

HOUSE BILL No. 4209

February 12, 2003, Introduced by Reps. Hardman, Plakas, Hopgood and Phillips and referred to the Committee on Education.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 303 and 319 (MCL 257.303 and 257.319), section 303 as amended by 2002 PA 422 and section 319 as amended by 2002 PA 534.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 303. (1) The secretary of state shall not issue a
2 license under this act to any of the following persons described
3 in subdivisions (a) through (l):

4 (a) A person, as an operator, who is less than 18 years of
5 age, except as otherwise provided in this act.

6 (b) A person, as a chauffeur, who is less than 18 years of
7 age, except as otherwise provided in this act.

8 (c) A person whose license is suspended, revoked, denied, or
9 canceled in any state. If the suspension, revocation, denial, or

1 cancellation is not from the jurisdiction that issued the last
2 license to the person, the secretary of state may issue a license
3 after the expiration of 5 years from the effective date of the
4 most recent suspension, revocation, denial, or cancellation.

5 (d) A person who in the opinion of the secretary of state is
6 afflicted with or suffering from a physical or mental disability
7 or disease preventing that person from exercising reasonable and
8 ordinary control over a motor vehicle while operating the motor
9 vehicle upon the highways.

10 (e) A person who is unable to understand highway warning or
11 direction signs in the English language.

12 (f) A person who is unable to pass a knowledge, skill, or
13 ability test administered by the secretary of state in connection
14 with the issuance of an original operator's or chauffeur's
15 license, original motorcycle indorsement, or an original or
16 renewal of a vehicle group designation or vehicle indorsement.

17 (g) A person who has been convicted of, has received a
18 juvenile disposition for, or has been determined responsible for
19 2 or more moving violations under a law of this state, a local
20 ordinance substantially corresponding to a law of this state, or
21 a law of another state substantially corresponding to a law of
22 this state within the preceding 3 years, if the violations
23 occurred before issuance of an original license to the person in
24 this or another state.

25 (h) A nonresident including a foreign exchange student.

26 (i) A person who has failed to answer a citation or notice to
27 appear in court or for any matter pending or fails to comply with

1 an order or judgment of the court, including, but not limited to,
2 paying all fines, costs, fees, and assessments, in violation of
3 section 321a, until that person answers the citation or notice to
4 appear in court or for any matter pending or complies with an
5 order or judgment of the court, including, but not limited to,
6 paying all fines, costs, fees, and assessments, as provided under
7 section 321a.

8 (j) A person not licensed under this act who has been
9 convicted of, has received a juvenile disposition for, or has
10 been determined responsible for a crime or civil infraction
11 described in section 319, 324, or 904. A person shall be denied
12 a license under this subdivision for the length of time
13 corresponding to the period of the licensing sanction that would
14 have been imposed under section 319, 324, or 904 if the person
15 had been licensed at the time of the violation.

16 (k) A person not licensed under this act who has been
17 convicted of or received a juvenile disposition for committing a
18 crime described in section 319e. A person shall be denied a
19 license under this subdivision for the length of time that
20 corresponds to the period of the licensing sanction that would
21 have been imposed under section 319e if the person had been
22 licensed at the time of the violation.

23 (l) A person not licensed under this act who is determined to
24 have violated section 33b(1) of former 1933 (Ex Sess) PA 8,
25 section 703(1) of the Michigan liquor control code of 1998, 1998
26 PA 58, MCL 436.1703, or section 624a or 624b of this act. The
27 person shall be denied a license under this subdivision for a

1 period of time that corresponds to the period of the licensing
2 sanction that would have been imposed under those sections had
3 the person been licensed at the time of the violation.

4 **(m) A person not licensed under this act for the period**
5 **prescribed in an order entered under section 17e(2)(b) or (4) of**
6 **chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL**
7 **712A.17e.**

8 **(2) ~~(m)~~** The secretary of state may deny issuance of an
9 operator's license until the age of 17 to a person not licensed
10 under this act who was convicted of or received a juvenile
11 disposition for violating or attempting to violate
12 section 411a(2) of the Michigan penal code, 1931 PA 328, MCL
13 750.411a, involving a school when he or she was less than 14
14 years of age. A person not issued a license under this
15 subdivision is not eligible to begin graduated licensing training
16 until he or she attains 16 years of age.

17 **(3) ~~(n)~~** The secretary of state may deny issuance of an
18 operator's license to a person less than 21 years of age not
19 licensed under this act who was convicted of or has received a
20 juvenile disposition for violating or attempting to violate
21 section 411a(2) of the Michigan penal code, 1931 PA 328, MCL
22 750.411a, involving a school when he or she was 14 years of age
23 or older, until 3 years after the date of the conviction or
24 juvenile disposition. A person not issued a license under this
25 subdivision is not eligible to begin graduated licensing training
26 or otherwise obtain an original operator's or chauffeur's license
27 until 3 years after the date of the conviction or juvenile

1 disposition.

