

HOUSE BILL NO. 5802

May 20, 2020, Introduced by Reps. Mueller, Filler, Bolden, Berman and Howell and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 317, 904, and 907 (MCL 257.317, 257.904, and 257.907), section 317 as amended by 2018 PA 566, section 904 as amended by 2018 PA 212, and section 907 as amended by 2015 PA 126.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 317. (1) The secretary of state may suspend, deny, or
- 2 revoke the right of a nonresident to operate a motor vehicle in
- 3 this state for a cause for which the license of a resident driver
- 4 may be suspended, denied, or revoked. A nonresident who drives a



1 motor vehicle ~~upon~~**on** a highway when the privilege to drive has
2 been suspended, revoked, or denied by the secretary of state is
3 **responsible for a civil infraction or** guilty of a misdemeanor
4 ~~punishable~~—as provided in section 904.

5 (2) The secretary of state, ~~upon~~**on** receiving a record of a
6 violation of section 321a(1) by a nonresident in this state, shall
7 notify the motor vehicle administration or other appropriate
8 officer of the state where the nonresident is licensed of that
9 violation. The notification required under this subsection ~~shall~~
10 **must** be given no later than 6 months after the date the citation
11 was issued to the nonresident. This subsection does not apply
12 unless the governor of this state has entered into an interstate
13 compact requiring the notification described in this subsection.
14 The secretary of state may only share the information described in
15 this subsection to verify driving privileges or licensure status,
16 to report a conviction or withdrawal, or to ensure compliance with
17 49 CFR 384.209.

18 (3) The secretary of state, ~~upon~~**on** receiving a record of the
19 conviction, civil infraction determination, suspension, revocation,
20 or forfeiture of bail in this state of a nonresident of a violation
21 the record of which is required to be maintained under section
22 204a, shall forward a certified copy of the record to the motor
23 vehicle administrator or other appropriate officer in the state in
24 which the person is a resident.

25 (4) Within 10 days after an appeal is completed or the appeal
26 period has expired if an appeal is not made in a conviction, civil
27 infraction determination, or bond forfeiture entered against a
28 nonresident in this state for a violation committed while operating
29 a commercial motor vehicle or any violation for a commercial driver



1 license holder regardless of vehicle type, except a parking
 2 violation, the secretary of state shall notify the motor vehicle
 3 administration or other appropriate officer of the state where the
 4 nonresident is licensed of that conviction, determination, or
 5 forfeiture.

6 (5) If the secretary of state suspends, revokes, cancels, or
 7 denies the driving privileges of a nonresident for 60 days or more
 8 and that nonresident is licensed by another state to operate a
 9 commercial motor vehicle, the secretary of state shall, within 10
 10 days after the effective date of the suspension, revocation,
 11 cancellation, or denial, forward a notification about that
 12 suspension, revocation, cancellation, or denial to the motor
 13 vehicle administrator or other appropriate officer of the state
 14 where the nonresident is licensed to operate a motor vehicle. A
 15 notice given under this subsection must include both the denial, if
 16 any, and the violation that caused the suspension, revocation,
 17 cancellation, or denial of the nonresident's driving privileges.

18 Sec. 904. (1) ~~A person~~ **An individual** whose operator's or
 19 chauffeur's license or registration certificate has been suspended
 20 or revoked, whose application for license has been denied, or who
 21 has never applied for a license, shall not operate a motor vehicle
 22 ~~upon~~ **on** a highway or other place open to the general public or
 23 generally accessible to motor vehicles, including an area
 24 designated for the parking of motor vehicles, within this state.

25 (2) A person shall not knowingly permit a motor vehicle owned
 26 by the person to be operated ~~upon~~ **on** a highway or other place open
 27 to the general public or generally accessible to motor vehicles,
 28 including an area designated for the parking of vehicles, within
 29 this state by ~~a person~~ **an individual** whose license or registration



1 certificate is suspended or revoked, whose application for license
 2 has been denied, or who has never applied for a license, except as
 3 permitted under this act.

4 (3) Except as otherwise provided in this section, a person who
 5 violates subsection (1) or (2) is **responsible for a civil**
 6 **infraction or** guilty of a ~~misdemeanor punishable crime~~ as follows:

7 (a) For a first violation, ~~by imprisonment for not more than~~
 8 ~~93 days or a fine of~~ **the person is responsible for a civil**
 9 **infraction and may be fined** not more than \$500.00. ~~, or both.~~

10 Unless the vehicle was stolen or used with the permission of a
 11 person who did not knowingly permit an unlicensed driver to operate
 12 the vehicle, the registration plates of the vehicle ~~shall~~**must** be
 13 canceled by the secretary of state ~~upon notification~~**when notified**
 14 by a peace officer.

