## SUBSTITUTE FOR HOUSE BILL NO. 5802

A bill to amend 1949 PA 300, entitled "Michigan vehicle code,"

by amending sections 317, 904, and 907 (MCL 257.317, 257.904, and 257.907), section 317 as amended by 2018 PA 566, section 904 as amended by 2018 PA 212, and section 907 as amended by 2015 PA 126.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 317. (1) The secretary of state may suspend, deny, or revoke the right of a nonresident to operate a motor vehicle in this state for a cause for which the license of a resident driver may be suspended, denied, or revoked. A nonresident who drives a motor vehicle upon on a highway when the privilege to drive has been suspended, revoked, or denied by the secretary of state is responsible for a civil infraction or guilty of a misdemeanor



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1 punishable—as provided in section 904.

- 2 (2) The secretary of state, upon on receiving a record of a violation of section 321a(1) by a nonresident in this state, shall 3 notify the motor vehicle administration or other appropriate 4 5 officer of the state where the nonresident is licensed of that 6 violation. The notification required under this subsection shall 7 must be given no later than 6 months after the date the citation 8 was issued to the nonresident. This subsection does not apply 9 unless the governor of this state has entered into an interstate 10 compact requiring the notification described in this subsection. 11 The secretary of state may only share the information described in this subsection to verify driving privileges or licensure status, 12 to report a conviction or withdrawal, or to ensure compliance with 13 14 49 CFR 384.209.
  - (3) The secretary of state, upon on receiving a record of the conviction, civil infraction determination, suspension, revocation, or forfeiture of bail in this state of a nonresident of a violation the record of which is required to be maintained under section 204a, shall forward a certified copy of the record to the motor vehicle administrator or other appropriate officer in the state in which the person is a resident.
  - (4) Within 10 days after an appeal is completed or the appeal period has expired if an appeal is not made in a conviction, civil infraction determination, or bond forfeiture entered against a nonresident in this state for a violation committed while operating a commercial motor vehicle or any violation for a commercial driver license holder regardless of vehicle type, except a parking violation, the secretary of state shall notify the motor vehicle administration or other appropriate officer of the state where the

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nonresident is licensed of that conviction, determination, or
forfeiture.

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

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

(2) A person shall not knowingly permit a motor vehicle owned by the person to be operated upon—on a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state by a person—an individual whose license or registration certificate is suspended or revoked, whose application for license has been denied, or who has never applied for a license, except as permitted under this act.

- (3) Except as otherwise provided in this section, a person who
   violates subsection (1) or (2) is responsible for a civil
   infraction or quilty of a misdemeanor punishable crime as follows:
- 4 (a) For a first violation, by imprisonment for not more than
- 5 93 days or a fine of the person is responsible for a civil
- 6 infraction and may be fined not more than \$500.00, or both.
- 7 \$150.00. Unless the vehicle was stolen or used with the permission
- 8 of a person who did not knowingly permit an unlicensed driver to
- 9 operate the vehicle, the registration plates of the vehicle shall
- ${f 10}$   ${f must}$  be canceled by the secretary of state  ${f upon\ notification\ when}$
- 11 notified by a peace officer.
- 12 (b) For a second violation, that occurs after a prior
  13 conviction, by imprisonment for not more than 1 year or a fine of
  14 the person is responsible for a civil infraction and may be fined
  15 not more than \$1,000.00, or both. \$250.00. Unless the vehicle was
  16 stolen, the registration plates of the vehicle shall must be
  17 canceled by the secretary of state upon notification when notified
- 18 by a peace officer.
- 19 (c) For a third or subsequent violation, the person is guilty
- 20 of a misdemeanor punishable by imprisonment for not more than 93
- 21 days or a fine of \$500.00, or both. If the vehicle was used in the
- 22 commission of a crime, the person failed to appear for a citation
- 23 issued under this act, or the person failed to pay fines and costs
- 24 imposed under this act, the secretary of state shall cancel the
- 25 operator's or chauffeur's license or registration certificate of
- 26 the individual operating the vehicle.
- 27 (4) A person An individual who operates a motor vehicle in
- 28 violation of subsection (1) or a person an individual whose
- 29 operator's or chauffeur's license or registration certificate has

