

HOUSE BILL No. 4338

February 17, 2005, Introduced by Reps. Clack, Williams, Farrah, Kathleen Law, Gillard, Meisner, Gonzales, Hunter, Vagnozzi, Gleason, Sak, Zelenko, Hopgood, Tobocman, Donigan, Plakas, Wojno, Polidori, Kehrl, Phillips, Spade and Virgil Smith 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), as amended by 2004 PA 362.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

7 (c) A person whose license is suspended, revoked, denied, or
8 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 most
4 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 or
7 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 license,
15 original motorcycle indorsement, or an original or renewal of a
16 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 2
19 or more moving violations under a law of this state, a local
20 ordinance substantially corresponding to a law of this state, or a
21 law of another state substantially corresponding to a law of this
22 state within the preceding 3 years, if the violations occurred
23 before issuance of an original license to the person in this or
24 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 order
5 or judgment of the court, including, but not limited to, paying all
6 fines, costs, fees, and assessments, as provided under section
7 321a.

8 (j) A person not licensed under this act who has been
9 convicted of, has received a juvenile disposition for, or has been
10 determined responsible for a crime or civil infraction described in
11 section 319, 324, or 904. A person shall be denied a license under
12 this subdivision for the length of time corresponding to the period
13 of the licensing sanction that would have been imposed under
14 section 319, 324, or 904 if the person had been licensed at the
15 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 license
19 under this subdivision for the length of time that corresponds to
20 the period of the licensing sanction that would have been imposed
21 under section 319e if the person had been licensed at the time of
22 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, section
25 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL
26 436.1703, or section 624a or 624b of this act. The person shall be
27 denied a license under this subdivision for a period of time that

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

4 **(M) A PERSON NOT LICENSED UNDER THIS ACT WHO HAS RECEIVED A**
5 **JUVENILE DISPOSITION FOR THE WILLFUL AND REPEATED ABSENCE FROM**
6 **SCHOOL OR OTHER LEARNING PROGRAM. THE PERSON SHALL BE DENIED A**
7 **LICENSE UNDER THIS SUBDIVISION FOR 6 MONTHS FROM THE DATE OF**
8 **DISPOSITION.**

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

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

1 (4) The secretary of state shall deny issuance of a vehicle
2 group designation to a person if the person has been disqualified
3 by the United States secretary of transportation from operating a
4 commercial motor vehicle.

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

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

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

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

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

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

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

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

1 the following within 7 years:

2 (i) A violation or attempted violation of section 625, except a
3 violation of section 625(2), or a violation of any prior enactment
4 of section 625 in which the defendant operated a vehicle while
5 under the influence of intoxicating or alcoholic liquor or a
6 controlled substance, or a combination of intoxicating or alcoholic
7 liquor and a controlled substance, or while visibly impaired, or
8 with an unlawful bodily alcohol content.

9 (ii) A violation or attempted violation of section 625m.

10 (iii) Former section 625b.

11 (d) One conviction for a violation or attempted violation of
12 section 315(5), section 601b(3), section 601c(2), section 602a(4)
13 or (5), section 617, section 625(4) or (5), section 653a(4), or
14 section 904(4) or (5).

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

18 (f) One conviction for a violation or attempted violation of
19 section 479a(4) or (5) of the Michigan penal code, 1931 PA 328, MCL
20 750.479a.

21 (g) Any combination of 3 convictions within 10 years for any
22 of the following or 1 conviction for a violation or attempted
23 violation of section 625(6) and any combination of 2 convictions
24 for any of the following within 10 years, if any of the convictions
25 resulted from an arrest on or after January 1, 1992:

26 (i) A violation or attempted violation of section 625, except a
27 violation of section 625(2), or a violation of any prior enactment

1 of section 625 in which the defendant operated a vehicle while
2 under the influence of intoxicating or alcoholic liquor or a
3 controlled substance, or a combination of intoxicating or alcoholic
4 liquor and a controlled substance, or while visibly impaired, or
5 with an unlawful bodily alcohol content.

6 (ii) A violation or attempted violation of section 625m.

