

HOUSE BILL No. 5097

September 25, 2001, Introduced by Rep. Callahan and referred to the Committee on Conservation and Outdoor Recreation.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 320a and 732 (MCL 257.320a and 257.732), section 320a as amended by 2000 PA 460 and section 732 as amended by 2001 PA 103.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 320a. (1) The secretary of state, within 10 days after
2 the receipt of a properly prepared abstract from this or another
3 state, shall record the date of conviction, civil infraction
4 determination, or probate court disposition, and the number of
5 points for each, based on the following formula, except as other-
6 wise provided in this section and section 629c:

- 7 (a) Manslaughter, negligent homicide, or a felony
- 8 resulting from the operation of a motor vehicle,
- 9 VESSEL, ORV, or snowmobile..... 6 points

1 (b) A violation of section 653a(4)..... 6 points

2 (c) A violation of section 625(1), (4), (5), or
3 (7), section 81134 or 82127(1) of the natural resources
4 and environmental protection act, 1994 PA 451,
5 MCL 324.81134 and 324.82127, BEGINNING JUNE 1, 2002,
6 SECTION 80176(1) OF THE NATURAL RESOURCES AND ENVIRON-
7 MENTAL PROTECTION ACT, 1994 PA 451, MCL 324.80176, or a
8 law or ordinance substantially corresponding to section
9 625(1), (4), (5), or (7), ~~or,~~ section 81134 or
10 82127(1) of the natural resources and environmental
11 protection act, 1994 PA 451, MCL 324.81134 and
12 324.82127, OR BEGINNING JUNE 1, 2002, SECTION 80176(1)
13 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
14 ACT, 1994 PA 451, MCL 324.80176..... 6 points

15 (d) Failing to stop and disclose identity at the
16 scene of an accident when required by law..... 6 points

17 (e) Operating a motor vehicle in violation of sec-
18 tion 626 or section 653a(3)..... 6 points

19 (f) Fleeing or eluding an officer..... 6 points

20 (g) Violation of any law or ordinance pertaining
21 to speed by exceeding the lawful maximum by more than
22 15 miles per hour..... 4 points

23 (h) Violation of section 625(3) or (6), section
24 81135 or 82127(3) of the natural resources and environ-
25 mental protection act, 1994 PA 451, MCL 324.81135 and
26 324.82127, BEGINNING JUNE 1, 2002, SECTION 80176(3) OF
27 THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT,

1 1994 PA 451, MCL 324.80176, or a law or ordinance
2 substantially corresponding to section 625(3) or (6),
3 ~~or,~~ section 81135 or 82127(3) of the natural
4 resources and environmental protection act, 1994
5 PA 451, MCL 324.81135 and 324.82127, OR BEGINNING
6 JUNE 1, 2002, SECTION 80176(3) OF THE NATURAL RESOURCES
7 AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451,
8 MCL 324.80176..... 4 points
9 (i) Violation of section 626a or a law or ordi-
10 nance substantially corresponding to section 626a..... 4 points
11 (j) Violation of section 653a(2)..... 4 points
12 (k) Violation of any law or ordinance pertaining
13 to speed by exceeding the lawful maximum by more than
14 10 but not more than 15 miles per hour or careless
15 driving in violation of section 626b or a law or ordi-
16 nance substantially corresponding to section 626b..... 3 points
17 (l) Violation of any law or ordinance pertaining
18 to speed by exceeding the lawful maximum by 10 miles
19 per hour or less..... 2 points
20 (m) Disobeying a traffic signal or stop sign, or
21 improper passing..... 3 points
22 (n) Violation of section 624a, 624b, or a law or
23 ordinance substantially corresponding to section 624a
24 or 624b..... 2 points
25 (o) Violation of section 310e(4) or (6) or a law
26 or ordinance substantially corresponding to section
27 310e(4) or (6)..... 2 points

1 (p) All other moving violations pertaining to the
2 operation of motor vehicles reported under this section 2 points

3 (q) A refusal by a person less than 21 years of
4 age to submit to a preliminary breath test required by
5 a peace officer under section 625a..... 2 points

6 (2) Points shall not be entered for a violation of section
7 310e(14), 311, 625m, 658, 717, 719, 719a, or 723.

8 (3) Points shall not be entered for bond forfeitures.

9 (4) Points shall not be entered for overweight loads or for
10 defective equipment.

11 (5) If more than 1 conviction, civil infraction determina-
12 tion, or probate court disposition results from the same inci-
13 dent, points shall be entered only for the violation that
14 receives the highest number of points under this section.

15 (6) If a person has accumulated 9 points as provided in this
16 section, the secretary of state may call the person in for an
17 interview as to the person's driving ability and record after due
18 notice as to time and place of the interview. If the person
19 fails to appear as provided in this subsection, the secretary of
20 state shall add 3 points to the person's record.

