

# HOUSE BILL No. 5333

October 18, 2007, Introduced by Reps. Nofs, Caswell, Steil, Rick Jones, Palmer, Espinoza, Gaffney, Virgil Smith, Stahl, Rocca, Hildenbrand, Moore, Pavlov, Nitz, Proos, Brandenburg, Meekhof, Acciavatti, Calley, Agema, Meltzer, Stakoe, Moolenaar, Sheen, Booher, Caul, Johnson and Gonzales and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled  
"Michigan vehicle code,"  
by amending sections 328 and 907 (MCL 257.328 and 257.907), section 328 as amended by 2004 PA 52 and section 907 as amended by 2006 PA 298, and by adding sections 520a and 520b.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 328. (1) ~~The~~ **BEFORE OCTOBER 1, 2008, UPON THE REQUEST OF**  
2       **A POLICE OFFICER, THE** owner of a motor vehicle who operates or  
3       permits the operation of the motor vehicle upon the highways of  
4       this state or the operator of the motor vehicle shall produce,  
5       pursuant to subsection (2), ~~upon the request of a police officer,~~  
6       evidence that the motor vehicle is insured under chapter 31 of the  
7       insurance code of 1956, 1956 PA 218, MCL 500.3101 to 500.3179.

1 AFTER SEPTEMBER 30, 2008, THE OWNER OF A MOTOR VEHICLE WHO OPERATES  
2 OR PERMITS THE OPERATION OF THE MOTOR VEHICLE UPON THE HIGHWAYS OF  
3 THIS STATE AND WHO PERSONALLY, OR THROUGH E-REGISTRATION, THE MAIL,  
4 OR AN AGENT, FAILS TO PROVIDE TO AN EMPLOYEE OF THE DEPARTMENT  
5 EVIDENCE THAT THE MOTOR VEHICLE IS INSURED AS REQUIRED UNDER  
6 CHAPTER 31 OF THE INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.3101  
7 TO 500.3179, IS RESPONSIBLE FOR A CIVIL INFRACTION. Subject to  
8 section 907(16), an owner or operator of a motor vehicle who fails  
9 to produce evidence of insurance under this subsection when  
10 requested to produce that evidence or who fails to have motor  
11 vehicle insurance for the vehicle as required under chapter 31 of  
12 the insurance code of 1956, 1956 PA 218, MCL 500.3101 to 500.3179,  
13 is responsible for a civil infraction.

14 (2) ~~A-BEFORE OCTOBER 1, 2008, A~~ certificate of insurance,  
15 issued by an insurance company, that certifies that the security  
16 that meets the requirements of sections 3101 and 3102 of the  
17 insurance code of 1956, 1956 PA 218, MCL 500.3101 and 500.3102, is  
18 in force shall be accepted as prima facie evidence that insurance  
19 is in force for the motor vehicle described in the certificate of  
20 insurance until the expiration date shown on the certificate. The  
21 certificate, in addition to describing the motor vehicles for which  
22 insurance is in effect, shall state the name of each person named  
23 on the policy, policy declaration, or a declaration certificate  
24 whose operation of the vehicle would cause the liability coverage  
25 of that insurance to become void. AFTER SEPTEMBER 30, 2008, A  
26 POLICE OFFICER OR OTHER AUTHORIZED INDIVIDUAL WHO SEEKS TO VERIFY  
27 THAT A MOTOR VEHICLE IS INSURED SHALL ACCESS THE MOTOR VEHICLE

1 INSURANCE VERIFICATION SYSTEM DEVELOPED UNDER SECTION 520A. THE  
2 MOTOR VEHICLE INSURANCE VERIFICATION SYSTEM DEVELOPED UNDER SECTION  
3 520A SHALL AUTOMATICALLY PROVIDE AN AUTOMATED VERIFICATION OF EACH  
4 QUERY TO INDICATE WHETHER OR NOT MOTOR VEHICLE INSURANCE IS IN  
5 EFFECT AT THE TIME THE QUERY IS MADE.

6 (3) If, before the appearance date on the citation, the person  
7 submits proof to the court that the motor vehicle had insurance  
8 meeting the requirements of ~~sections 3101 and 3102~~ **CHAPTER 31** of  
9 the insurance code of 1956, 1956 PA 218, MCL 500.3101 ~~and 500.3102~~  
10 **TO 500.3179**, at the time the violation of subsection (1) occurred,  
11 all of the following apply:

12 (a) The court shall not assess a fine or costs.

13 (b) The court shall not cause an abstract of the court record  
14 to be forwarded to the secretary of state.