15 (b) For a **second or subsequent** violation, ~~that occurs after a~~
 16 ~~prior conviction,~~ **the person is guilty of a misdemeanor punishable**
 17 by imprisonment for not more than 1 year or a fine of not more than
 18 \$1,000.00, or both. Unless the vehicle was stolen, the registration
 19 plates of the vehicle ~~shall~~**must** be canceled by the secretary of
 20 state ~~upon notification~~**when notified** by a peace officer.

21 (4) ~~A person~~**An individual** who operates a motor vehicle in
 22 violation of subsection (1) or ~~a person~~**an individual** whose
 23 operator's or chauffeur's license or registration certificate has
 24 been suspended or revoked by another state who operates a motor
 25 vehicle during the period of suspension or revocation and who, by
 26 operation of that motor vehicle, causes the death of another ~~person~~
 27 **individual** is guilty of a felony punishable by imprisonment for not
 28 more than 15 years or a fine of not less than \$2,500.00 or more
 29 than \$10,000.00, or both. This subsection does not apply to a



1 ~~person~~**an individual** whose operator's or chauffeur's license was
 2 suspended because that ~~person~~**individual** failed to answer a
 3 citation or comply with an order or judgment under section 321a.

4 (5) A ~~person~~**An individual** who operates a motor vehicle in
 5 violation of subsection (1) or a ~~person~~**an individual** whose
 6 operator's or chauffeur's license or registration certificate has
 7 been suspended or revoked by another state who operates a motor
 8 vehicle during the period of suspension or revocation and who, by
 9 operation of that motor vehicle, causes the serious impairment of a
 10 body function of another ~~person~~**individual** is guilty of a felony
 11 punishable by imprisonment for not more than 5 years or a fine of
 12 not less than \$1,000.00 or more than \$5,000.00, or both. This
 13 subsection does not apply to a ~~person~~**an individual** whose
 14 operator's or chauffeur's license was suspended because that ~~person~~
 15 **individual** failed to answer a citation or comply with an order or
 16 judgment under section 321a.

17 (6) In addition to being subject to any other penalty provided
 18 for in this act, if a ~~person~~**an individual** is convicted under
 19 subsection (4) or (5), the court may impose the sanction permitted
 20 under section 625n. If the vehicle is not ordered forfeited under
 21 section 625n, the court shall order vehicle immobilization under
 22 section 904d in the judgment of sentence.

23 (7) A person shall not knowingly permit a motor vehicle owned
 24 by the person to be operated ~~upon~~**on** a highway or other place open
 25 to the general public or generally accessible to motor vehicles,
 26 including an area designated for the parking of vehicles, within
 27 this state, by a ~~person~~**an individual** whose license or registration
 28 certificate is suspended or revoked, whose application for license
 29 has been denied, or who has never been licensed except as permitted



1 by this act. If ~~a person~~**an individual** permitted to operate a motor
2 vehicle in violation of this subsection causes the serious
3 impairment of a body function of another ~~person~~**individual** by **the**
4 operation of that motor vehicle, the person knowingly permitting
5 the operation of that motor vehicle is guilty of a felony
6 punishable by imprisonment for not more than 2 years, or a fine of
7 not less than \$1,000.00 or more than \$5,000.00, or both. If ~~a~~
8 ~~person~~**an individual** permitted to operate a motor vehicle in
9 violation of this subsection causes the death of another ~~person~~
10 **individual** by **the** operation of that motor vehicle, the person
11 knowingly permitting the operation of that motor vehicle is guilty
12 of a felony punishable by imprisonment for not more than 5 years,
13 or a fine of not less than \$1,000.00 or more than \$5,000.00, or
14 both.

15 (8) If the prosecuting attorney intends to seek an enhanced
16 sentence under this section ~~based upon~~**because** the defendant ~~having~~
17 **has** 1 or more prior convictions, the prosecuting attorney shall
18 include on the complaint and information, or an amended complaint
19 and information, filed in district court, circuit court, municipal
20 court, or family division of circuit court, a statement ~~listing~~
21 **that lists** the defendant's prior convictions.

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

- 24 (a) A copy of a judgment of conviction.
25 (b) An abstract of conviction.
26 (c) A transcript of a prior trial, plea, or sentencing.
27 (d) A copy of a court register of action.
28 (e) A copy of the defendant's driving record.
29 (f) Information contained in a presentence report.



1 (g) An admission by the defendant.

