

Act No. 40
Public Acts of 2023
Approved by the Governor
June 7, 2023
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**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

Introduced by Reps. Mueller, Morse, Weiss, Scott, Rheingans, Brenda Carter, Steckloff, Brabec, Koleszar and Whitsett

ENROLLED HOUSE BILL No. 4252

AN ACT to amend 1949 PA 300, entitled “An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of manufacturers, the manufacturers of certain devices, the manufacturers of automated technology, upfitters, owners, and operators of vehicles and service of process on residents and nonresidents; to regulate the introduction and use of certain evidence; to regulate and certify the manufacturers of certain devices; to provide for approval and certification of installers and servicers of certain devices; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date,” by amending sections 602c, 732, and 907 (MCL 257.602c, 257.732, and 257.907), section 602c as added by 2012 PA 592, section 732 as amended by 2017 PA 160, and section 907 as amended by 2020 PA 382.

The People of the State of Michigan enact:

Sec. 602c. (1) Except as provided in this section, and in addition to the requirements of section 602b, an individual issued a level 1 or level 2 graduated license under section 310e shall not use a cellular telephone while operating a motor vehicle upon a highway or street. For purposes of this subsection, “use” means to initiate a call, answer a call, or listen to or engage in verbal communication through the cellular telephone.

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

- (a) Report a traffic accident, medical emergency, or serious road hazard.
- (b) Report a situation in which the individual believes the individual’s personal safety is in jeopardy.
- (c) Report or avert the perpetration or potential perpetration of a criminal act against the individual or another individual.

(3) An individual who violates this section is responsible for a civil infraction.

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

(5) Forty-two months after the effective date of the amendatory act that added this subsection, the department of state police shall submit a report, using available data, to the senate majority leader, speaker of the house of representatives, and governor that includes all of the following information related to violations of this section and section 602b:

- (a) The number of citations given.
- (b) The race and ethnicity of the individuals given citations.
- (c) The number of each of the following caused by violations of this section or section 602b:
 - (i) Vehicle crashes.
 - (ii) Serious injuries.
 - (iii) Deaths.
- (6) This section may be known as “Kelsey’s law”.

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

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

(b) Immediately for each case charging a violation of section 625(1), (3), (4), (5), (6), (7), or (8) or section 625m or a local ordinance substantially corresponding to section 625(1), (3), (6), or (8) or section 625m in which the charge is dismissed or the defendant is acquitted.

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

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

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

- (a) The name, address, and date of birth of the individual charged or cited.
- (b) The number of the individual’s operator’s or chauffeur’s license, if any.
- (c) The date and nature of the violation.
- (d) The type of vehicle driven at the time of the violation and, if the vehicle is a commercial motor vehicle, that vehicle’s group designation.
- (e) The date of the conviction, finding, forfeiture, judgment, or civil infraction determination.
- (f) Whether bail was forfeited.
- (g) Any license restriction, suspension, or denial ordered by the court as provided by law.
- (h) The vehicle identification number and registration plate number of all vehicles that are ordered immobilized or forfeited.
- (i) Other information considered necessary to the secretary of state.