- been suspended or revoked by another state who operates a motor 1
- vehicle during the period of suspension or revocation and who, by 2
- operation of that motor vehicle, causes the death of another person 3
- individual is quilty of a felony punishable by imprisonment for not 4
- 5 more than 15 years or a fine of not less than \$2,500.00 or more
- 6 than \$10,000.00, or both. This subsection does not apply to  $\frac{1}{4}$
- 7 person an individual whose operator's or chauffeur's license was
- suspended because that person individual failed to answer a 8
- 9 citation or comply with an order or judgment under section 321a.
- 10 (5) A person An individual who operates a motor vehicle in
- 11 violation of subsection (1) or a person an individual whose
- operator's or chauffeur's license or registration certificate has 12
- been suspended or revoked by another state who operates a motor 13
- 14 vehicle during the period of suspension or revocation and who, by
- 15 operation of that motor vehicle, causes the serious impairment of a
- 16 body function of another person\_individual is quilty of a felony
- punishable by imprisonment for not more than 5 years or a fine of 17
- not less than \$1,000.00 or more than \$5,000.00, or both. This 18
- 19 subsection does not apply to a person an individual whose
- 20 operator's or chauffeur's license was suspended because that person
- individual failed to answer a citation or comply with an order or 21
- 22 judgment under section 321a.
- 23 (6) In addition to being subject to any other penalty provided
- for in this act, if a person an individual is convicted under 24
- 25 subsection (4) or (5), the court may impose the sanction permitted
- under section 625n. If the vehicle is not ordered forfeited under 26
- 27 section 625n, the court shall order vehicle immobilization under
- 28 section 904d in the judgment of sentence.
- 29 (7) A person shall not knowingly permit a motor vehicle owned

- 1 by the person to be operated upon on a highway or other place open
- 2 to the general public or generally accessible to motor vehicles,
- 3 including an area designated for the parking of vehicles, within
- 4 this state, by a person an individual whose license or registration
- 5 certificate is suspended or revoked, whose application for license
- 6 has been denied, or who has never been licensed except as permitted
- 7 by this act. If a person an individual permitted to operate a motor
- 8 vehicle in violation of this subsection causes the serious
- 9 impairment of a body function of another person individual by the
- 10 operation of that motor vehicle, the person knowingly permitting
- 11 the operation of that motor vehicle is guilty of a felony
- 12 punishable by imprisonment for not more than 2 years, or a fine of
- 13 not less than \$1,000.00 or more than \$5,000.00, or both. If  $\frac{1}{4}$
- 14 person an individual permitted to operate a motor vehicle in
- 15 violation of this subsection causes the death of another person
- 16 individual by the operation of that motor vehicle, the person
- 17 knowingly permitting the operation of that motor vehicle is guilty
- 18 of a felony punishable by imprisonment for not more than 5 years,
- 19 or a fine of not less than \$1,000.00 or more than \$5,000.00, or
- 20 both.
- 21 (8) If the prosecuting attorney intends to seek an enhanced
- 22 sentence under this section based upon subsection (3)(c) because
- 23 the defendant having has 1 or more prior convictions or civil
- 24 infraction determinations, the prosecuting attorney shall include
- 25 on the complaint and information, or an amended complaint and
- 26 information, filed in district court, circuit court, municipal
- 27 court, or family division of circuit court, a statement listing
- 28 that lists the defendant's prior convictions or civil infraction
- 29 determinations.

- - (a) A copy of a judgment of conviction.
- 5 (b) An abstract of conviction.