2 **(4)** ~~-(2)-~~ Upon receiving the appropriate records of
3 conviction, the secretary of state shall revoke the operator's or
4 chauffeur's license of a person and deny issuance of an
5 operator's or chauffeur's license to a person having any of the
6 following, whether under a law of this state, a local ordinance
7 substantially corresponding to a law of this state, or a law of
8 another state substantially corresponding to a law of this
9 state:

10 (a) Any combination of 2 convictions within 7 years for
11 reckless driving in violation of section 626.

12 (b) Any combination of 2 or more convictions within 7 years
13 for any of the following:

14 (i) A felony in which a motor vehicle was used.

15 (ii) A violation or attempted violation of section 601b(2) or
16 (3), section 601c(1) or (2), section 602a(4) or (5), section 617,
17 section 653a(3) or (4), or section 904(4) or (5).

18 (iii) Negligent homicide, manslaughter, or murder resulting
19 from the operation of a vehicle or an attempt to commit any of
20 those crimes.

21 (iv) A violation or attempted violation of section 479a(4) or
22 (5) of the Michigan penal code, 1931 PA 328, MCL 750.479a.

23 (c) Any combination of 2 convictions within 7 years for any
24 of the following or a combination of 1 conviction for a violation
25 or attempted violation of section 625(6) and 1 conviction for any
26 of the following within 7 years:

27 (i) A violation or attempted violation of section 625(1),

1 (3), (4), (5), or (7).

2 (ii) A violation of former section 625(1) or (2) or former
3 section 625b.

4 (iii) A violation or attempted violation of section 625m.

5 (d) One conviction for a violation or attempted violation of
6 section 315(5), section 601b(3), section 601c(2), section 602a(4)
7 or (5), section 617, section 625(4) or (5), section 653a(4), or
8 section 904(4) or (5).

9 (e) One conviction of negligent homicide, manslaughter, or
10 murder resulting from the operation of a vehicle or an attempt to
11 commit any of those crimes.

12 (f) One conviction for a violation or attempted violation of
13 section 479a(4) or (5) of the Michigan penal code, 1931 PA 328,
14 MCL 750.479a.

15 (g) Any combination of 3 convictions within 10 years for any
16 of the following or 1 conviction for a violation or attempted
17 violation of section 625(6) and any combination of 2 convictions
18 for any of the following within 10 years, if any of the
19 convictions resulted from an arrest on or after January 1, 1992:

20 (i) A violation or attempted violation of section 625(1),
21 (3), (4), (5), or (7).

22 (ii) A violation of former section 625(1) or (2) or former
23 section 625b.

24 (iii) A violation or attempted violation of section 625m.

25 (5) ~~(3)~~ The secretary of state shall revoke a license under
26 subsection ~~(2)~~ (4) notwithstanding a court order unless the
27 court order complies with section 323.

1 **(6)** ~~-(4)-~~ The secretary of state shall not issue a license
2 under this act to a person whose license has been revoked under
3 this act or revoked and denied under subsection ~~-(2)-~~ **(4)** until
4 all of the following occur, as applicable:

5 (a) The later of the following:

6 (i) The expiration of not less than 1 year after the license
7 was revoked or denied.

8 (ii) The expiration of not less than 5 years after the date
9 of a subsequent revocation or denial occurring within 7 years
10 after the date of any prior revocation or denial.

11 (b) For a denial under subsection ~~-(2)(a)-~~ **(4)(a)**, (b), (c),
12 and (g), the person rebuts by clear and convincing evidence the
13 presumption resulting from the prima facie evidence that he or
14 she is a habitual offender. The convictions that resulted in the
15 revocation and denial constitute prima facie evidence that he or
16 she is a habitual offender.

17 (c) The person meets the requirements of the department.

18 **(7)** ~~-(5)-~~ Multiple convictions or civil infraction
19 determinations resulting from the same incident shall be treated
20 as a single violation for purposes of denial or revocation of a
21 license under this section.

22 **(8)** ~~-(6)-~~ As used in this section, "felony in which a motor
23 vehicle was used" means a felony during the commission of which
24 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:

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

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

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

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

6 Sec. 319. (1) The secretary of state shall immediately
7 suspend a person's license as provided in this section upon
8 receiving a record of the person's conviction for a crime
9 described in this section, whether the conviction is under a law
10 of this state, a local ordinance substantially corresponding to a
11 law of this state, or a law of another state substantially
12 corresponding to a law of this state.

13 (2) The secretary of state shall suspend the person's license
14 for 1 year for any of the following crimes:

15 (a) Fraudulently altering or forging documents pertaining to
16 motor vehicles in violation of section 257.

17 (b) A violation of section 413 of the Michigan penal code,
18 1931 PA 328, MCL 750.413.

19 (c) A violation of section ~~1 of former 1931 PA 214, MCL~~
20 ~~752.191, or section~~ 626c.

21 (d) A felony in which a motor vehicle was used. As used in
22 this section, "felony in which a motor vehicle was used" means a
23 felony during the commission of which the person convicted
24 operated a motor vehicle and while operating the vehicle
25 presented real or potential harm to persons or property and 1 or
26 more of the following circumstances existed:

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

1 (ii) The vehicle was used to transport a victim of the
2 felony.

