

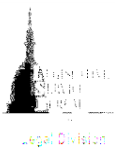
HOUSE BILL NO. 4419

March 21, 2019, Introduced by Reps. Hammoud, Whitsett, Kennedy and Camilleri and referred to the Committee on Judiciary.

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



1 local ordinance substantially corresponding to a law of this state,
2 a law of another state substantially corresponding to a law of this
3 state, or ~~, beginning October 31, 2010,~~ a law of the United States
4 substantially corresponding to a law of this state.

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

7 (a) Fraudulently altering or forging documents pertaining to
8 motor vehicles in violation of section 257.

9 (b) A violation of section 413 of the Michigan penal code,
10 1931 PA 328, MCL 750.413.

11 (c) A violation of section 1 of former 1931 PA 214 ~~, MCL~~
12 ~~752.191,~~ or former section 626c.

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

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

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

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

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

24 (e) A violation of section 602a(2) or (3) of this act or
25 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL
26 750.479a.

27 (f) ~~Beginning October 31, 2010,~~ a ~~A~~ violation of section 601d.

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



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

3 (b) A violation of section 601b(2), section 601c(1), section
4 653a(3), ~~section 626 before October 31, 2010, or, beginning October~~
5 ~~31, 2010, or~~ section 626(2).

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

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

11 (4) The secretary of state shall suspend the person's license
12 for 30 days for malicious destruction resulting from the operation
13 of a vehicle under section 382(1)(a) of the Michigan penal code,
14 1931 PA 328, MCL 750.382.

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

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

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

25 (6) For a violation of section 414 of the Michigan penal code,
26 1931 PA 328, MCL 750.414, the secretary of state shall suspend the
27 person's license as follows:

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



1 (b) If the person has 1 or more prior convictions for that
2 offense within 7 years, for 1 year.

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

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

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

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

19 (a) For 180 days for a violation of ~~section 625(1) or (8)~~
20 ~~before October 31, 2010 or, beginning October 31, 2010,~~ section
21 625(1)(a) or (b) or (8) if the person has no prior convictions
22 within 7 years. The secretary of state may issue the person a
23 restricted license during a specified portion of the suspension,
24 except that, **subject to subsection (25)**, the secretary of state
25 shall not issue a restricted license during the first 30 days of
26 suspension.

27 (b) For 90 days for a violation of section 625(3) if the
28 person has no prior convictions within 7 years. However, if the
29 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~~ **For** 1 year for a violation
24 of section 625(1)(c) if the person has no prior convictions within
25 7 years or not more than 2 convictions within 10 years. The
26 secretary of state may issue the person a restricted license,
27 except that, **subject to subsection (25)**, the secretary of state
28 shall not issue a restricted license during the first 45 days of
29 suspension.



1 (h) ~~Beginning October 31, 2010, the~~ **The** department shall order
 2 a person convicted of violating section ~~625(1)(e)~~ **625(1) or (8)** not
 3 to operate a motor vehicle under a restricted license issued under
 4 subdivision (g) **or subsection (25)** unless the vehicle is equipped
 5 with an ignition interlock device approved, certified, and
 6 installed as required under sections 625k and 625l. The ignition
 7 interlock device ~~may~~ **shall not** be removed ~~after~~ **until** the interlock
 8 device provider provides the department with verification that the
 9 person has operated the vehicle with no instances of reaching or
 10 exceeding a blood alcohol level of 0.025 grams per 210 liters of
 11 breath. This subdivision does not prohibit the removal of the
 12 ignition interlock device for any of the following:

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

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

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

29 (i) ~~Beginning October 31, 2010, if~~ **If** an individual violates



1 the conditions of the restricted license issued under subdivision
2 (g) **or subsection (25)** or operates or attempts to operate a motor
3 vehicle with a blood alcohol level of 0.025 grams per 210 liters of
4 breath, the secretary of state shall impose an additional like
5 period of suspension and restriction as prescribed under
6 subdivision (g). This subdivision does not require an additional
7 like period of suspension and restriction for any of the following:

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

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

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

24 (9) For a violation of section 367c of the Michigan penal
25 code, 1931 PA 328, MCL 750.367c, the secretary of state shall
26 suspend the person's license as follows:

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

29 (b) If the person has 1 or more convictions for an offense



1 described in this subsection within 7 years, for 1 year.