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- 6 (c) A transcript of a prior hearing, trial, plea, or7 sentencing.
  - (d) A copy of a court register of action.
  - (e) A copy of the defendant's driving record.
- 10 (f) Information contained in a presentence report.
- 11 (g) An admission by the defendant.
- 12 (h) A judgment of civil infraction.
- (10) Subject to section 732a(11)(c), upon on receiving a
   record of a person's an individual's conviction or civil infraction
- 15 determination for the unlawful operation of a motor vehicle or a
- 16 moving violation reportable under section 732 while the person's
- 17 individual's operator's or chauffeur's license is suspended or
- 18 revoked, the secretary of state immediately shall impose an
- 19 additional like period of suspension or revocation. This subsection
- 20 applies only if the violation occurs during a suspension of
- 21 definite length or if the violation occurs before the person
- 22 individual is approved for a license following a revocation.
- 23 (11) Upon On receiving a record of a person's an individual's
- 24 conviction or civil infraction determination for the unlawful
- 25 operation of a motor vehicle or a moving violation reportable under
- 26 section 732 while the person's individual's operator's or
- 27 chauffeur's license is indefinitely suspended or whose application
- 28 for a license has been denied, the secretary of state immediately
- 29 shall impose a 30-day period of suspension or denial.

- (12) Upon On receiving a record of the conviction, bond forfeiture, or a civil infraction determination of a person an individual for unlawful operation of a motor vehicle requiring that requires a vehicle group designation while the designation is suspended or revoked under section 319b, or while the person individual is disqualified from operating a commercial motor vehicle by the United States Secretary of Transportation or under 49 USC 31301 to 31317, the secretary of state immediately shall impose an additional like period of suspension or revocation. This subsection applies only if the violation occurs during a suspension of definite length or if the violation occurs before the person individual is approved for a license following a revocation.
  - (13) If the secretary of state receives records of more than 1 conviction or civil infraction determination resulting that resulted from the same incident, all of the convictions or civil infraction determinations shall must be treated as a single violation for purposes of imposing an additional period of suspension or revocation under subsection (10), (11), or (12).
  - (14) Before a person an individual is arraigned before a district court magistrate or judge on a charge of violating this section, the arresting officer shall obtain the person's individual's driving record from the secretary of state and shall furnish the record to the court. The driving record of the person individual may be obtained from the secretary of state's computer information network.
  - (15) This section does not apply to a person an individual who operates a vehicle solely for the purpose of protecting human life or property if the life or property is endangered and summoning prompt aid is essential.

- (16) A person An individual whose vehicle group designation is suspended or revoked and who has been notified as provided in section 212 of that suspension or revocation, or whose application for a vehicle group designation has been denied as provided in this act, or who has never applied for a vehicle group designation and who operates a commercial motor vehicle within this state, except as permitted under this act, while any of those conditions exist is guilty of a misdemeanor punishable, except as otherwise provided in this section, by imprisonment for not less than 3 days or more than 93 days or a fine of not more than \$100.00, or both.
  - (17) If a person an individual has a second or subsequent suspension or revocation under this section within 7 years as indicated on the person's individual's Michigan driving record, the court shall proceed as provided in section 904d.
  - (18) Any period of suspension or revocation required under subsection (10), (11), or (12) does not apply to a person an individual who has only 1 currently effective suspension or denial on his or her Michigan driving record under section 321a and was convicted of or received a civil infraction determination for a violation that occurred during that suspension or denial. This subsection may only be applied once during the person's individual's lifetime.
  - (19) Notwithstanding subsection (3), an individual who operates a motor vehicle in violation of subsection (1) or (2) while his or her license is suspended for failure to answer a notice to appear for a criminal violation under section 321a, any violation of section 625, reckless driving under section 626, or any driving violation that causes the injury, death, or serious impairment of a body function of another individual under this act