15 (c) The court may assess a fee of not more than \$25.00, which  
16 shall be paid to the court funding unit.

17 (4) If an owner or operator of a motor vehicle is determined  
18 to be responsible for a violation of subsection (1), the court in  
19 which the civil infraction determination is entered may require the  
20 person to surrender his or her operator's or chauffeur's license  
21 unless proof that the vehicle has insurance meeting the  
22 requirements of ~~sections 3101 and 3102~~ **CHAPTER 31** of the insurance  
23 code of 1956, 1956 PA 218, MCL 500.3101 ~~and 500.3102~~ **TO 500.3179**,  
24 is submitted to the court. If the court requires the license to be  
25 surrendered, the court shall order the secretary of state to  
26 suspend the person's license. The court shall immediately destroy  
27 the license and shall forward to the secretary of state an abstract

1 of the court record as required by section 732. Upon receipt of the  
2 abstract, the secretary of state shall suspend the person's license  
3 beginning with the date on which a person is determined to be  
4 responsible for the civil infraction for a period of 30 days or  
5 until proof of insurance meeting the requirements of ~~sections 3101~~  
6 ~~and 3102~~ **CHAPTER 31** of the insurance code of 1956, 1956 PA 218, MCL  
7 500.3101 ~~and 500.3102~~ **TO 500.3179**, is submitted to the secretary of  
8 state, whichever occurs later. A person who submits proof of  
9 insurance **OR FOR WHOM PROOF OF INSURANCE IS AUTOMATICALLY PROVIDED**  
10 **BY THE VEHICLE INSURANCE VERIFICATION SYSTEM DEVELOPED UNDER**  
11 **SECTION 520A** to the secretary of state under this subsection shall  
12 pay a service fee of \$25.00 to the secretary of state. The person  
13 shall not be required to be examined as set forth in section 320c  
14 and shall not be required to pay a replacement license fee.

15 (5) If an owner or operator of a motor vehicle is determined  
16 to be responsible for a violation of subsection (1), the court in  
17 which the civil infraction determination is entered shall notify  
18 the secretary of state of the vehicle registration number and the  
19 year and make of the motor vehicle being operated at the time of  
20 the violation. This notification shall be made on the abstract or  
21 on a form approved by the supreme court administrator. Upon  
22 receipt, the secretary of state shall immediately enter this  
23 information in the records of the department. The secretary of  
24 state shall not renew, transfer, or replace the registration plate  
25 of the vehicle involved in the violation or allow the purchase of a  
26 new registration plate for the vehicle involved in the violation  
27 until the owner meets the requirements of section 227a or unless

1 the vehicle involved in the violation is transferred or sold to a  
2 person other than the owner's spouse, mother, father, sister,  
3 brother, or child.

4 (6) An owner or operator of a motor vehicle who knowingly  
5 produces false evidence under this section is guilty of a  
6 misdemeanor, punishable by imprisonment for not more than 1 year,  
7 or a fine of not more than \$1,000.00, or both.

8 (7) Points shall not be entered on a driver's record ~~pursuant~~  
9 ~~to~~ **UNDER** section 320a for a violation of this section.

10 (8) This section ~~does not apply~~ **APPLIES** to the owner or  
11 operator of a motor vehicle that is registered in a ~~THIS~~ state **AND**  
12 **ALSO A STATE** other than this state or a foreign country or province  
13 **AS THOSE VEHICLES ARE SUBJECT TO THE LAWS OF THIS STATE.**

14 (9) **AS USED IN THIS SECTION, "E-REGISTRATION" MEANS**  
15 **REGISTRATION THROUGH ELECTRONIC MEANS.**

16 **SEC. 520A. (1) AS USED IN THIS SECTION:**

17 (A) **"NLETS" MEANS THE NATIONAL LAW ENFORCEMENT**  
18 **TELECOMMUNICATIONS SYSTEM.**

19 (B) **"UNPARSED DATA" MEANS DATA THAT ARE NOT ELECTRONICALLY**  
20 **SORTED BY JURISDICTION.**

21 (2) **NO LATER THAN OCTOBER 1, 2008, THE DEPARTMENT OF STATE**  
22 **POLICE SHALL ESTABLISH AND IMPLEMENT AND MAINTAIN AN NLETS-**  
23 **AUTHORIZED PAPERLESS VERIFICATION SYSTEM FOR MOTOR VEHICLE**  
24 **INSURANCE COVERAGE. THE PAPERLESS VERIFICATION SYSTEM SHALL BE**  
25 **DESIGNED WITH THE GOAL OF IDENTIFYING MOTOR VEHICLES THAT ARE BEING**  
26 **OPERATED ON HIGHWAYS IN THIS STATE WITHOUT THE REQUIRED INSURANCE**  
27 **COVERAGE AND SHALL HAVE ALL OF THE FOLLOWING CHARACTERISTICS:**