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

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

- (b) A violation of section 1 of former 1931 PA 214.
- (c) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle.
- (d) A violation of sections 701(1) and 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701 and 436.1703, or a local ordinance substantially corresponding to those sections.
- (e) A violation of section 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.411a.
- (f) A violation of motor carrier safety regulations 49 CFR 392.10 or 392.11 as adopted by section 1a of the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11a.
- (g) A violation of section 57 of the pupil transportation act, 1990 PA 187, MCL 257.1857.
- (h) An attempt to violate, a conspiracy to violate, or a violation of part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, or a local ordinance that prohibits conduct prohibited under part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, unless the convicted individual is sentenced to life imprisonment or a minimum term of imprisonment that exceeds 1 year for the offense.
 - (i) An attempt to commit an offense described in subdivisions (a) to (g).
 - (j) A violation of chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z.
 - (k) A violation of section 3101, 3102(1), or 3103 of the insurance code of 1956, 1956 PA 218, MCL 500.3101, 500.3102, and 500.3103.
 - (l) A violation listed as a disqualifying offense under 49 CFR 383.51.
- (5) The clerk of the court shall also forward an abstract of the court record to the secretary of state if an individual has pled guilty to, or offered a plea of admission in a juvenile proceeding for, a violation of section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to that section, and has had further proceedings deferred under that section. If the individual is sentenced to a term of probation and terms and conditions of probation are fulfilled and the court discharges the individual and dismisses the proceedings, the court shall also report the dismissal to the secretary of state.
- (6) As used in subsections (7) to (9), “felony in which a motor vehicle was used” means a felony during the commission of which the individual operated a motor vehicle and while operating the vehicle presented real or potential harm to individuals or property and 1 or more of the following circumstances existed:
 - (a) The vehicle was used as an instrument of the felony.
 - (b) The vehicle was used to transport a victim of the felony.
 - (c) The vehicle was used to flee the scene of the felony.
 - (d) The vehicle was necessary for the commission of the felony.
- (7) If an individual is charged with a felony in which a motor vehicle was used, other than a felony specified in subsection (4) or section 319, the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court:

“You are charged with the commission of a felony in which a motor vehicle was used. If you are convicted and the judge finds that the conviction is for a felony in which a motor vehicle was used, as defined in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319, your driver’s license shall be suspended by the secretary of state.”.
- (8) If a juvenile is accused of an act, the nature of which constitutes a felony in which a motor vehicle was used, other than a felony specified in subsection (4) or section 319, the prosecuting attorney or family division of circuit court shall include the following statement on the petition filed in the court:

“You are accused of an act the nature of which constitutes a felony in which a motor vehicle was used. If the accusation is found to be true and the judge or referee finds that the nature of the act constitutes a felony in which a motor vehicle was used, as defined in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319, your driver’s license shall be suspended by the secretary of state.”.
- (9) If the court determines as part of the sentence or disposition that the felony for which the individual was convicted or adjudicated and with respect to which notice was given under subsection (7) or (8) is a felony in which a motor vehicle was used, the clerk of the court shall forward an abstract of the court record of that conviction to the secretary of state.
- (10) As used in subsections (11) and (12), “felony in which a commercial motor vehicle was used” means a felony during the commission of which the individual operated a commercial motor vehicle and while the individual was operating the vehicle 1 or more of the following circumstances existed:
 - (a) The vehicle was used as an instrument of the felony.
 - (b) The vehicle was used to transport a victim of the felony.
 - (c) The vehicle was used to flee the scene of the felony.

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

(11) If an individual is charged with a felony in which a commercial motor vehicle was used and for which a vehicle group designation on a license is subject to suspension or revocation under section 319b(1)(c)(iii), 319b(1)(d), 319b(1)(e)(iii), or 319b(1)(f)(i), the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court:

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

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

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

- (a) The name and title of the individual required to forward abstracts.
- (b) The court for which the certification is filed.
- (c) The time period covered by the certification.
- (d) The following statement:

“I certify that all abstracts required by section 732 of the Michigan vehicle code, 1949 PA 300, MCL 257.732, for the period _____ through _____ have been forwarded to the secretary of state.”.

- (e) Other information the secretary of state considers necessary.
- (f) The signature of the individual required to forward abstracts.

(14) The failure, refusal, or neglect of an individual to comply with this section constitutes misconduct in office and is grounds for removal from office.

(15) Except as provided in subsection (16), the secretary of state shall keep all abstracts received under this section at the secretary of state’s main office and the abstracts must be open for public inspection during the office’s usual business hours. Each abstract must be entered upon the master driving record of the individual to whom it pertains.