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

4 (iv) The vehicle was necessary for the commission of the
5 felony.

6 (e) A violation of section 602a(2) or (3) of this act or
7 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328,
8 MCL 750.479a.

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

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

13 (b) A violation of section 601b(2), section 601c(1), section
14 626, or section 653a(3).

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

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

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

24 (5) For perjury or making a false certification to the
25 secretary of state under any law requiring the registration of a
26 motor vehicle or regulating the operation of a vehicle on a
27 highway, or for conduct prohibited under section 324(1) or a

1 local ordinance substantially corresponding to section 324(1),
2 the secretary shall suspend the person's license as follows:

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

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

7 (6) For a violation of section 414 of the Michigan penal
8 code, 1931 PA 328, MCL 750.414, the secretary of state shall
9 suspend the person's license as follows:

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

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

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

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

23 (b) If the person has 2 or more prior convictions for an
24 offense described in this subsection or section 33b(1) of former
25 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may
26 issue the person a restricted license after the first 60 days of
27 suspension.

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

3 (a) For 180 days for a violation of section 625(1) if the
4 person has no prior convictions within 7 years. The secretary of
5 state may issue the person a restricted license during all or a
6 specified portion of the suspension, except that the secretary of
7 state shall not issue a restricted license during the first 30
8 days of suspension.

9 (b) For 90 days for a violation of section 625(3) if the
10 person has no prior convictions within 7 years. However, if the
11 person is convicted of a violation of section 625(3), for
12 operating a vehicle when, due to the consumption of a controlled
13 substance or a combination of intoxicating liquor and a
14 controlled substance, the person's ability to operate the vehicle
15 was visibly impaired, the secretary of state shall suspend the
16 person's license under this subdivision for 180 days. The
17 secretary of state may issue the person a restricted license
18 during all or a specified portion of the suspension.

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

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

26 (e) For 180 days for a violation of section 625(7) if the
27 person has no prior convictions within 7 years. The secretary of

1 state may issue the person a restricted license after the first
2 90 days of suspension.

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

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

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

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

14 (10) For a violation of section 315(4), the secretary of
15 state may suspend the person's license for 6 months.

16 (11) For a violation or attempted violation of
17 section 411a(2) of the Michigan penal code, 1931 PA 328, MCL
18 750.411a, involving a school, the secretary of state shall
19 suspend the license of a person 14 years of age or over but less
20 than 21 years of age until 3 years after the date of the
21 conviction or juvenile disposition for the violation. The
22 secretary of state may issue the person a restricted license
23 after the first 365 days of suspension.

24 (12) Except as provided in subsection (14), a suspension
25 under this section shall be imposed notwithstanding a court order
26 unless the court order complies with section 323.

27 (13) If the secretary of state receives records of more than

1 1 conviction of a person resulting from the same incident, a
2 suspension shall be imposed only for the violation to which the
3 longest period of suspension applies under this section.

4 (14) The secretary of state may waive a restriction,
5 suspension, or revocation of a person's license imposed under
6 this act if the person submits proof that a court in another
7 state revoked, suspended, or restricted his or her license for a
8 period equal to or greater than the period of a restriction,
9 suspension, or revocation prescribed under this act for the
10 violation and that the revocation, suspension, or restriction was
11 served for the violation, or may grant a restricted license.

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

16 (16) The secretary of state shall not issue a restricted
17 license to a person under subsection (8) that would permit the
18 person to operate a commercial motor vehicle that transports
19 hazardous material in amounts requiring a placard under the
20 hazardous materials regulations, 49 C.F.R. parts 100 to 199.

21 (17) A restricted license issued under this section shall
22 permit the person to whom it is issued to drive under 1 or more
23 of the following circumstances:

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

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

26 (i) The person's residence.

27 (ii) The person's work location.

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

3 (iv) The court probation department.

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

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

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

10 (18) While driving with a restricted license, the person
11 shall carry proof of his or her destination and the hours of any
12 employment, class, or other reason for traveling and shall
13 display that proof upon a peace officer's request.

14 (19) Subject to subsection (21), as used in subsection (8),
15 "prior conviction" means a conviction for any of the following,
16 whether under a law of this state, a local ordinance
17 substantially corresponding to a law of this state, or a law of
18 another state substantially corresponding to a law of this
19 state:

20 (a) Except as provided in subsection (20), a violation or
21 attempted violation of section 625(1), (3), (4), (5), (6), or
22 (7), section 625m, former section 625(1) or (2), or former
23 section 625b.

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

27 (20) Except for purposes of the suspensions described in

1 subsection (8)(c) and (d), only 1 violation or attempted
2 violation of section 625(6), a local ordinance substantially
3 corresponding to section 625(6), or a law of another state
4 substantially corresponding to section 625(6) may be used as a
5 prior conviction.

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

10 (22) **The secretary of state shall immediately suspend a**
11 **person's license for the period prescribed in an order entered**
12 **under section 17e(2)(b) or (4) of chapter XIIA of the probate**
13 **code of 1939, 1939 PA 288, MCL 712A.17e.**