward to the secretary of state an
19 abstract of the court record as follows:

20 (a) Not more than 5 days after a conviction, forfeiture of
21 bail, or entry of a civil infraction determination or default
22 judgment upon a charge of or citation for violating or attempting
23 to violate this act or a local ordinance substantially
24 corresponding to this act regulating the operation of vehicles on
25 highways.

26 (b) Immediately for each case charging a violation of section
27 625(1), (3), (4), (5), (6), (7), or (8) or section 625m or a local

1 ordinance substantially corresponding to section 625(1), (3), (6),
2 or (8) or section 625m in which the charge is dismissed or the
3 defendant is acquitted.

4 (c) Immediately for each case charging a violation of section
5 82127(1) or (3) or 81134 of the natural resources and environmental
6 protection act, 1994 PA 451, MCL 324.82127 and 324.81134, or a
7 local ordinance substantially corresponding to those sections.

8 (2) If a city or village department, bureau, or person is
9 authorized to accept a payment of money as a settlement for a
10 violation of a local ordinance substantially corresponding to this
11 act, the city or village department, bureau, or person shall send a
12 full report of each case in which a person pays any amount of money
13 to the city or village department, bureau, or person to the
14 secretary of state upon a form prescribed by the secretary of
15 state.

16 (3) The abstract or report required under this section shall
17 be made upon a form furnished by the secretary of state. An
18 abstract shall be certified by signature, stamp, or facsimile
19 signature of the person required to prepare the abstract as
20 correct. An abstract or report shall include all of the following:

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

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

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

26 (d) The type of vehicle driven at the time of the violation
27 and, if the vehicle is a commercial motor vehicle, that vehicle's

1 group designation.

2 (e) The date of the conviction, finding, forfeiture, judgment,
3 or civil infraction determination.

4 (f) Whether bail was forfeited.

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

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

9 (i) Other information considered necessary to the secretary of
10 state.

11 (4) The clerk of the court also shall forward an abstract of
12 the court record to the secretary of state upon a person's
13 conviction or, for the purposes of subdivision (d), a finding or
14 admission of responsibility, involving any of the following:

15 (a) A violation of section 413, 414, or 479a of the Michigan
16 penal code, 1931 PA 328, MCL 750.413, 750.414, and 750.479a.

17 (b) A violation of section 1 of former 1931 PA 214.

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

20 (d) A violation of sections 701(1) and 703 of the Michigan
21 liquor control code of 1998, 1998 PA 58, MCL 436.1701 and 436.1703,
22 or a local ordinance substantially corresponding to those sections.

23 (e) A violation of section 411a(2) of the Michigan penal code,
24 1931 PA 328, MCL 750.411a.

25 (f) A violation of motor carrier safety regulations 49 CFR
26 392.10 or 392.11 as adopted by section 1a of the motor carrier
27 safety act of 1963, 1963 PA 181, MCL 480.11a.

1 (g) A violation of section 57 of the pupil transportation act,
2 1990 PA 187, MCL 257.1857.

3 (h) An attempt to violate, a conspiracy to violate, or a
4 violation of part 74 of the public health code, 1978 PA 368, MCL
5 333.7401 to 333.7461, or a local ordinance that prohibits conduct
6 prohibited under part 74 of the public health code, 1978 PA 368,
7 MCL 333.7401 to 333.7461, unless the convicted person is sentenced
8 to life imprisonment or a minimum term of imprisonment that exceeds
9 1 year for the offense.

10 (i) An attempt to commit an offense described in subdivisions
11 (a) to (g).

12 (j) A violation of chapter LXXXVIII-A of the Michigan penal
13 code, 1931 PA 328, MCL 750.543a to 750.543z.

14 (k) A violation of section 3101, 3102(1), or 3103 of the
15 insurance code of 1956, 1956 PA 218, MCL 500.3101, 500.3102, and
16 500.3103.

17 (l) A violation listed as a disqualifying offense under 49 CFR
18 383.51.

19 (5) The clerk of the court shall also forward an abstract of
20 the court record to the secretary of state if a person has pled
21 guilty to, or offered a plea of admission in a juvenile proceeding
22 for, a violation of section 703 of the Michigan liquor control code
23 of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance
24 substantially corresponding to that section, and has had further
25 proceedings deferred under that section. If the person is sentenced
26 to a term of probation and terms and conditions of probation are
27 fulfilled and the court discharges the individual and dismisses the

1 proceedings, the court shall also report the dismissal to the
2 secretary of state.