2 (10) Subject to section 732a(11)(c), ~~upon-on~~ receiving a
3 record of ~~a person's~~ **an individual's** conviction or civil infraction
4 determination for the unlawful operation of a motor vehicle or a
5 moving violation reportable under section 732 while the ~~person's~~
6 **individual's** operator's or chauffeur's license is suspended or
7 revoked, the secretary of state immediately shall impose an
8 additional like period of suspension or revocation. This subsection
9 applies only if the violation occurs during a suspension of
10 definite length or if the violation occurs before the ~~person~~
11 **individual** is approved for a license following a revocation.

12 (11) ~~Upon-On~~ receiving a record of ~~a person's~~ **an individual's**
13 conviction or civil infraction determination for the unlawful
14 operation of a motor vehicle or a moving violation reportable under
15 section 732 while the ~~person's~~ **individual's** operator's or
16 chauffeur's license is indefinitely suspended or whose application
17 for a license has been denied, the secretary of state immediately
18 shall impose a 30-day period of suspension or denial.

19 (12) ~~Upon-On~~ receiving a record of the conviction, bond
20 forfeiture, or a civil infraction determination of ~~a person-an~~
21 **individual** for unlawful operation of a motor vehicle ~~requiring-that~~
22 **requires** a vehicle group designation while the designation is
23 suspended or revoked under section 319b, or while the ~~person~~
24 **individual** is disqualified from operating a commercial motor
25 vehicle by the United States Secretary of Transportation or under
26 49 USC 31301 to 31317, the secretary of state immediately shall
27 impose an additional like period of suspension or revocation. This
28 subsection applies only if the violation occurs during a suspension
29 of definite length or if the violation occurs before the ~~person~~



1 **individual** is approved for a license following a revocation.

2 (13) If the secretary of state receives records of more than 1
3 conviction or civil infraction determination ~~resulting that~~
4 **resulted** from the same incident, all of the convictions or civil
5 infraction determinations ~~shall~~**must** be treated as a single
6 violation for purposes of imposing an additional period of
7 suspension or revocation under subsection (10), (11), or (12).

8 (14) Before ~~a person~~**an individual** is arraigned before a
9 district court magistrate or judge on a charge of violating this
10 section, the arresting officer shall obtain the ~~person's~~
11 **individual's** driving record from the secretary of state and shall
12 furnish the record to the court. The driving record of the ~~person~~
13 **individual** may be obtained from the secretary of state's computer
14 information network.

15 (15) This section does not apply to ~~a person~~**an individual** who
16 operates a vehicle solely for the purpose of protecting human life
17 or property if the life or property is endangered and summoning
18 prompt aid is essential.

19 (16) ~~A person~~**An individual** whose vehicle group designation is
20 suspended or revoked and who has been notified as provided in
21 section 212 of that suspension or revocation, or whose application
22 for a vehicle group designation has been denied as provided in this
23 act, or who has never applied for a vehicle group designation and
24 who operates a commercial motor vehicle within this state, except
25 as permitted under this act, while any of those conditions exist is
26 guilty of a misdemeanor punishable, except as otherwise provided in
27 this section, by imprisonment for not less than 3 days or more than
28 93 days or a fine of not more than \$100.00, or both.

29 (17) If ~~a person~~**an individual** has a second or subsequent



1 suspension or revocation under this section within 7 years as
 2 indicated on the ~~person's~~**individual's** Michigan driving record, the
 3 court shall proceed as provided in section 904d.

4 (18) Any period of suspension or revocation required under
 5 subsection (10), (11), or (12) does not apply to ~~a person~~**an**
 6 **individual** who has only 1 currently effective suspension or denial
 7 on his or her Michigan driving record under section 321a and was
 8 convicted of or received a civil infraction determination for a
 9 violation that occurred during that suspension or denial. This
 10 subsection may only be applied once during the ~~person's~~
 11 **individual's** lifetime.

12 (19) **Except as otherwise provided in this section, an**
 13 **individual who operates a motor vehicle while his or her license is**
 14 **suspended is responsible for a civil infraction or guilty of a**
 15 **crime as provided in subsection (3). This subsection does not apply**
 16 **to an individual whose license is suspended under this act for**
 17 **operating a motor vehicle while intoxicated, reckless driving, or**
 18 **any driving violation that causes the injury, death, or serious**
 19 **impairment of a body function of another individual.**

20 (20) **A law enforcement officer may impound the motor vehicle**
 21 **of an individual who violates this section.**

22 (21) ~~(19)~~ For purposes of this section, ~~a person~~**an individual**
 23 who never applied for a license includes ~~a person~~**an individual** who
 24 applied for a license, was denied, and never applied again.

