

SENATE BILL NO. 557

April 29, 1999, Introduced by Senator ROGERS and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 7408a (MCL 333.7408a), as added by 1993 PA 361.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7408a. (1) As part of the sentence or ~~probate court~~
2 JUVENILE disposition for an attempt to violate, a conspiracy to
3 violate, or a violation of this part or section 17766a or of a
4 local ordinance that prohibits conduct prohibited under this part
5 or section 17766a, the court shall consider all prior convictions
6 currently entered upon the criminal history record and Michigan
7 driving record of the person, except those convictions which,
8 upon motion of the defendant, are determined by the court to be
9 constitutionally invalid, and, subject to subsection ~~(10)~~ (12),

1 shall impose the following licensing sanctions in addition to any
2 other penalty or sanction imposed for the violation:

3 (a) If the court finds that the person does not have a prior
4 conviction within 7 years of the violation, the court shall order
5 the secretary of state to suspend the operator's or chauffeur's
6 license of the person for ~~a period of~~ 6 months. If the court
7 finds compelling circumstances under subsection (8) sufficient to
8 warrant the issuance of a restricted license, the court may order
9 the secretary of state to issue to the person a restricted
10 license during all or a specified portion of the period of sus-
11 pension, except that a restricted license shall not be issued
12 during the first 30 days of the period of suspension.

13 (b) If the court finds that the person has 1 or more prior
14 convictions within 7 years of the violation, the court shall
15 order the secretary of state to suspend the operator's or
16 chauffeur's license of the person for ~~a period of~~ 1 year. If
17 the court finds compelling circumstances under subsection (8)
18 sufficient to warrant the issuance of a restricted license, the
19 court may order the secretary of state to issue to the person a
20 restricted license during all or any portion of the period of
21 suspension, except that a restricted license shall not be issued
22 during the first 60 days of the period of suspension.

23 (2) The person whose operator's or chauffeur's license is
24 ordered suspended under this section shall immediately surrender
25 ~~to the court~~ his or her operator's or chauffeur's license TO
26 THE COURT. The court shall immediately destroy the license and
27 forward an abstract of conviction with court-ordered license

1 sanctions to the secretary of state. Upon receipt of, and
2 pursuant to, the abstract of conviction with court-ordered
3 license sanctions, the secretary of state shall suspend the
4 person's license and, if ordered by the court and if the person
5 is otherwise eligible for a license, issue to the person a
6 restricted license stating the limited driving privileges indi-
7 cated on the abstract. If the judgment is appealed to circuit
8 court, the court may, ex parte, order the secretary of state to
9 stay the suspension or license restriction issued ~~pursuant to~~
10 UNDER this section pending the outcome of the appeal.

11 (3) Except as otherwise provided in subsection (5), before
12 imposing sentence or entering a ~~probate court~~ JUVENILE disposi-
13 tion, other than court-ordered license sanctions under this sec-
14 tion, for an attempt to violate, a conspiracy to violate, or a
15 violation of this part or section 17766a or of a local ordinance
16 that prohibits conduct prohibited under this part or
17 section 17766a, the court may order the person to undergo screen-
18 ing and assessment by a person or agency as designated by the
19 office of substance abuse services, to determine whether the
20 person is likely to benefit from rehabilitative services, includ-
21 ing alcohol or drug education and alcohol or drug treatment
22 programs. The person shall pay for the costs of the screening
23 and assessment services.

24 (4) Except as otherwise provided in subsection (5), as part
25 of the sentence or ~~probate court~~ JUVENILE disposition for an
26 attempt to violate, a conspiracy to violate, or a violation of
27 this part or section 17766a or of a local ordinance that

1 prohibits conduct prohibited under this part or section 17766a,
2 the court may order the person to do 1 or both of the following:

3 (a) Perform service to the community for ~~a period of~~ not
4 more than 90 days. A person ordered to perform service to the
5 community under this subdivision shall not receive compensation,
6 and shall reimburse the state or appropriate local unit of gov-
7 ernment for the cost of supervision incurred by the state or
8 local unit of government as a result of the person's activities
9 in that service.

