

HOUSE BILL NO. 4279

February 23, 2021, Introduced by Reps. Bellino, Manoogian, Mueller, LaGrand, Witwer, Tyrone Carter, Tate, Sabo, Hertel and Haadsma and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 602c and 732 (MCL 257.602c and 257.732), section 602c as added by 2012 PA 592 and section 732 as amended by 2017 PA 160.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 602c. (1) Except as provided in this section, **and in**
2 **addition to the requirements of section 602b**, an individual issued

1 a level 1 or level 2 graduated license under section 310e shall not
2 use a cellular telephone while operating a motor vehicle upon a
3 highway or street. For purposes of this subsection, "use" means to
4 initiate a call; answer a call; or listen to or engage in verbal
5 communication through the cellular telephone.

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

8 (a) Report a traffic accident, medical emergency, or serious
9 road hazard.

10 (b) Report a situation in which the person believes his or her
11 personal safety is in jeopardy.

12 (c) Report or avert the perpetration or potential perpetration
13 of a criminal act against the individual or another person.

14 ~~(3) Subsection (1) does not apply to an individual using a~~
15 ~~voice operated system that is integrated into the motor vehicle.~~

16 (3) ~~(4)~~—An individual who violates this section is responsible
17 for a civil infraction.

18 (4) ~~(5)~~—This section supersedes all local ordinances
19 regulating the use of a cellular telephone by an individual issued
20 a level 1 or level 2 graduated license while operating a motor
21 vehicle in motion on a highway or street, except that a unit of
22 local government may adopt an ordinance or enforce an existing
23 ordinance substantially corresponding to this section.

24 (5) ~~(6)~~—This section shall be known and may be cited as
25 "Kelsey's Law".

26 Sec. 732. (1) Each municipal judge and each clerk of a court
27 of record shall keep a full record of every case in which a person
28 is charged with or cited for a violation of this act or a local
29 ordinance substantially corresponding to this act regulating the

1 operation of vehicles on highways and with those offenses
2 pertaining to the operation of ORVs or snowmobiles for which points
3 are assessed under section 320a(1)(c) or (i). Except as provided in
4 subsection (16), the municipal judge or clerk of the court of
5 record shall prepare and forward to the secretary of state an
6 abstract of the court record as follows:

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

13 (b) Immediately for each case charging a violation of section
14 625(1), (3), (4), (5), (6), (7), or (8) or section 625m or a local
15 ordinance substantially corresponding to section 625(1), (3), (6),
16 or (8) or section 625m in which the charge is dismissed or the
17 defendant is acquitted.

18 (c) Immediately for each case charging a violation of section
19 82127(1) or (3) or 81134 of the natural resources and environmental
20 protection act, 1994 PA 451, MCL 324.82127 and 324.81134, or a
21 local ordinance substantially corresponding to those sections.

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

1 (3) The abstract or report required under this section ~~shall~~
2 **must** be made upon a form furnished by the secretary of state. An
3 abstract ~~shall~~**must** be certified by signature, stamp, or facsimile
4 signature of the person required to prepare the abstract as
5 correct. An abstract or report ~~shall~~**must** include all of the
6 following:

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

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

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

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

15 (e) The date of the conviction, finding, forfeiture, judgment,
16 or civil infraction determination.

17 (f) Whether bail was forfeited.

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

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

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

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

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

1 (b) A violation of section 1 of former 1931 PA 214.

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

4 (d) A violation of sections 701(1) and 703 of the Michigan
5 liquor control code of 1998, 1998 PA 58, MCL 436.1701 and 436.1703,
6 or a local ordinance substantially corresponding to those sections.

7 (e) A violation of section 411a(2) of the Michigan penal code,
8 1931 PA 328, MCL 750.411a.

9 (f) A violation of motor carrier safety regulations 49 CFR
10 392.10 or 392.11 as adopted by section 1a of the motor carrier
11 safety act of 1963, 1963 PA 181, MCL 480.11a.

12 (g) A violation of section 57 of the pupil transportation act,
13 1990 PA 187, MCL 257.1857.

14 (h) An attempt to violate, a conspiracy to violate, or a
15 violation of part 74 of the public health code, 1978 PA 368, MCL
16 333.7401 to 333.7461, or a local ordinance that prohibits conduct
17 prohibited under part 74 of the public health code, 1978 PA 368,
18 MCL 333.7401 to 333.7461, unless the convicted person is sentenced
19 to life imprisonment or a minimum term of imprisonment that exceeds
20 1 year for the offense.

21 (i) An attempt to commit an offense described in subdivisions
22 (a) to (g).

23 (j) A violation of chapter LXXXIII-A of the Michigan penal
24 code, 1931 PA 328, MCL 750.543a to 750.543z.

25 (k) A violation of section 3101, 3102(1), or 3103 of the
26 insurance code of 1956, 1956 PA 218, MCL 500.3101, 500.3102, and
27 500.3103.

28 (l) A violation listed as a disqualifying offense under 49 CFR
29 383.51.

1 (5) The clerk of the court shall also forward an abstract of
2 the court record to the secretary of state if a person has pled
3 guilty to, or offered a plea of admission in a juvenile proceeding
4 for, a violation of section 703 of the Michigan liquor control code
5 of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance
6 substantially corresponding to that section, and has had further
7 proceedings deferred under that section. If the person is sentenced
8 to a term of probation and terms and conditions of probation are
9 fulfilled and the court discharges the individual and dismisses the
10 proceedings, the court shall also report the dismissal to the
11 secretary of state.