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

4 (11) For a violation or attempted violation of section 411a(2)
5 of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a
6 school, the secretary of state shall suspend the license of a
7 person 14 years of age or over but less than 21 years of age until
8 3 years after the date of the conviction or juvenile disposition
9 for the violation. The secretary of state may issue the person a
10 restricted license after the first 365 days of suspension.

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

18 (13) Except as provided in subsection (15), a suspension under
19 this section ~~shall~~**must** be imposed notwithstanding a court order
20 unless the court order complies with section 323.

21 (14) If the secretary of state receives records of more than 1
22 conviction of a person resulting from the same incident, a
23 suspension ~~shall~~**must** be imposed only for the violation to which
24 the longest period of suspension applies under this section.

25 (15) The secretary of state may waive a restriction,
26 suspension, or revocation of a person's license imposed under this
27 act if the person submits proof that a court in another state
28 revoked, suspended, or restricted his or her license for a period
29 equal to or greater than the period of a restriction, suspension,



1 or revocation prescribed under this act for the violation and that
2 the revocation, suspension, or restriction was served for the
3 violation, or may grant a restricted license.

4 (16) The secretary of state shall not issue a restricted
5 license to a person whose license is suspended under this section
6 unless a restricted license is authorized under this section and
7 the person is otherwise eligible for a license.

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

11 (18) Except as provided in subsection (17), a restricted
12 license issued under this section ~~shall~~**must** permit the person to
13 whom it is issued to take any driving skills test required by the
14 secretary of state and to operate a vehicle under 1 or more of the
15 following circumstances:

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

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

18 (i) The person's residence.

19 (ii) The person's work location.

20 (iii) An alcohol or drug education or treatment program as
21 ordered by the court.

22 (iv) The court probation department.

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

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

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

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



1 **(ix) A school or daycare facility in which the person's child**
 2 **is enrolled.**

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

7 (20) Subject to subsection (22), as used in subsection (8),
 8 "prior conviction" means a conviction for any of the following,
 9 whether under a law of this state, a local ordinance substantially
 10 corresponding to a law of this state, or a law of another state
 11 substantially corresponding to a law of this state:

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

14 (i) Section 625, except a violation of section 625(2), or a
 15 violation of any prior enactment of section 625 in which the
 16 defendant operated a vehicle while under the influence of
 17 intoxicating or alcoholic liquor or a controlled substance, or a
 18 combination of intoxicating or alcoholic liquor and a controlled
 19 substance, or while visibly impaired, or with an unlawful bodily
 20 alcohol content.

21 (ii) Section 625m.

22 (iii) Former section 625b.

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

26 (c) ~~Beginning October 31, 2010, a~~ **A** violation of section 601d
 27 or section 626(3) or (4).

28 (21) Except for purposes of the suspensions described in
 29 subsection (8) (c) and (d), only 1 violation or attempted violation



1 of section 625(6), a local ordinance substantially corresponding to
2 section 625(6), or a law of another state substantially
3 corresponding to section 625(6) may be used as a prior conviction.

4 (22) If 2 or more convictions described in subsection (20) are
5 convictions for violations arising out of the same transaction,
6 only 1 conviction ~~shall~~**must** be used to determine whether the
7 person has a prior conviction.

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

10 (24) For purposes of subsection (7), "prior conviction" means
11 either a misdemeanor conviction or a civil infraction determination
12 for a violation of section 703(1) of the **Michigan** liquor control
13 code of 1998, 1998 PA 58, MCL 436.1703.

14 (25) **Subject to subsection (8)(h), a restricted license must**
15 **only be issued under this subsection within the first 30 days of a**
16 **suspension for a violation of section 625(1)(a) or (b) or (8) to a**
17 **person who has no prior conviction within 7 years, or in the first**
18 **45 days for a violation of section 625(1)(c) if the person has no**
19 **prior convictions within 7 years or not more than 2 convictions**
20 **within 10 years, upon the determination of the court. If the court**
21 **determines a person is eligible for an immediately issued**
22 **restricted license under this subsection, the court shall notify**
23 **the department through the issuance of an order that must include,**
24 **but need not be limited to, the finding of fact or just cause that**
25 **requires the immediate issuance of a restricted license.**