10 (b) Participate in and successfully complete 1 or more
11 appropriate rehabilitative programs. The person shall pay for
12 the costs of the rehabilitative services.

13 (5) Subsections (3) and (4) do not apply to a person who is
14 not eligible for probation under chapter XI of the code of crimi-
15 nal procedure, ~~Act No. 175 of the Public Acts of 1927, being~~
16 ~~sections 771.1 to 771.14a of the Michigan Compiled Laws~~ 1927
17 PA 175, MCL 777.1 TO 777.14A.

18 (6) A restricted license issued ~~pursuant to~~ IN COMPLIANCE
19 WITH an order under this section shall permit the person to whom
20 it is issued to ~~do~~ DRIVE UNDER 1 or more of the following
21 CIRCUMSTANCES:

22 ~~(a) Drive to and from the person's residence and work~~
23 ~~location.~~

24 (A) ~~(b) Drive in~~ IN the course of the person's employment
25 or occupation.

26 (B) TO AND FROM ANY COMBINATION OF THE FOLLOWING:

1 (i) ~~(c) Drive to and from the~~ THE person's residence. ~~and~~
2 ~~an~~

3 (ii) THE PERSON'S WORK LOCATION.

4 (iii) AN alcohol or drug education or treatment program as
5 ordered by the court.

6 (iv) ~~(d) Drive to and from the person's residence and the~~
7 THE court probation department. ~~, or a court-ordered community~~
8 ~~service program, or both.~~

9 (v) A COURT-ORDERED COMMUNITY SERVICE PROGRAM.

10 (vi) ~~(e) Drive to and from the person's residence and an~~
11 AN educational institution at which the person is enrolled as a
12 student.

13 (vii) A PLACE OF REGULARLY OCCURRING MEDICAL TREATMENT FOR A
14 SERIOUS CONDITION FOR THE PERSON OR A MEMBER OF THE PERSON'S
15 HOUSEHOLD OR IMMEDIATE FAMILY.

16 (7) The court shall not order the secretary of state under
17 this section to issue a restricted license that would permit a
18 person to operate a commercial motor vehicle that hauls hazardous
19 ~~materials~~ MATERIAL.

20 (8) The court shall not order the secretary of state under
21 this section to issue a restricted license unless the person
22 states under oath, and the court finds ~~pursuant to~~ BY testimony
23 taken in open court or ~~pursuant to~~ BY statements contained in a
24 sworn affidavit on a form prescribed by the state court adminis-
25 trator, that both of the following ~~are true~~ APPLY:

26 (a) The person needs vehicular transportation to and from
27 his or her work location, place of alcohol or drug education

1 treatment, court probation department, court-ordered community
2 service program, or educational institution, or in the course of
3 the person's employment or occupation.

4 (b) The person is unable to take public transportation and
5 does not have any family members or other ~~individuals~~
6 INDIVIDUAL able to provide transportation to a destination or for
7 a purpose described in subdivision (a).

8 (9) The court order issued under this section and the
9 restricted license shall indicate the permitted destinations of
10 the person or the permitted purposes for which the person may
11 operate a vehicle, the approved route or routes if specified by
12 the court, and permitted times of travel.

13 (10) REGARDLESS OF A COURT ORDER ISSUED UNDER THIS SECTION,
14 THE SECRETARY OF STATE SHALL NOT ISSUE A RESTRICTED LICENSE TO A
15 PERSON WHOSE LICENSE IS SUSPENDED UNDER THIS SECTION UNLESS A
16 RESTRICTED LICENSE IS AUTHORIZED UNDER THIS SECTION AND THE
17 PERSON IS OTHERWISE ELIGIBLE FOR A LICENSE.

18 (11) WHILE DRIVING, THE PERSON SHALL CARRY PROOF OF HIS OR
19 HER DESTINATION AND THE HOURS OF ANY EMPLOYMENT, CLASS, OR OTHER
20 REASON FOR TRAVELING AND SHALL DISPLAY THAT PROOF UPON A PEACE
21 OFFICER'S REQUEST.

22 (12) ~~(10)~~ A court shall not order the suspension of a
23 person's license if the person is sentenced to ~~either~~ life
24 imprisonment or TO a minimum term of imprisonment that exceeds 1
25 year for an attempt to violate, a conspiracy to violate, or a
26 violation of part 74 or section 17766a.

