

HOUSE BILL No. 4813

May 23, 2001, Introduced by Reps. Ruth Johnson, Pappageorge, Birkholz, Voorhees, Gosselin, Raczkowski, Shulman, Scranton, Toy and Julian and referred to the Committee on Criminal Justice.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 319 and 732 (MCL 257.319 and 257.732), as amended by 2000 PA 460.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 319. (1) The secretary of state shall immediately sus-
2 pend a person's license as provided in this section upon receiv-
3 ing a record of the person's conviction for a crime described in
4 this section, whether the conviction is under a law of this
5 state, a local ordinance substantially corresponding to a law of
6 this state, or a law of another state substantially corresponding
7 to a law of this state.

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

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

3 (b) A violation of section 413 of the Michigan penal code,
4 1931 PA 328, MCL 750.413.

5 (c) A violation of section ~~1 of 1931 PA 214, MCL 752.191~~
6 626C.

7 (d) Failing to stop and disclose identity at the scene of an
8 accident resulting in death or serious injury in violation of
9 section 617.

10 (e) A felony in which a motor vehicle was used. As used in
11 this section, "felony in which a motor vehicle was used" means a
12 felony during the commission of which the person convicted oper-
13 ated a motor vehicle and while operating the vehicle presented
14 real or potential harm to persons or property and 1 or more of
15 the following circumstances existed:

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

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

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

20 (iv) The vehicle was necessary for the commission of the
21 felony.

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

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

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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 626 or section 653a(3).

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

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

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

13 (5) For perjury or making a false certification to the sec-
14 retary of state under any law requiring the registration of a
15 motor vehicle or regulating the operation of a vehicle on a high-
16 way, the secretary shall suspend the person's license as
17 follows:

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

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

22 (6) For a violation of section 414 of the Michigan penal
23 code, 1931 PA 328, MCL 750.414, the secretary of state shall sus-
24 pend the person's license as follows:

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

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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
5 PA 58, MCL 436.1703, the secretary of state shall suspend the
6 person's license as follows:

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

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

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

19 (a) For 180 days for a violation of section 625(1) if the
20 person has no prior convictions within 7 years. The secretary of
21 state may issue the person a restricted license during all or a
22 specified portion of the suspension, except that the secretary of
23 state shall not issue a restricted license during the first 30
24 days of suspension.

25 (b) For 90 days for a violation of section 625(3) if the
26 person has no prior convictions within 7 years. However, if the
27 person is convicted of a violation of section 625(3), for

1 operating a vehicle when, due to the consumption of a controlled
2 substance or a combination of intoxicating liquor and a con-
3 trolled substance, the person's ability to operate the vehicle
4 was visibly impaired, the secretary of state shall suspend the
5 person's license under this subdivision for 180 days. The secre-
6 tary of state may issue the person a restricted license during
7 all or a specified portion of 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
18 90 days of suspension.

19 (f) For 90 days for a violation of section 625m if the
20 person has no prior convictions within 7 years. The secretary of
21 state may issue the person a restricted license during all or a
22 specified portion of the suspension.

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

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

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

3 (10) For a violation of section 315(4), the secretary of
4 state may suspend the person's license for 6 months and shall
5 revoke the person's license for a second or subsequent conviction
6 as required under section 315(5).

7 (11) Except as provided in subsection (13), a suspension
8 under this section shall be imposed notwithstanding a court
9 order.

10 (12) If the secretary of state receives records of more than
11 1 conviction of a person resulting from the same incident, a sus-
12 pension shall be imposed only for the violation to which the
13 longest period of suspension applies under this section.

14 (13) The secretary of state may waive a suspension of a
15 person's license imposed under this act if the person submits
16 proof that a court in another state revoked, suspended, or
17 restricted his or her license for a period equal to or greater
18 than the period of a suspension prescribed under this act for the
19 violation and that the revocation, suspension, or restriction was
20 served for the violation, or may grant a restricted license.

21 (14) The secretary of state shall not issue a restricted
22 license to a person whose license is suspended under this section
23 unless a restricted license is authorized under this section and
24 the person is otherwise eligible for a license.

25 (15) The secretary of state shall not issue a restricted
26 license to a person under subsection (8) that would permit the

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1 person to operate a commercial motor vehicle that hauls hazardous
2 material.

3 (16) A restricted license issued under this section shall
4 permit the person to whom it is issued to drive under 1 or more
5 of the following circumstances:

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

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

8 (i) The person's residence.

9 (ii) The person's work location.

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

12 (iv) The court probation department.

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

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

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

19 (17) While driving with a restricted license, the person
20 shall carry proof of his or her destination and the hours of any
21 employment, class, or other reason for traveling and shall dis-
22 play that proof upon a peace officer's request.

23 (18) Subject to subsection (20), as used in subsection (8),
24 "prior conviction" means a conviction for any of the following,
25 whether under a law of this state, a local ordinance substan-
26 tially corresponding to a law of this state, or a law of another
27 state substantially corresponding to a law of this state:

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1 (a) Except as provided in subsection (19), a violation or
2 attempted violation of section 625(1), (3), (4), (5), (6), or
3 (7), section 625m, former section 625(1) or (2), or former sec-
4 tion 625b.