7 (iii) Former section 625b.

8 (6) The secretary of state shall revoke a license under
9 subsection (5) notwithstanding a court order unless the court
10 order complies with section 323.

11 (7) The secretary of state shall not issue a license under
12 this act to a person whose license has been revoked under this act
13 or revoked and denied under subsection (5) until all of the
14 following occur, as applicable:

15 (a) The later of the following:

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

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

21 (b) For a denial under subsection (5)(a), (b), (c), and (g),
22 the person rebuts by clear and convincing evidence the presumption
23 resulting from the prima facie evidence that he or she is a
24 habitual offender. The convictions that resulted in the revocation
25 and denial constitute prima facie evidence that he or she is a
26 habitual offender.

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

1 (8) Multiple convictions or civil infraction determinations
2 resulting from the same incident shall be treated as a single
3 violation for purposes of denial or revocation of a license under
4 this section.

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

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

11 (b) The vehicle was used to transport a victim of the 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 Sec. 319. (1) The secretary of state shall immediately suspend
16 a person's license as provided in this section upon receiving a
17 record of the person's conviction for a crime described in this
18 section, whether the conviction is under a law of this state, a
19 local ordinance substantially corresponding to a law of this state,
20 or a law of another state substantially corresponding to a law of
21 this state.

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

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

26 (b) A violation of section 413 of the Michigan penal code,
27 1931 PA 328, MCL 750.413.

1 (c) A violation of section 1 of former 1931 PA 214, MCL
2 752.191, or section 626c.

3 (d) A felony in which a motor vehicle was used. As used in
4 this section, "felony in which a motor vehicle was used" means a
5 felony during the commission of which the person convicted operated
6 a motor vehicle and while operating the vehicle presented real or
7 potential harm to persons or property and 1 or more of the
8 following circumstances existed:

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

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

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

12 (iv) The vehicle was necessary for the commission of the
13 felony.

14 (e) A violation of section 602a(2) or (3) of this act or
15 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL
16 750.479a.

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

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

21 (b) A violation of section 601b(2), section 601c(1), section
22 626, or section 653a(3).

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

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

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

5 (5) For perjury or making a false certification to the
6 secretary of state under any law requiring the registration of a
7 motor vehicle or regulating the operation of a vehicle on a
8 highway, or for conduct prohibited under section 324(1) or a local
9 ordinance substantially corresponding to section 324(1), the
10 secretary shall suspend the person's license as follows:

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

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

15 (6) For a violation of section 414 of the Michigan penal code,
16 1931 PA 328, MCL 750.414, the secretary of state shall suspend the
17 person's license as follows:

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

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

22 (7) For a violation of section 624a or 624b of this act or
23 section 703(1) of the Michigan liquor control code of 1998, 1998 PA
24 58, MCL 436.1703, the secretary of state shall suspend the person's
25 license as follows:

26 (a) If the person has 1 prior conviction for an offense
27 described in this subsection or section 33b(1) of former 1933 (Ex

1 Sess) PA 8, for 90 days. The secretary of state may issue the
2 person a restricted license after the first 30 days of suspension.

3 (b) If the person has 2 or more prior convictions for an
4 offense described in this subsection or section 33b(1) of former
5 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue
6 the person a restricted license after the first 60 days of
7 suspension.

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

10 (a) For 180 days for a violation of section 625(1) or (8) if
11 the person has no prior convictions within 7 years. The secretary
12 of state may issue the person a restricted license during a
13 specified portion of the suspension, except that the secretary of
14 state shall not issue a restricted license during the first 30 days
15 of suspension.

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

26 (c) For 30 days for a violation of section 625(6) if the
27 person has no prior convictions within 7 years. The secretary of

1 state may issue the person a restricted license during all or a
2 specified portion of the suspension.

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

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

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

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

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

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

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

23 (11) For a violation or attempted violation of section 411a(2)
24 of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a
25 school, the secretary of state shall suspend the license of a
26 person 14 years of age or over but less than 21 years of age until
27 3 years after the date of the conviction or juvenile disposition

1 for the violation. The secretary of state may issue the person a
2 restricted license after the first 365 days of suspension.

