

HOUSE BILL No. 5147

September 24, 1991, Introduced by Reps. Palamara, Porreca, Niederstadt, Profit and Jaye and referred to the Committee on Judiciary.

A bill to amend sections 303, 319, and 732 of Act No. 300 of the Public Acts of 1949, entitled as amended

"Michigan vehicle code,"

sections 303 and 732 as amended by Act No. 346 of the Public Acts of 1988 and section 319 as amended by Act No. 406 of the Public Acts of 1988, being sections 257.303, 257.319, and 257.732 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 303, 319, and 732 of Act No. 300 of the
2 Public Acts of 1949, sections 303 and 732 as amended by Act
3 No. 346 of the Public Acts of 1988 and section 319 as amended by
4 Act No. 406 of the Public Acts of 1988, being sections 257.303,
5 257.319, and 257.732 of the Michigan Compiled Laws, are amended
6 to read as follows:

1 Sec. 303. (1) The secretary of state shall not issue a
2 license under this act TO ANY OF THE FOLLOWING:

3 (a) ~~To a~~ A person, as an operator, who is ~~+17 years of age~~
4 ~~or~~ less THAN 18 YEARS OF AGE, except that the secretary of state
5 may issue a license to a person who is not less than 16 years of
6 age and who has satisfactorily passed a driver education course
7 and examination given by a public school or nonpublic school of
8 this or another state offering a course approved by the depart-
9 ment of education, or an equivalent COURSE AND examination as
10 prescribed in section 811. The secretary of state may issue to a
11 person not less than 14 years of age a restricted license as pro-
12 vided in this act. This subdivision ~~shall~~ DOES not apply to a
13 person who has been the holder of a valid driver's license issued
14 by another state, territory, or possession of the United States
15 or another sovereignty for at least 1 year immediately before
16 application for a driver's license under this act.

17 (b) ~~To a~~ A person, as a chauffeur, who is ~~+17 years of age~~
18 ~~or~~ less THAN 18 YEARS OF AGE, except that the secretary of state
19 may issue a license to a person who is not less than 16 years of
20 age and who has satisfactorily passed a driver education course
21 and examination given by a public school or nonpublic school of
22 this or another state offering a course approved by the depart-
23 ment of education, or an equivalent COURSE AND examination as
24 prescribed in section 811.

25 (c) ~~To a~~ A person whose license has been suspended during
26 the period for which the license was suspended.

1 (d) ~~To a~~ A person whose license has been revoked under
2 this act until the later of the following:

3 (i) The expiration of not less than 1 year after the license
4 was revoked.

5 (ii) The expiration of not less than 5 years after the date
6 of a subsequent revocation occurring within 7 years after the
7 date of any prior revocation.

8 (e) ~~To a~~ A person who is an habitual violator of the crim-
9 inal laws relating to operating a vehicle while impaired by or
10 under the influence of intoxicating liquor or a controlled sub-
11 stance or a combination of intoxicating liquor and a controlled
12 substance, or with a blood alcohol content of 0.10% or more by
13 weight of alcohol. Convictions of any of the following, whether
14 under a law of this state, a local ordinance substantially corre-
15 sponding to a law of this state, or a law of another state sub-
16 stantially corresponding to a law of this state, shall be prima
17 facie evidence that the person is an habitual violator as
18 described in this subdivision:

19 (i) Two convictions under section 625(1) or (2), or 1 con-
20 viction under section 625(1) and 1 conviction under section
21 625(2) within 7 years.

22 (ii) Three convictions under section 625b within 10 years.

23 (f) ~~To a~~ A person who in the opinion of the secretary of
24 state is afflicted with or suffering from a physical or mental
25 disability or disease ~~which~~ THAT prevents that person from
26 exercising reasonable and ordinary control over a motor vehicle
27 while operating the motor vehicle upon the highways.

1 (g) ~~To a~~ A person who is unable to understand highway
2 warning or direction signs in the English language.

3 (h) ~~To a~~ A person who is an habitually reckless driver.
4 Four convictions of reckless driving under this act or any other
5 law of this state relating to reckless driving or under a local
6 ordinance of this state or a law of another state which defines
7 the term "reckless driving" substantially similar to the law of
8 this state shall be prima facie evidence that the person is an
9 habitually reckless driver.

10 (i) ~~To a~~ A person who is an habitual criminal. Two con-
11 victions of a felony involving the use of a motor vehicle in this
12 or another state shall be prima facie evidence that the person is
13 an habitual criminal.

