



HOUSE BILL No. 6138

November 14, 2000, Introduced by Rep. Callahan and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 319 and 732 (MCL 257.319 and 257.732), section 319 as amended by 2000 PA 152 and section 732 as amended by 1999 PA 73.

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:

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

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

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

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

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

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

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

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

26 (a) Failing to stop and disclose identity at the scene of an
27 accident resulting in injury in violation of section 617a.

1 (b) Reckless driving in violation of section 626.

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

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

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

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

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

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

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

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

25 (b) If the person has 1 or more prior convictions for that
26 offense within 7 years, for 1 year.

1 (7) For a violation of section 624a or 624b of this act or
2 section 703(1) of the Michigan liquor control code of 1998, 1998
3 PA 58, MCL 436.1703, the secretary of state shall suspend the
4 person's license as follows:

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

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

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

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

23 (b) For 90 days for a violation of section 625(3) if the
24 person has no prior convictions within 7 years. However, if the
25 person is convicted of a violation of section 625(3), for operat-
26 ing a vehicle when, due to the consumption of a controlled
27 substance or a combination of intoxicating liquor and a

1 controlled substance, the person's ability to operate the vehicle
2 was visibly impaired, the secretary of state shall suspend the
3 person's license under this subdivision for 180 days. The secre-
4 tary of state may issue the person a restricted license during
5 all or a specified portion of the suspension.

6 (c) For 30 days for a violation of section 625(6) if the
7 person has no prior convictions within 7 years. The secretary of
8 state may issue the person a restricted license during all or a
9 specified portion of the suspension.

10 (d) For 90 days for a violation of section 625(6) if the
11 person has 1 or more prior convictions for that offense within 7
12 years.

13 (e) For 180 days for a violation of section 625(7) if the
14 person has no prior convictions within 7 years. The secretary of
15 state may issue the person a restricted license after the first
16 90 days of suspension.

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

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

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

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

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

5 (11) FOR A PERSON CONVICTED OF A VIOLATION OF A LOCAL ORDI-
6 NANCE THAT PROHIBITS CONDUCT PROHIBITED UNDER SECTION 2(1) OF THE
7 YOUTH TOBACCO ACT, 1915 PA 31, MCL 722.642, THE SECRETARY OF
8 STATE SHALL SUSPEND THE PERSON'S LICENSE FOR 30 DAYS.

9 (12) ~~(11)~~ Except as provided in subsection ~~(13)~~ (14), a
10 suspension under this section shall be imposed notwithstanding a
11 court order.

12 (13) ~~(12)~~ If the secretary of state receives records of
13 more than 1 conviction of a person resulting from the same inci-
14 dent, a suspension shall be imposed only for the violation to
15 which the longest period of suspension applies under this
16 section.

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

24 (15) ~~(14)~~ The secretary of state shall not issue a
25 restricted license to a person whose license is suspended under
26 this section unless a restricted license is authorized under this
27 section and the person is otherwise eligible for a license.

1 (16) ~~(15)~~ The secretary of state shall not issue a
2 restricted license to a person under subsection (8) that would
3 permit the person to operate a commercial motor vehicle that
4 hauls hazardous material.

5 (17) ~~(16)~~ A restricted license issued under this section
6 shall permit the person to whom it is issued to drive under 1 or
7 more of the following circumstances:

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

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

10 (i) The person's residence.

11 (ii) The person's work location.

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

14 (iv) The court probation department.

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

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

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

21 (18) ~~(17)~~ While driving with a restricted license, the
22 person shall carry proof of his or her destination and the hours
23 of any employment, class, or other reason for traveling and shall
24 display that proof upon a peace officer's request.

25 (19) ~~(18)~~ Subject to subsection ~~(20)~~ (21), as used in
26 subsection (8), "prior conviction" means a conviction for any of
27 the following, whether under a law of this state, a local

1 ordinance substantially corresponding to a law of this state, or
2 a law of another state substantially corresponding to a law of
3 this state:

4 (a) Except as provided in subsection ~~(19)~~ (20), a viola-
5 tion or attempted violation of section 625(1), (3), (4), (5),
6 (6), or (7), section 625m, former section 625(1) or (2), or
7 former section 625b.