3 (6) As used in subsections (7) to (9), "felony in which a
4 motor vehicle was used" means a felony during the commission of
5 which the person operated a motor vehicle and while operating the
6 vehicle presented real or potential harm to persons or property and
7 1 or more of the 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 (7) If a person is charged with a felony in which a motor
14 vehicle was used, other than a felony specified in subsection (4)
15 or section 319, the prosecuting attorney shall include the
16 following statement on the complaint and information filed in
17 district or circuit court:

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

24 (8) If a juvenile is accused of an act, the nature of which
25 constitutes a felony in which a motor vehicle was used, other than
26 a felony specified in subsection (4) or section 319, the
27 prosecuting attorney or family division of circuit court shall

1 include the following statement on the petition filed in the court:

2 "You are accused of an act the nature of which constitutes a
3 felony in which a motor vehicle was used. If the accusation is
4 found to be true and the judge or referee finds that the nature of
5 the act constitutes a felony in which a motor vehicle was used, as
6 defined in section 319 of the Michigan vehicle code, 1949 PA 300,
7 MCL 257.319, your driver's license shall be suspended by the
8 secretary of state."

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

15 (10) As used in subsections (11) and (12), "felony in which a
16 commercial motor vehicle was used" means a felony during the
17 commission of which the person operated a commercial motor vehicle
18 and while the person was operating the vehicle 1 or more of the
19 following circumstances existed:

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

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

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

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

25 (11) If a person is charged with a felony in which a
26 commercial motor vehicle was used and for which a vehicle group
27 designation on a license is subject to suspension or revocation

1 under section 319b(1) (c) (iii), 319b(1) (d), 319b(1) (e) (iii), or
2 319b(1) (f) (i), the prosecuting attorney shall include the following
3 statement on the complaint and information filed in district or
4 circuit court:

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

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

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

27 (a) The name and title of the person required to forward

1 abstracts.

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

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

4 (d) The following statement:

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

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

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

12 (14) 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 (15) Except as provided in subsection (16), 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 (16) 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, an
24 abstract for a conviction or civil infraction determination for any
25 of the following violations:

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

27 (b) A nonmoving violation that is not the basis for the

1 secretary of state's suspension, revocation, or denial of an
2 operator's or chauffeur's license.

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

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

13 (e) A violation of section 710e or a local ordinance
14 substantially corresponding to section 710e.

15 (f) A violation of section 328(1) if, before the appearance
16 date on the citation, the person submits proof to the court that
17 the motor vehicle had insurance meeting the requirements of
18 sections 3101 and 3102 of the insurance code of 1956, 1956 PA 218,
19 MCL 500.3101 and 500.3102, at the time the citation was issued.
20 Insurance obtained subsequent to the time of the violation does not
21 make the violation an exception under this subsection.

22 (g) A violation described in section 319b(10)(b)(vii) if,
23 before the court appearance date or date fines are to be paid, the
24 person submits proof to the court that he or she held a valid
25 commercial driver license on the date the citation was issued.

26 (h) A violation of section 311 if the person was driving a
27 noncommercial vehicle and, before the court appearance date or the

1 date fines are to be paid, the person submits proof to the court
2 that he or she held a valid driver license on the date the citation
3 was issued.

4 ~~—— (i) A violation of section 602b(1) or 602c.~~

5 (17) Except as otherwise provided in this subsection, the
6 secretary of state shall discard and not enter on the master
7 driving record an abstract for a bond forfeiture that occurred
8 outside this state. The secretary of state shall enter on the
9 master driving record an abstract for a conviction as defined in
10 section 8a(b) that occurred outside this state in connection with
11 the operation of a commercial motor vehicle or for a conviction of
12 a person licensed as a commercial motor vehicle driver.

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

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

24 (20) 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 infraction
27 determination, or settlement to the secretary of state if the

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

7 (21) Notwithstanding any other law of this state, a court
8 shall not take under advisement an offense committed by a person
9 while operating a motor vehicle for which this act requires a
10 conviction or civil infraction determination to be reported to the
11 secretary of state. A conviction or civil infraction determination
12 that is the subject of this subsection shall not be masked,
13 delayed, diverted, suspended, or suppressed by a court. Upon a
14 conviction or civil infraction determination, the conviction or
15 civil infraction determination shall immediately be reported to the
16 secretary of state in accordance with this section.