1 (A) PROVIDE QUICK, ACCURATE, AND CURRENT ACCESS TO MOTOR  
2 VEHICLE INSURANCE COVERAGE INFORMATION FOR PERSONS AND AGENCIES  
3 CHARGED WITH ENFORCEMENT OF MOTOR VEHICLE INSURANCE REQUIREMENTS,  
4 INCLUDING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING PROCESSES:

5 (i) THE DAILY GATHERING OF UNPARSED DATA CONCERNING MOTOR  
6 VEHICLE INSURANCE COVERAGE BY INSURANCE COMPANIES PROVIDING MOTOR  
7 VEHICLE INSURANCE COVERAGE IN THIS STATE.

8 (ii) THE DAILY TRANSMITTAL OF DATA CONCERNING MOTOR VEHICLE  
9 INSURANCE COVERAGE FROM COMPANIES DESCRIBED IN SUBPARAGRAPH (i) TO  
10 THE DEPARTMENT OF STATE POLICE AND THAT IS COMMONLY ACCOMMODATED BY  
11 INSURERS FOR OTHER JURISDICTIONS, SUCH DATA TO BE ELECTRONICALLY  
12 TRANSMITTED.

13 (iii) THE DEPARTMENT OF STATE POLICE'S TRANSMITTAL OF DATA  
14 ELEMENTS REQUIRED TO CONFIRM ACTIVE INSURANCE STATUS FOR  
15 REGISTRATION FROM THE DATA ELEMENTS DESCRIBED IN SUBPARAGRAPH (ii)  
16 TO THE DEPARTMENT OF STATE.

17 (B) PROTECT THE PRIVACY OF MOTOR VEHICLE OWNERS BY ENSURING  
18 THAT NAMES OR ADDRESSES CANNOT BE MAINTAINED OR USED TO OBTAIN  
19 ACCESS TO INSURANCE STATUS, EXCEPT AS OTHERWISE REQUIRED TO COMPLY  
20 WITH SECTION 328 AND THIS SECTION.

21 (C) PROTECT THE SECURITY AND INTEGRITY OF INFORMATION GATHERED  
22 AND TRANSMITTED BY INSURERS UNDER SUBDIVISION (A) BY MEETING ALL  
23 SECURITY STANDARDS OF THE STATE'S NLETS SYSTEM.

24 (D) ALLOW THE DIRECTOR OF STATE POLICE TO AUTOMATICALLY CREATE  
25 AND MAIL A CITATION FOR A VIOLATION OF SECTION 328 TO THE OWNER OF  
26 A MOTOR VEHICLE IN OTHER STATES, FOREIGN COUNTRIES, OR FOREIGN  
27 PROVINCES BY MEANS OF THE NLETS CONNECTION TO NATIONAL LAW

1 ENFORCEMENT DATA.

2 (3) THE SECRETARY OF STATE SHALL PROVIDE TO THE DEPARTMENT OF  
3 STATE POLICE EXISTING DATA SUBMITTED TO THE SECRETARY OF STATE  
4 UNDER SECTION 3103A(2) OF THE INSURANCE CODE OF 1956, 1956 PA 218,  
5 MCL 500.3103A, IN AN ELECTRONIC FORM AS REQUIRED BY THE DEPARTMENT  
6 OF STATE POLICE NOT MORE THAN 30 DAYS AFTER THE DEPARTMENT OF STATE  
7 POLICE NOTIFIES THE SECRETARY OF STATE THAT IT IS PREPARED TO  
8 RECEIVE THAT DATA AND NO LATER THAN OCTOBER 1, 2008.

9 SEC. 520B. (1) THE INSURANCE VERIFICATION FUND IS CREATED  
10 WITHIN THE STATE TREASURY.

11 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM  
12 ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER SHALL  
13 DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL CREDIT  
14 TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.

15 (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL  
16 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

17 (4) THE DEPARTMENT OF STATE POLICE SHALL BE THE ADMINISTRATOR  
18 OF THE FUND FOR AUDITING PURPOSES.

19 (5) THE DEPARTMENT OF STATE POLICE SHALL EXPEND MONEY FROM THE  
20 FUND, UPON APPROPRIATION, ONLY TO ESTABLISH, IMPLEMENT, AND  
21 MAINTAIN THE PAPERLESS VERIFICATION SYSTEM DESCRIBED IN SECTION  
22 520A.