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

11 (20) ~~(19)~~ Except for purposes of the suspensions described
12 in subsection (8)(c) and (d), only 1 violation or attempted vio-
13 lation of section 625(6), a local ordinance substantially corre-
14 sponding to section 625(6), or a law of another state substan-
15 tially corresponding to section 625(6) may be used as a prior
16 conviction.

17 (21) ~~(20)~~ If 2 or more convictions described in subsection
18 ~~(18)~~ (19) are convictions for violations arising out of the
19 same transaction, only 1 conviction shall be used to determine
20 whether the person has a prior conviction.

21 Sec. 732. (1) Each municipal judge and each clerk of a
22 court of record shall keep a full record of every case in which a
23 person is charged with or cited for a violation of this act or a
24 local ordinance substantially corresponding to this act regulat-
25 ing the operation of vehicles on highways and, beginning October
26 1, 2000, with those offenses pertaining to the operation of ORVs
27 or snowmobiles for which points are assessed under section

1 320a(1)(b) or (f). Except as provided in subsection (15), the
2 municipal judge or clerk of the court of record shall prepare and
3 forward to the secretary of state an abstract of the court record
4 as follows:

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

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

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

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

1 (3) The abstract or report required under this section shall
2 be made upon a form furnished by the secretary of state. An
3 abstract shall 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 include all of the
6 following:

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

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

17 (f) Whether bail was forfeited.

18 (g) Any license restriction, suspension, or denial ordered
19 by 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
22 forfeited.

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

25 (4) The clerk of the court also shall forward an abstract of
26 the court record to the secretary of state upon a person's
27 conviction involving any of the following:

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

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

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

6 (d) A violation of section 703 of the Michigan liquor con-
7 trol code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance
8 substantially corresponding to that section.

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

17 (F) A VIOLATION OF A LOCAL ORDINANCE THAT PROHIBITS CONDUCT
18 PROHIBITED UNDER SECTION 2 OF THE YOUTH TOBACCO ACT, 1915 PA 31,
19 MCL 722.642.

20 (G) ~~(f)~~ An attempt to commit an offense described in sub-
21 divisions (a) to ~~(d)~~ (F).

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

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

2 (b) The vehicle was used to transport a victim of the
3 felony.

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

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

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

12 "You are charged with the commission of a felony in which a
13 motor vehicle was used. If you are convicted and the judge finds
14 that the conviction is for a felony in which a motor vehicle was
15 used, as defined in section 319 of the Michigan vehicle code,
16 1949 PA 300, MCL 257.319, your driver's license shall be sus-
17 pended by the secretary of state."

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

24 "You are accused of an act the nature of which constitutes a
25 felony in which a motor vehicle was used. If the accusation is
26 found to be true and the judge or referee finds that the nature
27 of the act constitutes a felony in which a motor vehicle was

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

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

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

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

16 (b) The vehicle was used to transport a victim of the
17 felony.

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

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

21 (10) If a person is charged with a felony in which a commer-
22 cial motor vehicle was used and for which a vehicle group desig-
23 nation on a license is subject to suspension or revocation under
24 section 319b(1)(c)(iii), 319b(1)(d), or 319b(1)(e)(iii), or
25 319b(1)(f)(i), the prosecuting attorney shall include the follow-
26 ing statement on the complaint and information filed in district
27 or circuit court:

1 "You are charged with the commission of a felony in which a
2 commercial motor vehicle was used. If you are convicted and the
3 judge finds that the conviction is for a felony in which a com-
4 mercial motor vehicle was used, as defined in section 319b of the
5 Michigan vehicle code, 1949 PA 300, MCL 257.319b, all vehicle
6 group designations on your driver's license shall be suspended or
7 revoked by the secretary of state."

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

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

23 (a) The name and title of the person required to forward
24 abstracts.

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

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

1 (d) The following statement:

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

6 (e) Other information the secretary of state considers
7 necessary.

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

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

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

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

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

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

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

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

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

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

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

1 state a certified copy of the order of reversal. The secretary
2 of state shall enter the order in the proper book or index in
3 connection with the record of the conviction or civil infraction
4 determination.

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, or settlement to the secretary of state if
9 the modification will increase the economy and efficiency of col-
10 lecting and utilizing the records. If the permitted abstract of
11 court record reporting a conviction, civil infraction determina-
12 tion, or settlement originates as a part of the written notice as
13 appear, authorized in section 728(1) or 742(1), the form of the
14 written notice and report shall be as prescribed by the secretary
15 of state.

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