12 (6) As used in subsections (7) to (9), "felony in which a
13 motor vehicle was used" means a felony during the commission of
14 which the person operated a motor vehicle and while operating the
15 vehicle presented real or potential harm to persons or property and
16 1 or more of the following circumstances existed:

- 17 (a) The vehicle was used as an instrument of the felony.
18 (b) The vehicle was used to transport a victim of the felony.
19 (c) The vehicle was used to flee the scene of the felony.
20 (d) The vehicle was necessary for the commission of the
21 felony.

22 (7) If a person is charged with a felony in which a motor
23 vehicle was used, other than a felony specified in subsection (4)
24 or section 319, the prosecuting attorney shall include the
25 following statement on the complaint and information filed in
26 district or circuit court:

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

1 used, as defined in section 319 of the Michigan vehicle code, 1949
2 PA 300, MCL 257.319, your driver's license shall be suspended by
3 the secretary of state."

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

9 "You are accused of an act the nature of which constitutes a
10 felony in which a motor vehicle was used. If the accusation is
11 found to be true and the judge or referee finds that the nature of
12 the act constitutes a felony in which a motor vehicle was used, as
13 defined in section 319 of the Michigan vehicle code, 1949 PA 300,
14 MCL 257.319, your driver's license shall be suspended by the
15 secretary of state."

16 (9) If the court determines as part of the sentence or
17 disposition that the felony for which the person was convicted or
18 adjudicated and with respect to which notice was given under
19 subsection (7) or (8) is a felony in which a motor vehicle was
20 used, the clerk of the court shall forward an abstract of the court
21 record of that conviction to the secretary of state.

22 (10) As used in subsections (11) and (12), "felony in which a
23 commercial motor vehicle was used" means a felony during the
24 commission of which the person operated a commercial motor vehicle
25 and while the person was operating the vehicle 1 or more of the
26 following circumstances existed:

- 27 (a) The vehicle was used as an instrument of the felony.
28 (b) The vehicle was used to transport a victim of the felony.
29 (c) The vehicle was used to flee the scene of the felony.

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

3 (11) If a person is charged with a felony in which a
4 commercial motor vehicle was used and for which a vehicle group
5 designation on a license is subject to suspension or revocation
6 under section 319b(1) (c) (iii), 319b(1) (d), 319b(1) (e) (iii), or
7 319b(1) (f) (i), the prosecuting attorney shall include the following
8 statement on the complaint and information filed in district or
9 circuit court:

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

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

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

1 certification ~~shall~~**must** be made upon a form furnished by the
2 secretary of state and ~~shall~~**must** 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, **1949 PA 300**, MCL 257.732, ~~MSA 9.2432~~, for
10 the period _____ through _____ have been
11 forwarded to the secretary of state."

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

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

15 (14) The failure, refusal, or neglect of a person to comply
16 with this section constitutes misconduct in office and is grounds
17 for removal from office.

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

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

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

1 (b) A nonmoving violation that is not the basis for the
2 secretary of state's suspension, revocation, or denial of an
3 operator's or chauffeur's license.

4 (c) A violation of chapter II that 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 (d) A pedestrian, passenger, or bicycle violation, other than
8 a violation of section 703(1) or (2) of the Michigan liquor control
9 code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance
10 substantially corresponding to section 703(1) or (2) of the
11 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or
12 section 624a or 624b or a local ordinance substantially
13 corresponding to section 624a or 624b.

14 (e) A violation of section 710e or a local ordinance
15 substantially corresponding to section 710e.

16 (f) A violation of section 328(1) if, before the appearance
17 date on the citation, the person submits proof to the court that
18 the motor vehicle had insurance meeting the requirements of
19 sections 3101 and 3102 of the insurance code of 1956, 1956 PA 218,
20 MCL 500.3101 and 500.3102, at the time the citation was issued.
21 Insurance obtained subsequent to the time of the violation does not
22 make the violation an exception under this subsection.

23 (g) A violation described in section 319b(10)(b)(vii) if,
24 before the court appearance date or date fines are to be paid, the
25 person submits proof to the court that he or she held a valid
26 commercial driver license on the date the citation was issued.

27 (h) A violation of section 311 if the person was driving a
28 noncommercial vehicle and, before the court appearance date or the
29 date fines are to be paid, the person submits proof to the court

1 that he or she held a valid driver license on the date the citation
2 was issued.

3 ~~(i) A violation of section 602b(1) or 602e.~~

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

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

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

23 (20) The secretary of state may permit a city or village
24 department, bureau, person, or court to modify the requirement as
25 to the time and manner of reporting a conviction, civil infraction
26 determination, or settlement to the secretary of state if the
27 modification will increase the economy and efficiency of collecting
28 and utilizing the records. If the permitted abstract of court
29 record reporting a conviction, civil infraction determination, or

1 settlement originates as a part of the written notice to appear,
 2 authorized in section 728(1) or 742(1), the form of the written
 3 notice and report ~~shall~~**must** be as prescribed by the secretary of
 4 state.

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

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

18 Enacting section 1. This amendatory act takes effect 90 days
 19 after the date it is enacted into law.

20 Enacting section 2. This amendatory act does not take effect
 21 unless both of the following bills of the 101st Legislature are
 22 enacted into law:

23 (a) Senate Bill No. _____ or House Bill No. 4277 (request no.
 24 00705'21 *).

25 (b) Senate Bill No. _____ or House Bill No. 4278 (request no.
 26 02124'21).