(16) Except for controlled substance offenses described in subsection (4), the court shall not submit, and the secretary of state shall discard and not enter on the master driving record, an abstract for a conviction or civil infraction determination for any of the following violations:

- (a) The parking or standing of a vehicle.
- (b) A nonmoving violation that is not the basis for the secretary of state’s suspension, revocation, or denial of an operator’s or chauffeur’s license.
- (c) A violation of chapter II that is not the basis for the secretary of state’s suspension, revocation, or denial of an operator’s or chauffeur’s license.
- (d) A pedestrian, passenger, or bicycle violation, other than a violation of section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or section 624a or 624b or a local ordinance substantially corresponding to section 624a or 624b.
- (e) A violation of section 710e or a local ordinance substantially corresponding to section 710e.
- (f) A violation of section 328(1) if, before the appearance date on the citation, the individual submits proof to the court that the motor vehicle had insurance meeting the requirements of sections 3101 and 3102 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 and 500.3102, at the time the citation was issued. Insurance obtained subsequent to the time of the violation does not make the violation an exception under this subsection.
- (g) A violation described in section 319b(10)(b)(vii) if, before the court appearance date or date fines are to be paid, the individual submits proof to the court that the individual held a valid commercial driver license on the date the citation was issued.
- (h) A violation of section 311 if the individual was driving a noncommercial vehicle and, before the court appearance date or the date fines are to be paid, the individual submits proof to the court that the individual held a valid driver license on the date the citation was issued.

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

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

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

(20) The secretary of state may permit a city or village department, bureau, person, or court to modify the requirement as to the time and manner of reporting a conviction, civil infraction determination, or settlement to the secretary of state if the modification will increase the economy and efficiency of collecting and utilizing the records. If the permitted abstract of court record reporting a conviction, civil infraction determination, or settlement originates as a part of the written notice to appear, authorized in section 728(1) or 742(1), the form of the written notice and report must be as prescribed by the secretary of state.

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

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

Sec. 907. (1) A violation of this act, or a local ordinance that substantially corresponds to a provision of this act, that is designated a civil infraction must not be considered a lesser included offense of a criminal offense.

(2) Permission may be granted for payment of a civil fine and costs to be made within a specified period of time or in specified installments but, unless permission is included in the order or judgment, the civil fine and costs must be payable immediately. Except as otherwise provided, a person found responsible or responsible "with explanation" for a civil infraction must pay costs as provided in subsection (4) and 1 or more of the following civil fines, as applicable:

(a) Except as otherwise provided, for a civil infraction under this act or a local ordinance that substantially corresponds to a provision of this act, the person shall be ordered to pay a civil fine of not more than \$100.00.

(b) If the civil infraction was a moving violation that resulted in an at-fault collision with another vehicle, an individual, or any other object, the civil fine ordered under this section is increased by \$25.00 but the total civil fine must not be more than \$100.00.

(c) For a violation of section 240, the civil fine ordered under this subsection is \$15.00.

(d) For a violation of section 312a(4)(a), the civil fine ordered under this section must not be more than \$250.00.

(e) For a first violation of section 319f(1), the civil fine ordered under this section must not be less than \$2,500.00 or more than \$2,750.00; for a second or subsequent violation, the civil fine must not be less than \$5,000.00 or more than \$5,500.00.

(f) For a violation of section 319g(1)(a), the civil fine ordered under this section must not be more than \$10,000.00.

(g) For a violation of section 319g(1)(g), the civil fine ordered under this section must not be less than \$2,750.00 or more than \$25,000.00.

(h) For a violation of section 602b, the civil fine ordered under this section must be as follows:

(i) For a violation of section 602b(1), either of the following:

(A) If the violation does not involve an accident, \$100.00 for a first offense and \$250.00 for a second or subsequent offense.

(B) If the violation involves an accident, \$200.00 for a first offense and \$500.00 for a second or subsequent offense.

(ii) For a violation of section 602b(2), either of the following:

(A) If the violation does not involve an accident, \$200.00 for a first offense and \$500.00 for a second or subsequent offense.

(B) If the violation involves an accident, \$400.00 for a first offense and \$1,000.00 for a second or subsequent offense.