3 **(12) FOR A JUVENILE WHO IS DETERMINED TO BE WITHIN THE**
4 **JURISDICTION OF THE FAMILY DIVISION OF CIRCUIT COURT UNDER SECTION**
5 **2(A)(4) OF CHAPTER XIIA OF THE PROBATE CODE OF 1939, 1939 PA 288,**
6 **MCL 712A.2, DUE TO WILLFUL AND REPEATED ABSENCE FROM SCHOOL OR**
7 **ANOTHER LEARNING PROGRAM, THE SECRETARY OF STATE SHALL SUSPEND THE**
8 **LICENSE OF THE JUVENILE FOR 6 MONTHS BEGINNING ON THE DATE OF**
9 **DISPOSITION.**

10 **(13) ~~(12)~~** Except as provided in subsection **~~(14)~~ (15)**, a
11 suspension under this section shall be imposed notwithstanding a
12 court order unless the court order complies with section 323.

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

17 **(15) ~~(14)~~** The secretary of state may waive a restriction,
18 suspension, or revocation of a person's license imposed under this
19 act if the person submits proof that a court in another state
20 revoked, suspended, or restricted his or her license for a period
21 equal to or greater than the period of a restriction, suspension,
22 or revocation prescribed under this act for the violation and that
23 the revocation, suspension, or restriction was served for the
24 violation, or may grant a restricted license.

25 **(16) ~~(15)~~** The secretary of state shall not issue a
26 restricted license to a person whose license is suspended under
27 this section unless a restricted license is authorized under this

1 section and the person is otherwise eligible for a license.

2 **(17)** ~~-(16)-~~ The secretary of state shall not issue a
3 restricted license to a person under subsection (8) that would
4 permit the person to operate a commercial motor vehicle.

5 **(18)** ~~-(17)-~~ A restricted license issued under this section
6 shall permit the person to whom it is issued to take any driving
7 skills test required by the secretary of state and to drive under 1
8 or more of the following circumstances:

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

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

11 (i) The person's residence.

12 (ii) The person's work location.

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

15 (iv) The court probation department.

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

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

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

22 **(19)** ~~-(18)-~~ While driving with a restricted license, the
23 person shall carry proof of his or her destination and the hours of
24 any employment, class, or other reason for traveling and shall
25 display that proof upon a peace officer's request.

26 **(20)** ~~-(19)-~~ Subject to subsection ~~-(21)-~~ **(22)**, as used in
27 subsection (8), "prior conviction" means a conviction for any of

1 the following, whether under a law of this state, a local ordinance
2 substantially corresponding to a law of this state, or a law of
3 another state substantially corresponding to a law of this state:

4 (a) Except as provided in subsection ~~-(20)~~ **(21)**, a violation
5 or attempted violation of any of the following:

6 (i) Section 625, except a violation of section 625(2), or a
7 violation of any prior enactment of section 625 in which the
8 defendant operated a vehicle while under the influence of
9 intoxicating or alcoholic liquor or a controlled substance, or a
10 combination of intoxicating or alcoholic liquor and a controlled
11 substance, or while visibly impaired, or with an unlawful bodily
12 alcohol content.

13 (ii) Section 625m.

14 (iii) Former section 625b.

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

18 **(21)** ~~-(20)-~~ Except for purposes of the suspensions described
19 in subsection (8)(c) and (d), only 1 violation or attempted
20 violation of section 625(6), a local ordinance substantially
21 corresponding to section 625(6), or a law of another state
22 substantially corresponding to section 625(6) may be used as a
23 prior conviction.

24 **(22)** ~~-(21)-~~ If 2 or more convictions described in subsection
25 ~~(19)~~ **(20)** are convictions for violations arising out of the same
26 transaction, only 1 conviction shall be used to determine whether
27 the person has a prior conviction.

1 Enacting section 1. This amendatory act does not take effect
2 unless Senate Bill No.____ or House Bill No. 4339(request no.
3 00984'05 a) of the 93rd Legislature is enacted into law.