1 (13) ~~-(11)-~~ The court shall do both of the following:

2 (a) Transmit a record of each order issued under this
3 section to the secretary of state.

4 (b) Forward to the department of state police, on a form or
5 forms prescribed by the state court administrator, a record that
6 specifies the penalties imposed by the court for an offense
7 described in subsection (1), including a licensing sanction
8 ordered under this section and a term of imprisonment imposed for
9 the offense.

10 (14) ~~-(12)-~~ Except as otherwise provided by law, a record
11 described in subsection ~~-(11)-~~ (13) is a public record, and the
12 department of state police shall retain the information contained
13 in that record for not less than 7 years.

14 (15) ~~-(13)-~~ As used in this section:

15 (a) "Commercial motor vehicle" means that term as defined in
16 section 7a of the Michigan vehicle code, ~~Act No. 300 of the~~
17 ~~Public Acts of 1949, being section 257.7a of the Michigan~~
18 ~~Compiled Laws~~ 1949 PA 300, MCL 257.7A.

19 (b) "Conviction" means a final conviction, a plea of guilty
20 or nolo contendere if accepted by the court, a finding of guilt,
21 a probate court disposition, or a juvenile adjudication, for a
22 criminal law violation, regardless of whether the penalty is
23 rebated or suspended.

24 (c) "Hazardous material" means that term as defined in
25 section 19b of ~~Act No. 300 of the Public Acts of 1949, being~~
26 ~~section 257.19b of the Michigan Compiled Laws~~ 1949 PA 300,
27 MCL 257.19B.

1 (d) "Juvenile ~~adjudication~~ DISPOSITION" means either of
2 the following:

3 (i) A finding of juvenile delinquency under chapter 403 of
4 title 18 of the United States ~~code~~ CODE, 18 U.S.C. 5031 to 5040
5 and 5042.

6 (ii) The entry of a judgment or order of disposition by a
7 court of another state that states or is based upon a finding
8 that a juvenile violated a law of another state ~~which violation~~
9 THAT would have been a criminal offense if committed by an adult
10 in that state.

11 (e) "Law of another state" means a law or ordinance enacted
12 by another state or by a local unit of government in another
13 state.

14 (f) "Office of substance abuse services" means the agency
15 created by section 6201.

16 (g) "Prior conviction" means either of the following:

17 (i) A conviction for an attempt to violate, a conspiracy to
18 violate, or a violation of part 74 or section 17766a, a local
19 ordinance that prohibits conduct prohibited under part 74 or
20 section 17766a, or a law of another state that prohibits conduct
21 prohibited under part 74 or section 17766a.

22 (ii) A conviction for an attempt to violate, a conspiracy to
23 violate, or a violation of the controlled substances act, title
24 II of the comprehensive drug abuse prevention and control act of
25 1970, Public Law 91-513, 84 Stat. 1242.

26 (h) "Probate court disposition" means the entry of a probate
27 court order of disposition for a child found to be within the

1 provisions of chapter XIIIA of ~~Act No. 288 of the Public Acts of~~
2 ~~1939, being sections 712A.1 to 712A.28 of the Michigan Compiled~~
3 ~~Laws~~ THE PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.1 TO
4 712A.28.

5 (i) "Work location" means, as applicable, either the spe-
6 cific place or places of employment, or the territory or territo-
7 ries regularly visited by the person in pursuance of the person's
8 occupation, or both.

9 Enacting section 1. This amendatory act takes effect
10 October 1, 1999.

11 Enacting section 2. This amendatory act does not take
12 effect unless all of the following bills of the 90th Legislature
13 are enacted into law:

14 (a) Senate Bill No. 556.

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16 (b) Senate Bill No. 559.

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18 (c) Senate Bill No. 558.

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20 (d) House Bill No. 4585.

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22 (e) Senate Bill No. 560.

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24 (f) House Bill No. 4580.

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26 (g) House Bill No. 4583.

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- 1 (h) House Bill No. 4584.
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- 3 (i) House Bill No. 4581.
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- 5 (j) House Bill No. 4582.
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