14 (j) ~~To a~~ A person who is unable to pass a knowledge,
15 skill, or ability test administered by the secretary of state in
16 connection with the issuance of an original operator's or
17 chauffeur's license, original motorcycle indorsement, or an orig-
18 inal or renewal of a vehicle group designation or vehicle
19 indorsement.

20 (k) ~~To a~~ A person who has been convicted, received a pro-
21 bate court ~~finding~~ DISPOSITION, or been determined responsible
22 for 2 or more moving violations under a law of this state, a
23 local ordinance substantially corresponding to a law of this
24 state, or a law of another state substantially corresponding to a
25 law of this state, within the preceding 3 years, if the viola-
26 tions occurred prior to the issuance of an original license to
27 the person in this or another state.

1 (1) ~~To a~~ A nonresident.

2 (M) A PERSON NOT LICENSED UNDER THIS ACT WHO HAS BEEN CON-
3 VICTED OF OR RECEIVED A PROBATE COURT ORDER OF DISPOSITION FOR
4 COMMITTING A CRIME DESCRIBED IN SECTION 319, 324, OR 904. A
5 PERSON SHALL BE DENIED A LICENSE UNDER THIS SUBDIVISION FOR THE
6 LENGTH OF TIME THAT CORRESPONDS TO THE PERIOD OF THE LICENSING
7 SANCTION THAT WOULD HAVE BEEN IMPOSED UNDER SECTION 319, 324, OR
8 904 IF THE PERSON HAD BEEN LICENSED AT THE TIME OF THE VIOLATION.

9 (2) Upon receipt of the appropriate records of conviction,
10 the secretary of state shall revoke the operator's or chauffeur's
11 license of a person having any of the following convictions,
12 whether under a law of this state, a local ordinance substan-
13 tially corresponding to a law of this state, or a law of another
14 state substantially corresponding to a law of this state:

15 (a) Four convictions of reckless driving within 7 years.

16 (b) Two convictions of a felony involving the use of a motor
17 vehicle within 7 years.

18 (c) Two convictions under section 625(1) or (2), or 1 con-
19 viction under section 625(1) and 1 conviction under section
20 625(2) within 7 years.

21 (d) Three convictions under section 625b within 10 years.

22 (3) The secretary of state shall revoke a license under sub-
23 section (2) notwithstanding a court order issued under section
24 625 or 625b, or a local ordinance substantially corresponding to
25 section 625(1) or (2) or 625b.

26 Sec. 319. (1) The secretary of state shall immediately
27 suspend for a period of not less than 90 days ~~, nor~~ OR more

1 than 2 years ~~—~~ the license of a person upon receiving a record
2 of the conviction ~~of the person~~ or ~~the entry of a~~ probate
3 court order of disposition ~~for a child found to be within the~~
4 ~~provisions of chapter XIII A of Act No. 288 of the Public Acts of~~
5 ~~1939, being sections 712A.1 to 712A.28 of the Michigan Compiled~~
6 ~~Laws,~~ OF THE PERSON for any of the following crimes or attempts
7 to commit any of the following crimes, whether the conviction or
8 probate court disposition is under a law of this state, a local
9 ordinance substantially corresponding to a law of this state, or
10 a law of another state substantially corresponding to a law of
11 this state:

12 (a) Fraudulently altering or forging documents pertaining to
13 motor vehicles, in violation of section 257.

14 (b) Perjury or the making of a false certification to the
15 secretary of state under any law requiring the registration of a
16 motor vehicle or regulating the operation of a motor vehicle on a
17 highway.

18 (c) A violation of section 324, 413, or 414 of the Michigan
19 penal code, Act No. 328 of the Public Acts of 1931, being sec-
20 tions 750.324, 750.413, and 750.414 of the Michigan Compiled
21 Laws; or a violation of section 1 of Act No. 214 of the Public
22 Acts of 1931, being section 752.191 of the Michigan Compiled
23 Laws.

24 (d) Conviction upon 3 charges of reckless driving within the
25 preceding 12 months.

1 (e) Failing to stop and disclose identity at the scene of an
2 accident resulting in death or injury to another person, in
3 violation of section 617.

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

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

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

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

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

16 (2) The secretary of state shall suspend, for the period
17 described in subsection (1), the license of a person upon receiv-
18 ing the record of conviction of the person for a violation of a
19 law of another state substantially corresponding to section
20 625(1) or (2).

21 (3) The secretary of state shall suspend the license of a
22 person convicted of malicious destruction resulting from the
23 operation of a motor vehicle under section 382 of ~~the Michigan~~
24 ~~penal code,~~ Act No. 328 of the Public Acts of 1931, as amended,
25 being section 750.382 of the Michigan Compiled Laws, for a period
26 of not more than 1 year as ordered by the court as part of the
27 sentence.