23 Sec. 907. (1) A violation of this act, or a local ordinance  
24 substantially corresponding to a provision of this act, that is  
25 designated a civil infraction shall not be considered a lesser  
26 included offense of a criminal offense.

27 (2) If a person is determined pursuant to sections 741 to 750

1 to be responsible or responsible "with explanation" for a civil  
2 infraction under this act or a local ordinance substantially  
3 corresponding to a provision of this act, the judge or district  
4 court magistrate may order the person to pay a civil fine of not  
5 more than \$100.00 and costs as provided in subsection (4). However,  
6 for a violation of section 674(1)(s) or a local ordinance  
7 substantially corresponding to section 674(1)(s), the person shall  
8 be ordered to pay costs as provided in subsection (4) and a civil  
9 fine of not less than \$100.00 or more than \$250.00. For a violation  
10 of section 328, the civil fine ordered under this subsection shall  
11 be not more than \$50.00. For a violation of section 710d, the civil  
12 fine ordered under this subsection shall not exceed \$10.00. For a  
13 violation of section 710e, the civil fine and court costs ordered  
14 under this subsection shall be \$25.00. For a violation of section  
15 682 or a local ordinance substantially corresponding to section  
16 682, the person shall be ordered to pay costs as provided in  
17 subsection (4) and a civil fine of not less than \$100.00 or more  
18 than \$500.00. For a violation of section 240, the civil fine  
19 ordered under this subsection shall be \$15.00. For a violation of  
20 section 252a(1), the civil fine ordered under this subsection shall  
21 be \$50.00. For a violation of section 676a(3), the civil fine  
22 ordered under this section shall be not more than \$10.00. For a  
23 violation of section 319f(1), the civil fine ordered under this  
24 section shall be not less than \$1,100.00 or more than \$2,750.00.  
25 For a violation of section 319g(1)(a), the civil fine ordered under  
26 this section shall be not more than \$10,000.00. For a violation of  
27 section ~~319g(1)(b)~~ **319G(1)(G)**, the civil fine ordered under this



1 section shall be not less than \$2,750.00 or more than \$11,000.00.  
2 Permission may be granted for payment of a civil fine and costs to  
3 be made within a specified period of time or in specified  
4 installments, but unless permission is included in the order or  
5 judgment, the civil fine and costs shall be payable immediately.

6 (3) Except as provided in this subsection, if a person is  
7 determined to be responsible or responsible "with explanation" for  
8 a civil infraction under this act or a local ordinance  
9 substantially corresponding to a provision of this act while  
10 driving a commercial motor vehicle, he or she shall be ordered to  
11 pay costs as provided in subsection (4) and a civil fine of not  
12 more than \$250.00. ~~If a person is determined to be responsible or~~  
13 ~~responsible "with explanation" for a civil infraction under section~~  
14 ~~319g or a local ordinance substantially corresponding to section~~  
15 ~~319g, that person shall be ordered to pay costs as provided in~~  
16 ~~subsection (4) and a civil fine of not more than \$10,000.00.~~

17 (4) If a civil fine is ordered under subsection (2) or (3),  
18 the judge or district court magistrate shall summarily tax and  
19 determine the costs of the action, which are not limited to the  
20 costs taxable in ordinary civil actions, and may include all  
21 expenses, direct and indirect, to which the plaintiff has been put  
22 in connection with the civil infraction, up to the entry of  
23 judgment. Costs shall not be ordered in excess of \$100.00. A civil  
24 fine ordered under subsection (2) or (3) shall not be waived unless  
25 costs ordered under this subsection are waived. Except as otherwise  
26 provided by law, costs are payable to the general fund of the  
27 plaintiff.

1           (5) In addition to a civil fine and costs ordered under  
2 subsection (2) or (3) and subsection (4) and the justice system  
3 assessment ordered under subsection (14), the judge or district  
4 court magistrate may order the person to attend and complete a  
5 program of treatment, education, or rehabilitation.

6           (6) A district court magistrate shall impose the sanctions  
7 permitted under subsections (2), (3), and (5) only to the extent  
8 expressly authorized by the chief judge or only judge of the  
9 district court district.

10          (7) Each district of the district court and each municipal  
11 court may establish a schedule of civil fines, costs, and  
12 assessments to be imposed for civil infractions that occur within  
13 the respective district or city. If a schedule is established, it  
14 shall be prominently posted and readily available for public  
15 inspection. A schedule need not include all violations that are  
16 designated by law or ordinance as civil infractions. A schedule may  
17 exclude cases on the basis of a defendant's prior record of civil  
18 infractions or traffic offenses, or a combination of civil  
19 infractions and traffic offenses.