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

20 Sec. 907. (1) A violation of this act, or a local ordinance
21 substantially corresponding to a provision of this act, that is
22 designated a civil infraction shall not be considered a lesser
23 included offense of a criminal offense.

24 (2) If a person is determined under sections 741 to 750 to be
25 responsible or responsible "with explanation" for a civil
26 infraction under this act or a local ordinance substantially
27 corresponding to a provision of this act, the judge or district

1 court magistrate may order the person to pay a civil fine of not
2 more than \$100.00 and costs as provided in subsection (4). However,
3 if the civil infraction was a moving violation that resulted in an
4 at-fault collision with another vehicle, a person, or any other
5 object, the civil fine ordered under this section shall be
6 increased by \$25.00 but the total civil fine shall not exceed
7 \$100.00. However, for a violation of section 602b, the person shall
8 be ordered to pay costs as provided in subsection (4) and a civil
9 fine of ~~\$100.00~~ **\$250.00** for a first offense and ~~\$200.00~~ **\$500.00** for
10 a second or subsequent offense. For a violation of section
11 674(1)(s) or a local ordinance substantially corresponding to
12 section 674(1)(s), the person shall be ordered to pay costs as
13 provided in subsection (4) and a civil fine of not less than
14 \$100.00 or more than \$250.00. For a violation of section 676c, the
15 person shall be ordered to pay costs as provided in subsection (4)
16 and a civil fine of \$1,000.00. For a violation of section 328, the
17 civil fine ordered under this subsection shall be not more than
18 \$50.00. For a violation of section 710d, the civil fine ordered
19 under this subsection shall not exceed \$10.00, subject to
20 subsection (12). For a violation of section 710e, the civil fine
21 and court costs ordered under this subsection shall be \$25.00. For
22 a violation of section 682 or a local ordinance substantially
23 corresponding to section 682, the person shall be ordered to pay
24 costs as provided in subsection (4) and a civil fine of not less
25 than \$100.00 or more than \$500.00. For a violation of section 240,
26 the civil fine ordered under this subsection shall be \$15.00. For a
27 violation of section 252a(1), the civil fine ordered under this

1 subsection shall be \$50.00. For a violation of section 676a(3), the
2 civil fine ordered under this section shall be not more than
3 \$10.00. For a first violation of section 319f(1), the civil fine
4 ordered under this section shall be not less than \$2,500.00 or more
5 than \$2,750.00; for a second or subsequent violation, the civil
6 fine shall be not less than \$5,000.00 or more than \$5,500.00. For a
7 violation of section 319g(1)(a), the civil fine ordered under this
8 section shall be not more than \$10,000.00. For a violation of
9 section 319g(1)(g), the civil fine ordered under this section shall
10 be not less than \$2,750.00 or more than \$25,000.00. Permission may
11 be granted for payment of a civil fine and costs to be made within
12 a specified period of time or in specified installments, but unless
13 permission is included in the order or judgment, the civil fine and
14 costs shall be payable immediately.

15 (3) Except as provided in this subsection, if a person is
16 determined to be responsible or responsible "with explanation" for
17 a civil infraction under this act or a local ordinance
18 substantially corresponding to a provision of this act while
19 driving a commercial motor vehicle, he or she shall be ordered to
20 pay costs as provided in subsection (4) and a civil fine of not
21 more than \$250.00.

22 (4) If a civil fine is ordered under subsection (2) or (3),
23 the judge or district court magistrate shall summarily tax and
24 determine the costs of the action, which are not limited to the
25 costs taxable in ordinary civil actions, and may include all
26 expenses, direct and indirect, to which the plaintiff has been put
27 in connection with the civil infraction, up to the entry of

1 judgment. Costs shall not be ordered in excess of \$100.00. A civil
2 fine ordered under subsection (2) or (3) shall not be waived unless
3 costs ordered under this subsection are waived. Except as otherwise
4 provided by law, costs are payable to the general fund of the
5 plaintiff.

6 (5) In addition to a civil fine and costs ordered under
7 subsection (2) or (3) and subsection (4) and the justice system
8 assessment ordered under subsection (13), the judge or district
9 court magistrate may order the person to attend and complete a
10 program of treatment, education, or rehabilitation.