1 (4) The secretary of state shall immediately suspend the
2 license of a person for the period specified in the certificate
3 of conviction upon receipt of the person's license and certifi-
4 cate of conviction forwarded to the secretary of state pursuant
5 to section 367c of ~~the Michigan penal code,~~ Act No. 328 of the
6 Public Acts of 1931, being section 750.367c of the Michigan
7 Compiled Laws.

8 (5) The secretary of state shall suspend, for a period of
9 not less than 6 months ~~nor~~ OR more than 18 months, the license
10 of a person having the following convictions within a 7-year
11 period, whether under the law of this state, a local ordinance
12 substantially corresponding to a law of this state, or a law of
13 another state substantially corresponding to a law of this
14 state:

15 (a) Two convictions under section 625b.

16 (b) One conviction under section 625(1) or (2) followed by 1
17 conviction under section 625b.

18 (6) Upon receipt of a certificate of conviction pursuant to
19 section 33b(3) of the Michigan liquor control act, Act No. 8 of
20 the Public Acts of the Extra Session of 1933, being section
21 436.33b of the Michigan Compiled Laws, or a local ordinance or
22 law of another state substantially corresponding to section
23 33b(3) of Act No. 8 of the Public Acts of the Extra Session of
24 1933, the secretary of state shall suspend the person's
25 operator's or chauffeur's license for a period of 90 days. A
26 suspension under this subsection shall be in addition to any
27 other suspension of the person's license.

1 (7) Upon receipt of the record of the conviction ~~of a~~
2 ~~person,~~ or ~~the entry of a~~ probate court order of disposition
3 for a ~~child found to be within the provisions of chapter XIIIA of~~
4 ~~Act No. 288 of the Public Acts of 1939,~~ PERSON for a violation
5 of section 602a of this act or section 479a(1), (4), or (5) of
6 Act No. 328 of the Public Acts of 1931, being section 750.479a of
7 the Michigan Compiled Laws, the secretary of state immediately
8 shall suspend the license of the person for the period ordered by
9 the court as part of the sentence or disposition.

10 (8) UPON RECEIPT OF AN ABSTRACT OF CONVICTION OR PROBATE
11 COURT ORDER OF DISPOSITION FOR A PERSON FOR A VIOLATION OF
12 SECTION 377C(2), (3), (4), OR (5) OF ACT NO. 328 OF THE PUBLIC
13 ACTS OF 1931, BEING SECTION 750.377C OF THE MICHIGAN COMPILED
14 LAWS, THE SECRETARY OF STATE SHALL IMMEDIATELY SUSPEND THE
15 LICENSE OF THE PERSON FOR THE PERIOD ORDERED BY THE COURT AS PART
16 OF THE SENTENCE OR DISPOSITION.

17 (9) ~~(8)~~ For purposes of this section, the secretary of
18 state shall treat a conviction or probate court disposition for a
19 ~~child found to be within the provisions of chapter XIIIA of Act~~
20 ~~No. 288 of the Public Acts of 1939~~ PERSON for an attempted
21 offense as if the offense had been completed.

22 (10) AS USED IN THIS SECTION, "PROBATE COURT ORDER OF
23 DISPOSITION" MEANS THE ENTRY OF A PROBATE COURT ORDER OF DISPOSI-
24 TION FOR A CHILD FOUND TO BE WITHIN THE PROVISIONS OF
25 CHAPTER XIIIA OF ACT NO. 288 OF THE PUBLIC ACTS OF 1939, BEING
26 SECTIONS 712A.1 TO 712A.28 OF THE MICHIGAN COMPILED LAWS.

1 Sec. 732. (1) Each municipal judge and each clerk of a
2 court of record shall keep a full record of every case in which a
3 person is charged with or cited for a violation of this act or of
4 a law corresponding to this act regulating the operation of vehi-
5 cles on highways.

6 (2) Within 14 days after the conviction or forfeiture of
7 bail of a person, or entry of a civil infraction determination,
8 default judgment, or probate court order of disposition for a
9 child found to be within the provisions of chapter XIIIA of Act
10 No. 288 of the Public Acts of 1939, being sections 712A.1 to
11 712A.28 of the Michigan Compiled Laws, upon a charge of, or
12 citation for, violating this act or a local ordinance correspond-
13 ing to this act regulating the operation of vehicles on highways,
14 except as provided in subsection ~~(12)~~ (15), the municipal judge
15 or clerk of the court of record shall prepare and immediately
16 forward to the secretary of state an abstract of the record of
17 the court for the case. The abstract shall be certified by sig-
18 nature, stamp, or facsimile signature by the person required to
19 prepare the abstract to be true and correct. If a city or vil-
20 lage department, bureau, or person is authorized to accept a pay-
21 ment of money as a settlement for a violation of a local ordi-
22 nance corresponding to this act, the city or village department,
23 bureau, or person shall send a full report of each case in which
24 a person pays any amount of money to the city or village depart-
25 ment, bureau, or person to the secretary of state upon a form
26 prescribed by the secretary of state.