25 Sec. 907. (1) A violation of this act, or a local ordinance
 26 **that** substantially ~~corresponding~~**corresponds** to a provision of this
 27 act, that is designated a civil infraction ~~shall~~**is** not be
 28 considered a lesser included offense of a criminal offense.

29 (2) If a person is determined under sections 741 to 750 to be



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



1 subsection shall be \$15.00. For a violation of section 252a(1), the
 2 civil fine ordered under this subsection ~~shall~~**must** be \$50.00. For
 3 a violation of section 676a(3), the civil fine ordered under this
 4 section ~~shall~~**must** be not more than \$10.00. For a first violation
 5 of section 319f(1), the civil fine ordered under this section ~~shall~~
 6 **must** be not less than \$2,500.00 or more than \$2,750.00; for a
 7 second or subsequent violation, the civil fine ~~shall~~**must** be not
 8 less than \$5,000.00 or more than \$5,500.00. For a violation of
 9 section 319g(1) (a), the civil fine ordered under this section ~~shall~~
 10 **must** be not more than \$10,000.00. For a violation of section
 11 319g(1) (g), the civil fine ordered under this section ~~shall~~**must** be
 12 not less than \$2,750.00 or more than \$25,000.00. **For a violation of**
 13 **section 904(3) (a) or 904(19), the civil fine ordered under this**
 14 **subsection must be not more than \$500.00.** Permission may be granted
 15 for payment of a civil fine and costs to be made within a specified
 16 period of time or in specified installments, but unless permission
 17 is included in the order or judgment, the civil fine and costs
 18 ~~shall~~**must** be payable immediately.

19 (3) Except as provided in this subsection, if a person is
 20 determined to be responsible or responsible "with explanation" for
 21 a civil infraction under this act or a local ordinance **that**
 22 substantially ~~corresponding~~**corresponds** to a provision of this act
 23 while driving a commercial motor vehicle, he or she shall be
 24 ordered to pay costs as provided in subsection (4) and a civil fine
 25 of not more than \$250.00. **However, for a violation of section**
 26 **904(3) (a) or 904(19), the civil fine ordered under this subsection**
 27 **must be not more than \$500.00.**

28 (4) If a civil fine is ordered under subsection (2) or (3),
 29 the judge or district court magistrate shall summarily tax and



1 determine the costs of the action, which are not limited to the
2 costs taxable in ordinary civil actions, and may include all
3 expenses, direct and indirect, to which the plaintiff has been put
4 in connection with the civil infraction, up to the entry of
5 judgment. Costs ~~shall~~**must** not be ordered in excess of \$100.00. A
6 civil fine ordered under subsection (2) or (3) ~~shall~~**must** not be
7 waived unless costs ordered under this subsection are waived.
8 Except as otherwise provided by law, costs are payable to the
9 general fund of the plaintiff.

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

15 (6) A district court magistrate shall impose the sanctions
16 permitted under subsections (2), (3), and (5) only to the extent
17 expressly authorized by the chief judge or only judge of the
18 district court district.

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

29 (8) The state court administrator shall annually publish and



1 distribute to each district and court a recommended range of civil
 2 fines and costs for first-time civil infractions. This
 3 recommendation is not binding ~~upon~~**on** the courts ~~having~~**that have**
 4 jurisdiction over civil infractions but is intended to act as a
 5 normative guide for judges and district court magistrates and a
 6 basis for public evaluation of disparities in the imposition of
 7 civil fines and costs throughout the state.

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

14 (10) A default in the payment of a civil fine or costs ordered
 15 under subsection (2), (3), or (4) or a justice system assessment
 16 ordered under subsection (13), or an installment of the fine,
 17 costs, or assessment, may be collected by a means authorized for
 18 the enforcement of a judgment under chapter 40 of the revised
 19 judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or
 20 under chapter 60 of the revised judicature act of 1961, 1961 PA
 21 236, MCL 600.6001 to 600.6098.

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

28 (12) The court may waive any civil fine, cost, or assessment
 29 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~~**On** 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~~**on** 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~~**a failure** to produce a certificate of
24 insurance under section 328(2), the court may waive the fee
25 described in section 328(3)(c) and shall waive any fine, costs, and
26 any other fee or assessment otherwise authorized under this act
27 ~~upon~~**on** receipt of verification by the court that the person,
28 before the appearance date on the citation, produced valid proof of
29 insurance that was in effect at the time the violation of section



1 328(1) occurred. Insurance obtained subsequent to the time of the
2 violation does not make the person eligible for a waiver under this
3 subsection.

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

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