- or a local ordinance substantially corresponding to a provision of this act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of \$500.00, or both.
  - (20) A law enforcement officer may impound the motor vehicle of an individual who violates this section.
- 6 (21) (19) For purposes of this section, a person an individual
  7 who never applied for a license includes a person an individual who
  8 applied for a license, was denied, and never applied again.
  - Sec. 907. (1) A violation of this act, or a local ordinance that substantially corresponding corresponds to a provision of this act, that is designated a civil infraction shall is not be considered a lesser included offense of a criminal offense.
- (2) If a person is determined under sections 741 to 750 to be 13 14 responsible or responsible "with explanation" for a civil 15 infraction under this act or a local ordinance that substantially corresponding corresponds to a provision of this act, the judge or 16 17 district court magistrate may order the person to pay a civil fine 18 of not more than \$100.00 and costs as provided in subsection (4). 19 However, if the civil infraction was a moving violation that 20 resulted in an at-fault collision with another vehicle, a person, or any other object, the civil fine ordered under this section 21 22 shall must be increased by \$25.00 but the total civil fine shall 23 must not exceed \$100.00. However, for a violation of section 602b, 24 the person shall be ordered to pay costs as provided in subsection 25 (4) and a civil fine of \$100.00 for a first offense and \$200.00 for a second or subsequent offense. For a violation of section 26 27 674(1)(s) or a local ordinance that substantially corresponding 28 corresponds to section 674(1)(s), the person shall be ordered to 29 pay costs as provided in subsection (4) and a civil fine of not

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less than \$100.00 or more than \$250.00. For a violation of section 1 2 676c, the person shall be ordered to pay costs as provided in 3 subsection (4) and a civil fine of \$1,000.00. For a violation of section 328, the civil fine ordered under this subsection shall 4 must be not more than \$50.00. For a violation of section 710d, the 5 6 civil fine ordered under this subsection shall not exceed \$10.00, 7 subject to subsection (12). For a violation of section 710e, the civil fine and court costs ordered under this subsection shall must 8 be \$25.00. For a violation of section 682 or a local ordinance that 9 substantially corresponding corresponds to section 682, the person 10 11 shall be ordered to pay costs as provided in subsection (4) and a civil fine of not less than \$100.00 or more than \$500.00. For a 12 violation of section 240, the civil fine ordered under this 13 14 subsection shall be \$15.00. For a violation of section 252a(1), the 15 civil fine ordered under this subsection shall must be \$50.00. For a violation of section 676a(3), the civil fine ordered under this 16 17 section shall must be not more than \$10.00. For a first violation 18 of section 319f(1), the civil fine ordered under this section shall 19 must be not less than \$2,500.00 or more than \$2,750.00; for a 20 second or subsequent violation, the civil fine shall must be not 21 less than \$5,000.00 or more than \$5,500.00. For a violation of 22 section 319q(1)(a), the civil fine ordered under this section shall 23 must be not more than \$10,000.00. For a violation of section 24 319q(1)(q), the civil fine ordered under this section shall must be 25 not less than \$2,750.00 or more than \$25,000.00. For a violation of 26 section 215, 226a, 234, 243, 244, 255, 311, 801e, 802(9) or (10), 27 or 904(3)(a), the civil fine ordered under this subsection must be 28 not more than \$150.00. For a violation of section 904(3)(b), the 29 civil fine ordered under this subsection must be not more than

- \$250.00. For a violation of section 256(2), the civil fine ordered under this subsection must be not more than \$500.00. 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 shall must be payable immediately.
  - (3) Except as **otherwise** provided in this subsection, 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 <del>corresponding corresponds</del> to a provision of this act while driving a commercial motor vehicle, he or she shall 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 shall must not be ordered in excess of \$100.00. A civil fine ordered under subsection (2) or (3) shall 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 (13), the judge or district court magistrate may order the person to attend and complete a program of treatment, education, or rehabilitation program.