1 (3) The abstract or report required under this section shall
2 be made upon a form furnished by the secretary of state and shall
3 include the name, address, and date of birth of the person
4 charged or cited; the number of the person's operator's or
5 chauffeur's license, if any; the date and nature of the viola-
6 tion; the type of vehicle driven at the time of the violation and
7 if the vehicle is a commercial motor vehicle, that vehicle's
8 group designation and indorsement classification; the date of the
9 conviction, finding, forfeiture, judgment, or determination;
10 whether bail was forfeited; any license revocation, restriction,
11 suspension, or denial ordered by the court pursuant to this act;
12 and other information considered necessary to the secretary of
13 state.

14 (4) The clerk of the court also shall forward an abstract of
15 the record of the court to the secretary of state upon the con-
16 viction of a person or entry of a probate court order of disposi-
17 tion for a child found to be within the provisions of chapter
18 XIIIA of Act No. 288 of the Public Acts of 1939, being sections
19 712A.1 to 712A.28 of the Michigan Compiled Laws, involving a vio-
20 lation of section 324, 377C, 413, 414, or 479a of the Michigan
21 penal code, Act No. 328 of the Public Acts of 1931, being sec-
22 tions 750.324, 750.377C, 750.413, 750.414, and 750.479a of the
23 Michigan Compiled Laws; a violation of section 1 of Act No. 214
24 of the Public Acts of 1931, being section 752.191 of the Michigan
25 Compiled Laws; or an attempt to commit any of these offenses.

26 (5) As used in subsections (6) to (8), "felony in which a
27 motor vehicle was used" means a felony during the commission of

1 which the person operated a motor vehicle and while operating the
2 vehicle presented real or potential harm to persons or property
3 and 1 or more of the following circumstances existed:

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

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

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

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

10 (6) If a person is charged with a felony in which a motor
11 vehicle was used, other than a felony specified in subsection (4)
12 ~~7~~ or section 319(1)(a) to (f), the prosecuting attorney shall
13 include the following statement on the complaint and information
14 filed in district or circuit court:

15 "You are charged with the commission of a felony in which a
16 motor vehicle was used. If you are convicted and the judge finds
17 that the conviction is for a felony in which a motor vehicle was
18 used, as defined in section 319 of the Michigan vehicle code, Act
19 No. 300 of the Public Acts of 1949, being section 257.319 of the
20 Michigan Compiled Laws, your driver's license shall be suspended
21 by the secretary of state."

22 (7) If a child is accused of an act the nature of which con-
23 stitutes a felony in which a motor vehicle was used, other than a
24 felony specified in subsection (4) or section 319(1)(a) to (f),
25 the prosecuting attorney or juvenile court shall include on the
26 petition filed in the probate court:

1 "You are accused of an act the nature of which constitutes a
2 felony in which a motor vehicle was used. If the accusation is
3 found to be true and the judge or referee finds that the nature
4 of the act constitutes a felony in which a motor vehicle was
5 used, as defined in section 319 of the Michigan vehicle code, Act
6 No. 300 of the Public Acts of 1949, being section 257.319 of the
7 Michigan Compiled Laws, your driver's license shall be suspended
8 by the secretary of state."

9 (8) If the judge or juvenile court referee determines as
10 part of the sentence or disposition that the felony for which the
11 defendant was convicted or adjudicated and with respect to which
12 notice was given pursuant to subsection (6) or (7) is a felony in
13 which a motor vehicle was used, the clerk of the court shall for-
14 ward an abstract of the court record of that conviction or adju-
15 dication to the secretary of state.