20          (8) The state court administrator shall annually publish and  
21 distribute to each district and court a recommended range of civil  
22 fines and costs for first-time civil infractions. This  
23 recommendation is not binding upon the courts having jurisdiction  
24 over civil infractions but is intended to act as a normative guide  
25 for judges and district court magistrates and a basis for public  
26 evaluation of disparities in the imposition of civil fines and  
27 costs throughout the state.

1           (9) If a person has received a civil infraction citation for  
2 defective safety equipment on a vehicle under section 683, the  
3 court shall waive a civil fine, costs, and assessments upon receipt  
4 of certification by a law enforcement agency that repair of the  
5 defective equipment was made before the appearance date on the  
6 citation.

7           (10) A default in the payment of a civil fine or costs ordered  
8 under subsection (2), (3), or (4) or a justice system assessment  
9 ordered under subsection (14), or an installment of the fine,  
10 costs, or assessment, may be collected by a means authorized for  
11 the enforcement of a judgment under chapter 40 of the revised  
12 judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or  
13 under chapter 60 of the revised judicature act of 1961, 1961 PA  
14 236, MCL 600.6001 to 600.6098.

15           (11) If a person fails to comply with an order or judgment  
16 issued pursuant to this section within the time prescribed by the  
17 court, the driver's license of that person shall be suspended  
18 pursuant to section 321a until full compliance with that order or  
19 judgment occurs. In addition to this suspension, the court may also  
20 proceed under section 908.

21           (12) The court shall waive any civil fine, cost, or assessment  
22 against a person who received a civil infraction citation for a  
23 violation of section 710d if the person, before the appearance date  
24 on the citation, supplies the court with evidence of acquisition,  
25 purchase, or rental of a child seating system meeting the  
26 requirements of section 710d.

27           (13) Until October 1, 2003, in addition to any civil fines and

1 costs ordered to be paid under this section, the judge or district  
2 court magistrate shall levy an assessment of \$5.00 for each civil  
3 infraction determination, except for a parking violation or a  
4 violation for which the total fine and costs imposed are \$10.00 or  
5 less. An assessment paid before October 1, 2003 shall be  
6 transmitted by the clerk of the court to the state treasurer to be  
7 deposited into the Michigan justice training fund. An assessment  
8 ordered before October 1, 2003 but collected on or after October 1,  
9 2003 shall be transmitted by the clerk of the court to the state  
10 treasurer for deposit in the justice system fund created in section  
11 181 of the revised judicature act of 1961, 1961 PA 236, MCL  
12 600.181. An assessment levied under this subsection is not a civil  
13 fine for purposes of section 909.

14 (14) Effective October 1, 2003, in addition to any civil fines  
15 or costs ordered to be paid under this section, the judge or  
16 district court magistrate shall order the defendant to pay a  
17 justice system assessment of \$40.00 for each civil infraction  
18 determination, except for a parking violation or a violation for  
19 which the total fine and costs imposed are \$10.00 or less. Upon  
20 payment of the assessment, the clerk of the court shall transmit  
21 the assessment collected to the state treasury to be deposited into  
22 the justice system fund created in section 181 of the revised  
23 judicature act of 1961, 1961 PA 236, MCL 600.181. An assessment  
24 levied under this subsection is not a civil fine for purposes of  
25 section 909.

26 (15) If a person has received a citation for a violation of  
27 section 223, the court shall waive any civil fine, costs, and

1 assessment, upon receipt of certification by a law enforcement  
2 agency that the person, before the appearance date on the citation,  
3 produced a valid registration certificate that was valid on the  
4 date the violation of section 223 occurred.

5 (16) If a person has received a citation for a violation of  
6 section 328(1) for failing to produce **OR, AFTER SEPTEMBER 30, 2008,**  
7 **TO PROVIDE** a certificate of insurance pursuant to section 328(2),  
8 the court may waive the fee described in section 328(3)(c) and  
9 shall waive any fine, costs, and any other fee or assessment  
10 otherwise authorized under this act upon receipt of verification by  
11 the court that the person, before the appearance date on the  
12 citation, produced **OR PROVIDED** valid proof of insurance that was in  
13 effect at the time the violation of section 328(1) occurred.  
14 Insurance obtained subsequent to the time of the violation does not  
15 make the person eligible for a waiver under this subsection.

16 Enacting section 1. This amendatory act does not take effect  
17 unless Senate Bill No. \_\_\_\_ or House Bill No. 5332(request no.  
18 02663'07 \*) of the 94th Legislature is enacted into law.