(i) For a violation of section 674(1)(s) or a local ordinance that substantially corresponds to section 674(1)(s), the civil fine ordered under this section must not be less than \$100.00 or more than \$250.00.

(j) For a violation of section 676a(3), the civil fine ordered under this section must not be more than \$10.00.

(k) For a violation of section 676c, the civil fine ordered under this section is \$1,000.00.

(l) For a violation of section 682 or a local ordinance that substantially corresponds to section 682, the civil fine ordered under this section must not be less than \$100.00 or more than \$500.00.

(m) For a violation of section 710d, the civil fine ordered under this section must not be more than \$10.00, subject to subsection (11).

(n) For a violation of section 710e, the civil fine and court costs ordered under this subsection must be \$25.00.

(3) Except as provided in this section, if an individual is determined to be responsible or responsible "with explanation" for a civil infraction under this act or a local ordinance that substantially corresponds to a provision of this act while driving a commercial motor vehicle, the individual must be ordered to pay costs as provided in subsection (4) and a civil fine of not more than \$250.00.

(4) If a civil fine is ordered under subsection (2) or (3), the judge or district court magistrate shall summarily tax and determine the costs of the action, which are not limited to the costs taxable in ordinary civil actions, and may include all expenses, direct and indirect, to which the plaintiff has been put in connection with the civil infraction, up to the entry of judgment. Costs must not be ordered in excess of \$100.00. A civil fine ordered under subsection (2) or (3) must not be waived unless costs ordered under this subsection are waived. Except as otherwise provided by law, costs are payable to the general fund of the plaintiff.

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

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

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

(8) The state court administrator shall annually publish and distribute to each district and court a recommended range of civil fines and costs for first-time civil infractions. This recommendation is not binding on the courts having jurisdiction over civil infractions but is intended to act as a normative guide for judges and district court magistrates and a basis for public evaluation of disparities in the imposition of civil fines and costs throughout this state.

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

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

(11) The court may waive any civil fine, cost, or assessment against an individual who received a civil infraction citation for a violation of section 710d if the individual, before the appearance date on the citation, supplies the court with evidence of acquisition, purchase, or rental of a child seating system meeting the requirements of section 710d.

(12) In addition to any civil fines or costs ordered to be paid under this section, the judge or district court magistrate shall order the defendant to pay a justice system assessment of \$40.00 for each civil infraction determination, except for a parking violation or a violation for which the total fine and costs imposed are \$10.00 or less. On payment of the assessment, the clerk of the court shall transmit the assessment collected to the state treasury to be deposited into the justice system fund created in section 181 of the revised judicature act of 1961,

1961 PA 236, MCL 600.181. An assessment levied under this subsection is not a civil fine for purposes of section 909.

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

(14) If a person has received a citation for a violation of section 328(1) for failing to produce a certificate of insurance under section 328(2), the court may waive the fee described in section 328(3)(c) and shall waive any fine, costs, and any other fee or assessment otherwise authorized under this act on receipt of verification by the court that the person, before the appearance date on the citation, produced valid proof of insurance that was in effect at the time the violation of section 328(1) occurred. Insurance obtained subsequent to the time of the violation does not make the person eligible for a waiver under this subsection.

(15) If a person is determined to be responsible or responsible "with explanation" for a civil infraction under this act or a local ordinance that substantially corresponds to a provision of this act and the civil infraction arises out of the ownership or operation of a commercial quadricycle, the person must be ordered to pay costs as provided in subsection (4) and a civil fine of not more than \$500.00.


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

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 102nd Legislature are enacted into law:

- (a) House Bill No. 4250.
- (b) House Bill No. 4251.

Enacting section 2. This amendatory act takes effect June 30, 2023.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor

Compiler's note: House Bill No. 4250, referred to in enacting section 1, was filed with the Secretary of State June 7, 2023, and became 2023 PA 41, Eff. June 30, 2023.

House Bill No. 4251, also referred to in enacting section 1, was filed with the Secretary of State June 7, 2023, and became 2023 PA 39, Eff. June 30, 2023.