16 (9) As used in subsections (10) and (11), "Felony in which a
17 commercial motor vehicle was used" means a felony during the com-
18 mission of which the person operated a commercial motor vehicle
19 and while operating the vehicle 1 or more of the following cir-
20 cumstances existed:

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

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

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

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

1 (10) If a person is charged with a felony in which a
2 commercial motor vehicle was used and for which a vehicle group
3 designation on a license is subject to suspension under section
4 319b(1)(c)(iii), (d), or (e)(iii) or (v), the prosecuting attor-
5 ney shall include the following statement on the complaint and
6 information filed in district or circuit court:

7 "You are charged with the commission of a felony in which a
8 commercial motor vehicle was used. If you are convicted and the
9 judge finds that the conviction is for a felony in which a com-
10 mercial motor vehicle was used, as defined in section 319b of the
11 Michigan vehicle code, Act No. 300 of the Public Acts of 1949,
12 being section 257.319b of the Michigan Compiled Laws, all vehicle
13 group designations on your driver's license shall be suspended by
14 the secretary of state."

15 (11) If the judge determines as part of the sentence that
16 the felony for which the defendant was convicted and with respect
17 to which notice was given pursuant to subsection (10) is a felony
18 in which a commercial motor vehicle was used, the clerk of the
19 court shall forward an abstract of the court record of that con-
20 viction to the secretary of state.

21 (12) Every person required to forward abstracts to the sec-
22 retary of state under this section shall certify for the period
23 from January 1 through June 30 and for the period from July 1
24 through December 31 that all abstracts required to be forwarded
25 during the period have been forwarded. The certification shall
26 be filed with the secretary of state not later than 28 days after
27 the end of the period covered by the certification. The

1 certification shall be made upon a form furnished by the
2 secretary of state and shall include all of the following:

3 (a) The name and title of the person required to forward
4 abstracts.

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

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

7 (d) The following statement:

8 "I certify that all abstracts required by section 732 of the
9 Michigan vehicle code, MCL 257.732; MSA 9.2432, for the period
10 _____ through _____ have been forwarded to the secre-
11 tary of state."

12 (e) Other information the secretary of state considers
13 necessary.

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

16 (13) The failure, refusal, or neglect of a person to comply
17 with this section shall constitute misconduct in office and shall
18 be grounds for removal from office.

19 (14) Except as provided in subsection ~~(+2)~~ (15), the sec-
20 retary of state shall keep all abstracts received under this sec-
21 tion at the secretary of state's main office and the abstracts
22 shall be open for public inspection during the office's usual
23 business hours. Each abstract shall be entered upon the master
24 driving record of the person to whom it pertains.

25 (15) The court shall not submit, and the secretary of state
26 shall discard and not enter on the master driving record, an
27 abstract for a conviction, civil infraction determination, or

1 probate court order of disposition for any of the following
2 offenses:

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

4 (b) A nonmoving violation which is not the basis for the
5 secretary of state's suspension, revocation, or denial of an
6 operator's or chauffeur's license.

7 (c) A violation of chapter II which is not the basis for the
8 secretary of state's suspension, revocation, or denial of an
9 operator's or chauffeur's license.

10 (d) A pedestrian, passenger, or bicycle violation.

11 (e) A violation of section 710e.

12 (16) The secretary of state shall discard and not enter on
13 the master driving record an abstract for a bond forfeiture which
14 occurred outside this state. However, the secretary of state
15 shall retain and enter on the master driving record an abstract
16 of an out-of-state bond forfeiture for an offense which occurred
17 after October 1, 1989 in connection with the operation of a com-
18 mercial motor vehicle.

19 (17) The secretary of state shall inform the courts of this
20 state of the nonmoving violations and violations of chapter II
21 which are used by the secretary of state as the basis for the
22 suspension, restriction, revocation, or denial of an operator's
23 or chauffeur's license.

24 (18) If a conviction, civil infraction determination, or
25 probate court order of disposition is reversed upon appeal, the
26 person whose conviction, determination, or order of disposition
27 has been reversed may serve on the secretary of state a certified

1 copy of the order of reversal, and the secretary of state shall
2 enter the order in the proper book or index in connection with
3 the record of the conviction, civil infraction determination, or
4 probate court order of disposition.

5 (19) The secretary of state may permit a city or village
6 department, bureau, person, or court to modify the requirement as
7 to the time and manner of reporting a conviction, civil infrac-
8 tion determination, settlement, or probate court order of dispo-
9 sition to the secretary of state when the modification will
10 increase the economy and efficiency of collecting and utilizing
11 the records. If the permitted abstract of court record reporting
12 a conviction, civil infraction determination, settlement, or pro-
13 bate court order of disposition originates as a part of the writ-
14 ten notice to appear, authorized in section 728(1) or 742(1), the
15 form of the written notice and report shall be as prescribed by
16 the secretary of state.

17 Section 2. This amendatory act shall not take effect unless
18 Senate Bill No. _____ or House Bill No. 5146 (request
19 no. 02197'91) of the 86th Legislature is enacted into law.