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

8 (19) Except for purposes of the suspensions described in
9 subsection (8)(c) and (d), only 1 violation or attempted viola-
10 tion of section 625(6), a local ordinance substantially corre-
11 sponding to section 625(6), or a law of another state substan-
12 tially corresponding to section 625(6) may be used as a prior
13 conviction.

14 (20) If 2 or more convictions described in subsection (18)
15 are convictions for violations arising out of the same transac-
16 tion, only 1 conviction shall be used to determine whether the
17 person has a prior conviction.

18 Sec. 732. (1) Each municipal judge and each clerk of a
19 court of record shall keep a full record of every case in which a
20 person is charged with or cited for a violation of this act or a
21 local ordinance substantially corresponding to this act regulat-
22 ing the operation of vehicles on highways and ~~beginning~~
23 ~~October 1, 2000,~~ with those offenses pertaining to the operation
24 of ORVs or snowmobiles for which points are assessed under sec-
25 tion ~~320a(1)(b) or (f)~~ 320A(1)(C) OR (H). Except as provided
26 in subsection (15), the municipal judge or clerk of the court of

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1 record shall prepare and forward to the secretary of state an
2 abstract of the court record as follows:

3 (a) Within 14 days after a conviction, forfeiture of bail,
4 or entry of a civil infraction determination or default judgment
5 upon a charge of or citation for violating or attempting to vio-
6 late this act or a local ordinance substantially corresponding to
7 this act regulating the operation of vehicles on highways.

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

13 (c) ~~Beginning October 1, 2000, immediately~~ IMMEDIATELY for
14 each case charging a violation of section 82127(1) or (3), 81134,
15 or 81135 of the natural resources and environmental protection
16 act, 1994 PA 451, MCL 324.82127, 324.81134, and 324.81135, or a
17 local ordinance substantially corresponding to those sections.

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

26 (3) The abstract or report required under this section shall
27 be made upon a form furnished by the secretary of state. An

1 abstract shall be certified by signature, stamp, or facsimile
2 signature of the person required to prepare the abstract as
3 correct. An abstract or report shall include all of the
4 following:

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

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

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

10 (d) The type of vehicle driven at the time of the violation
11 and, if the vehicle is a commercial motor vehicle, that vehicle's
12 group designation and indorsement classification.

13 (e) The date of the conviction, finding, forfeiture, judg-
14 ment, or civil infraction determination.

15 (f) Whether bail was forfeited.

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

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

21 (i) Other information considered necessary to the secretary
22 of state.

23 (4) The clerk of the court also shall forward an abstract of
24 the court record to the secretary of state upon a person's con-
25 viction involving any of the following:

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

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1 ~~(b) A violation of section 1 of 1931 PA 214, MCL 752.191.~~

2 (B) ~~(c)~~ Negligent homicide, manslaughter, or murder
3 resulting from the operation of a vehicle.

4 ~~(d) A violation of section 653a(4).~~

5 (C) ~~(e)~~ A violation of section 703 of the Michigan liquor
6 control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordi-
7 nance substantially corresponding to that section.

8 (D) ~~(f)~~ An attempt to violate, a conspiracy to violate, or
9 a violation of part 74 or section 17766a of the public health
10 code, 1978 PA 368, MCL 333.7401 to 333.7461 and 333.17766a, or a
11 local ordinance that prohibits conduct prohibited under part 74
12 or section 17766a of the public health code, 1978 PA 368,
13 MCL 333.7401 to 333.7461 and 333.17766a, unless the convicted
14 person is sentenced to life imprisonment or a minimum term of
15 imprisonment that exceeds 1 year for the offense.

16 (E) ~~(g)~~ An attempt to commit an offense described in sub-
17 divisions (a) to ~~(e)~~ (C).

18 (5) As used in subsections (6) to (8), "felony in which a
19 motor vehicle was used" means a felony during the commission of
20 which the person operated a motor vehicle and while operating the
21 vehicle presented real or potential harm to persons or property
22 and 1 or more of the following circumstances existed:

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

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

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

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

3 (6) If a person is charged with a felony in which a motor
4 vehicle was used, other than a felony specified in subsection (4)
5 or section 319, the prosecuting attorney shall include the fol-
6 lowing statement on the complaint and information filed in dis-
7 trict or circuit court:

8 "You are charged with the commission of a felony in which a
9 motor vehicle was used. If you are convicted and the judge finds
10 that the conviction is for a felony in which a motor vehicle was
11 used, as defined in section 319 of the Michigan vehicle code,
12 1949 PA 300, MCL 257.319, your driver's license shall be sus-
13 pended by the secretary of state."

14 (7) If a juvenile is accused of an act, the nature of which
15 constitutes a felony in which a motor vehicle was used, other
16 than a felony specified in subsection (4) or section 319, the
17 prosecuting attorney or family division of circuit court shall
18 include the following statement on the petition filed in the
19 court:

20 "You are accused of an act the nature of which constitutes a
21 felony in which a motor vehicle was used. If the accusation is
22 found to be true and the judge or referee finds that the nature
23 of the act constitutes a felony in which a motor vehicle was
24 used, as defined in section 319 of the Michigan vehicle code,
25 1949 PA 300, MCL 257.319, your driver's license shall be sus-
26 pended by the secretary of state."