21 (7) If a person violates a speed restriction established by
22 an executive order issued during a state of energy emergency as
23 provided by 1982 PA 191, MCL 10.81 to 10.89, the secretary of
24 state shall enter points for the violation pursuant to subsection
25 (1).

26 (8) The secretary of state shall enter 6 points upon the
27 record of a person whose license is suspended or denied pursuant

1 to section 625f. However, if a conviction, civil infraction
2 determination, or probate court disposition results from the same
3 incident, additional points for that offense shall not be
4 entered.

5 (9) If a Michigan driver commits a violation in another
6 state that would be a civil infraction if committed in Michigan,
7 and a conviction results solely because of the failure of the
8 Michigan driver to appear in that state to contest the violation,
9 upon receipt of the abstract of conviction by the secretary of
10 state, the violation shall be noted on the driver's record, but
11 no points shall be assessed against his or her driver's license.

12 Sec. 732. (1) Each municipal judge and each clerk of a
13 court of record shall keep a full record of every case in which a
14 person is charged with or cited for a violation of this act or a
15 local ordinance substantially corresponding to this act regulat-
16 ing the operation of vehicles on highways, ~~and~~ with those
17 offenses pertaining to the operation of ORVs or snowmobiles for
18 which points are assessed under section 320a(1)(c) or (h), AND
19 BEGINNING JUNE 1, 2002, WITH THOSE OFFENSES PERTAINING TO THE
20 OPERATION OF VESSELS FOR WHICH POINTS ARE ASSESSED UNDER SECTION
21 320A(1)(C) OR (H). Except as provided in subsection (15), the
22 municipal judge or clerk of the court of record shall prepare and
23 forward to the secretary of state an abstract of the court record
24 as follows:

25 (a) Within 14 days after a conviction, forfeiture of bail,
26 or entry of a civil infraction determination or default judgment
27 upon a charge of or citation for violating or attempting to

1 violate this act or a local ordinance substantially corresponding
2 to this act regulating the operation of vehicles on highways.

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

8 (c) Immediately for each case charging a violation of sec-
9 tion 82127(1) or (3), 81134, or 81135 of the natural resources
10 and environmental protection act, 1994 PA 451, MCL 324.82127,
11 324.81134, and 324.81135, or a local ordinance substantially cor-
12 responding to those sections.

13 (D) BEGINNING JUNE 1, 2002, IMMEDIATELY FOR EACH CASE CHARG-
14 ING A VIOLATION OF SECTION 80176(1) OR (3) OF THE NATURAL
15 RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL
16 324.80176, OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO
17 THAT SECTION.

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.

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

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

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

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

15 (f) An attempt to commit an offense described in subdivi-
16 sions (a) to (d).

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

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

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

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

26 (d) The vehicle was necessary for the commission of the
27 felony.

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

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

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

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

25 (8) If the court determines as part of the sentence or dis-
26 position that the felony for which the person was convicted or
27 adjudicated and with respect to which notice was given under

1 subsection (6) or (7) is a felony in which a motor vehicle was
2 used, the clerk of the court shall forward an abstract of the
3 court record of that conviction to the secretary of state.

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

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

10 (b) The vehicle was used to transport a victim of the
11 felony.

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

13 (d) The vehicle was necessary for the commission of the
14 felony.

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

22 "You are charged with the commission of a felony in which a
23 commercial motor vehicle was used. If you are convicted and the
24 judge finds that the conviction is for a felony in which a com-
25 mercial motor vehicle was used, as defined in section 319b of the
26 Michigan vehicle code, 1949 PA 300, MCL 257.319b, all vehicle

1 group designations on your driver's license shall be suspended or
2 revoked by the secretary of state."

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

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

18 (a) The name and title of the person required to forward
19 abstracts.

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

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

22 (d) The following statement:

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

1 (e) Other information the secretary of state considers
2 necessary.

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

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

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

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

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

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

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

26 (d) A pedestrian, passenger, or bicycle violation, other
27 than a violation of section 703(1) or (2) of the Michigan liquor

1 control code of 1998, 1998 PA 58, MCL 436.1703, or a local
2 ordinance substantially corresponding to section 703(1) or (2) of
3 the Michigan liquor control code of 1998, 1998 PA 58,
4 MCL 436.1703, or section 624a or 624b or a local ordinance sub-
5 stantially corresponding to section 624a or 624b.

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

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

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

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

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

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

16 Enacting section 1. This amendatory act takes effect June
17 1, 2002.

18 Enacting section 2. This amendatory act does not take
19 effect unless Senate Bill No. _____ or House Bill No. 5099
20 (request no. 04632'01 a) of the 91st Legislature is enacted into
21 law.