- 1 (6) A district court magistrate shall impose the sanctions 2 permitted under subsections (2), (3), and (5) only to the extent 3 expressly authorized by the chief judge or only judge of the 4 district court district.
- (7) Each district of the district court and each municipal 5 6 court may establish a schedule of civil fines, costs, and 7 assessments to be imposed for civil infractions that occur within 8 the respective district or city. If a schedule is established, it 9 shall must be prominently posted and readily available for public 10 inspection. A schedule need not include all violations that are 11 designated by law or ordinance as civil infractions. A schedule may 12 exclude cases on the basis of a defendant's prior record of civil 13 infractions or traffic offenses, or a combination of civil 14 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 upon on the courts having that have 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 the 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 upon 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

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- 1 under subsection (2), (3), or (4) or a justice system assessment
- 2 ordered under subsection (13), or an installment of the fine,
- 3 costs, or assessment, may be collected by a means authorized for
- 4 the enforcement of a judgment under chapter 40 of the revised
- 5 judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or
- 6 under chapter 60 of the revised judicature act of 1961, 1961 PA
- 7 236, MCL 600.6001 to 600.6098.
- 8 (11) If a person fails to comply with an order or judgment
- 9 issued under this section within the time prescribed by the court,
- 10 the driver's driver license of that person shall must be suspended
- 11 under section 321a until full compliance with that order or
- 12 judgment occurs. In addition to this suspension, the court may also
- 13 proceed under section 908.
- 14 (12) The court may waive any civil fine, cost, or assessment
- 15 against a person who received a civil infraction citation for a
- 16 violation of section 710d if the person, before the appearance date
- 17 on the citation, supplies the court with evidence of acquisition,
- 18 purchase, or rental of a child seating system meeting the
- 19 requirements of section 710d.
- 20 (13) In addition to any civil fines or costs ordered to be
- 21 paid under this section, the judge or district court magistrate
- 22 shall order the defendant to pay a justice system assessment of
- 23 \$40.00 for each civil infraction determination, except for a
- 24 parking violation or a violation for which the total fine and costs
- 25 imposed are \$10.00 or less. <del>Upon On</del> payment of the assessment, the
- 26 clerk of the court shall transmit the assessment collected to the
- 27 state treasury to be deposited into the justice system fund created
- 28 in section 181 of the revised judicature act of 1961, 1961 PA 236,
- 29 MCL 600.181. An assessment levied under this subsection is not a

- 1 civil fine for purposes of section 909.
- 2 (14) If a person has received a citation for a violation of
- 3 section 223, the court shall waive any civil fine, costs, and
- 4 assessment, upon on receipt of certification by a law enforcement
- 5 agency that the person, before the appearance date on the citation,
- 6 produced a valid registration certificate that was valid on the
- 7 date the violation of section 223 occurred.
- 8 (15) If a person has received a citation for a violation of
- 9 section 328(1) for failing a failure to produce a certificate of
- 10 insurance under section 328(2), the court may waive the fee
- 11 described in section 328(3)(c) and shall waive any fine, costs, and
- 12 any other fee or assessment otherwise authorized under this act
- 13 upon on receipt of verification by the court that the person,
- 14 before the appearance date on the citation, produced valid proof of
- 15 insurance that was in effect at the time the violation of section
- 16 328(1) occurred. Insurance obtained subsequent to the time of the
- 17 violation does not make the person eligible for a waiver under this
- 18 subsection.
- 19 (16) If a person is determined to be responsible or
- 20 responsible "with explanation" for a civil infraction under this
- 21 act or a local ordinance substantially corresponding to a provision
- 22 of this act and the civil infraction arises out of the ownership or
- 23 operation of a commercial quadricycle, he or she shall be ordered
- 24 to pay costs as provided in subsection (4) and a civil fine of not
- 25 more than \$500.00.
- 26 (17) As used in this section, "moving violation" means an act
- 27 or omission prohibited under this act or a local ordinance that
- 28 substantially corresponding corresponds to this act that involves
- 29 the operation of a motor vehicle and for which a fine may be

assessed. 1 Enacting section 1. This amendatory act does not take effect 2 3 unless all of the following bills of the 100th Legislature are 4 enacted into law: (a) House Bill No. 5685. 5 (b) House Bill No. 5686. 6 7 (c) House Bill No. 5688. (d) House Bill No. 5691. 8 9 (e) House Bill No. 5698. (f) House Bill No. 5699.