11 (6) A district court magistrate shall impose the sanctions
12 permitted under subsections (2), (3), and (5) only to the extent
13 expressly authorized by the chief judge or only judge of the
14 district court district.

15 (7) Each district of the district court and each municipal
16 court may establish a schedule of civil fines, costs, and
17 assessments to be imposed for civil infractions that occur within
18 the respective district or city. If a schedule is established, it
19 shall be prominently posted and readily available for public
20 inspection. A schedule need not include all violations that are
21 designated by law or ordinance as civil infractions. A schedule may
22 exclude cases on the basis of a defendant's prior record of civil
23 infractions or traffic offenses, or a combination of civil
24 infractions and traffic offenses.

25 (8) The state court administrator shall annually publish and
26 distribute to each district and court a recommended range of civil
27 fines and costs for first-time civil infractions. This

1 recommendation is not binding upon the courts having jurisdiction
2 over civil infractions but is intended to act as a normative guide
3 for judges and district court magistrates and a basis for public
4 evaluation of disparities in the imposition of civil fines and
5 costs throughout the state.

6 (9) If a person has received a civil infraction citation for
7 defective safety equipment on a vehicle under section 683, the
8 court shall waive a civil fine, costs, and assessments upon receipt
9 of certification by a law enforcement agency that repair of the
10 defective equipment was made before the appearance date on the
11 citation.

12 (10) A default in the payment of a civil fine or costs ordered
13 under subsection (2), (3), or (4) or a justice system assessment
14 ordered under subsection (13), or an installment of the fine,
15 costs, or assessment, may be collected by a means authorized for
16 the enforcement of a judgment under chapter 40 of the revised
17 judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or
18 under chapter 60 of the revised judicature act of 1961, 1961 PA
19 236, MCL 600.6001 to 600.6098.

20 (11) If a person fails to comply with an order or judgment
21 issued under this section within the time prescribed by the court,
22 the driver's license of that person shall be suspended under
23 section 321a until full compliance with that order or judgment
24 occurs. In addition to this suspension, the court may also proceed
25 under section 908.

26 (12) The court may waive any civil fine, cost, or assessment
27 against a person who received a civil infraction citation for a

1 violation of section 710d if the person, before the appearance date
2 on the citation, supplies the court with evidence of acquisition,
3 purchase, or rental of a child seating system meeting the
4 requirements of section 710d.

5 (13) In addition to any civil fines or costs ordered to be
6 paid under this section, the judge or district court magistrate
7 shall order the defendant to pay a justice system assessment of
8 \$40.00 for each civil infraction determination, except for a
9 parking violation or a violation for which the total fine and costs
10 imposed are \$10.00 or less. Upon payment of the assessment, the
11 clerk of the court shall transmit the assessment collected to the
12 state treasury to be deposited into the justice system fund created
13 in section 181 of the revised judicature act of 1961, 1961 PA 236,
14 MCL 600.181. An assessment levied under this subsection is not a
15 civil fine for purposes of section 909.

16 (14) If a person has received a citation for a violation of
17 section 223, the court shall waive any civil fine, costs, and
18 assessment, upon receipt of certification by a law enforcement
19 agency that the person, before the appearance date on the citation,
20 produced a valid registration certificate that was valid on the
21 date the violation of section 223 occurred.

22 (15) If a person has received a citation for a violation of
23 section 328(1) for failing to produce a certificate of insurance
24 under section 328(2), the court may waive the fee described in
25 section 328(3)(c) and shall waive any fine, costs, and any other
26 fee or assessment otherwise authorized under this act upon receipt
27 of verification by the court that the person, before the appearance

1 date on the citation, produced valid proof of insurance that was in
2 effect at the time the violation of section 328(1) occurred.
3 Insurance obtained subsequent to the time of the violation does not
4 make the person eligible for a waiver under this subsection.

5 (16) If a person is determined to be responsible or
6 responsible "with explanation" for a civil infraction under this
7 act or a local ordinance substantially corresponding to a provision
8 of this act and the civil infraction arises out of the ownership or
9 operation of a commercial quadricycle, he or she shall be ordered
10 to pay costs as provided in subsection (4) and a civil fine of not
11 more than \$500.00.

12 (17) As used in this section, "moving violation" means an act
13 or omission prohibited under this act or a local ordinance
14 substantially corresponding to this act that involves the operation
15 of a motor vehicle and for which a fine may be assessed.

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