1 (8) If the court determines as part of the sentence or
2 disposition that the felony for which the person was convicted or
3 adjudicated and with respect to which notice was given under sub-
4 section (6) or (7) is a felony in which a motor vehicle was used,
5 the clerk of the court shall forward an abstract of the court
6 record of that conviction to the secretary of state.

7 (9) As used in subsections (10) and (11), "felony in which a
8 commercial motor vehicle was used" means a felony during the com-
9 mission of which the person operated a commercial motor vehicle
10 and while the person was operating the vehicle 1 or more of the
11 following circumstances existed:

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

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

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

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

18 (10) If a person is charged with a felony in which a commer-
19 cial motor vehicle was used and for which a vehicle group desig-
20 nation on a license is subject to suspension or revocation under
21 section 319b(1)(c)(iii), 319b(1)(d), or 319b(1)(e)(iii), or
22 319b(1)(f)(i), the prosecuting attorney shall include the follow-
23 ing statement on the complaint and information filed in district
24 or circuit court:

25 "You are charged with the commission of a felony in which a
26 commercial motor vehicle was used. If you are convicted and the
27 judge finds that the conviction is for a felony in which a

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1 commercial motor vehicle was used, as defined in section 319b of
2 the Michigan vehicle code, 1949 PA 300, MCL 257.319b, all vehicle
3 group designations on your driver's license shall be suspended or
4 revoked by the secretary of state."

5 (11) If the judge determines as part of the sentence that
6 the felony for which the defendant was convicted and with respect
7 to which notice was given under subsection (10) is a felony in
8 which a commercial motor vehicle was used, the clerk of the court
9 shall forward an abstract of the court record of that conviction
10 to the secretary of state.

11 (12) Every person required to forward abstracts to the sec-
12 retary of state under this section shall certify for the period
13 from January 1 through June 30 and for the period from July 1
14 through December 31 that all abstracts required to be forwarded
15 during the period have been forwarded. The certification shall
16 be filed with the secretary of state not later than 28 days after
17 the end of the period covered by the certification. The certifi-
18 cation shall be made upon a form furnished by the secretary of
19 state and shall include all of the following:

20 (a) The name and title of the person required to forward
21 abstracts.

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

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

24 (d) The following statement:

25 "I certify that all abstracts required by section 732 of the
26 Michigan vehicle code, MCL 257.732; MSA 9.2432, for the period

1 _____ through _____ have been forwarded to the
2 secretary of state."

3 (e) Other information the secretary of state considers
4 necessary.

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

7 (13) The failure, refusal, or neglect of a person to comply
8 with this section constitutes misconduct in office and is grounds
9 for removal from office.

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

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

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

22 (b) A nonmoving violation that is not the basis for the sec-
23 retary of state's suspension, revocation, or denial of an
24 operator's or chauffeur's license.

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

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1 (d) A pedestrian, passenger, or bicycle violation, other
2 than a violation of section 703(1) or (2) of the Michigan liquor
3 control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordi-
4 nance substantially corresponding to section 703(1) or (2) of the
5 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703,
6 or section 624a or 624b or a local ordinance substantially corre-
7 sponding to section 624a or 624b.

8 (e) A violation of section 710e or a local ordinance sub-
9 stantially corresponding to section 710e.

10 (16) The secretary of state shall discard and not enter on
11 the master driving record an abstract for a bond forfeiture that
12 occurred outside this state. However, the secretary of state
13 shall retain and enter on the master driving record an abstract
14 of an out-of-state bond forfeiture for an offense that occurred
15 after January 1, 1990 in connection with the operation of a com-
16 mercial motor vehicle.

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

22 (18) If a conviction or civil infraction determination is
23 reversed upon appeal, the person whose conviction or determina-
24 tion has been reversed may serve on the secretary of state a cer-
25 tified copy of the order of reversal. The secretary of state
26 shall enter the order in the proper book or index in connection

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1 with the record of the conviction or civil infraction
2 determination.

3 (19) The secretary of state may permit a city or village
4 department, bureau, person, or court to modify the requirement as
5 to the time and manner of reporting a conviction, civil infrac-
6 tion determination, or settlement to the secretary of state if
7 the modification will increase the economy and efficiency of col-
8 lecting and utilizing the records. If the permitted abstract of
9 court record reporting a conviction, civil infraction determina-
10 tion, or settlement originates as a part of the written notice
11 ~~as~~ TO appear, authorized in section 728(1) or 742(1), the form
12 of the written notice and report shall be as prescribed by the
13 secretary of state.

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

18 Enacting section 1. This amendatory act takes effect
19 January 1, 2002.

20 Enacting section 2. This amendatory act does not take
21 effect unless House Bill No. 4596 of the 91st Legislature is
22 enacted into law.