

HOUSE BILL No. 5380

October 30, 2007, Introduced by Reps. Johnson, Clack, Constan, Hammon, Byrnes, Kathleen Law, Vagnozzi, Cushingberry, Robert Jones, Bieda, Gonzales, Lemmons, Hammel, Hopgood and Donigan and referred to the Committee on Transportation.

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 2006 PA 298 and section 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

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

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

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

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

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

26 (h) A nonresident, including, but not limited to, a foreign
27 exchange student.

1 (i) A person who has failed to answer a citation or notice to
2 appear in court or for any matter pending or fails to comply with
3 an order or judgment of the court, including, but not limited to,
4 paying all fines, costs, fees, and assessments, in violation of
5 section 321a, until that person answers the citation or notice to
6 appear in court or for any matter pending or complies with an order
7 or judgment of the court, including, but not limited to, paying all
8 fines, costs, fees, and assessments, as provided under section
9 321a.

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

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

25 (l) A person not licensed under this act who is determined to
26 have violated section 33b(1) of former 1933 (Ex Sess) PA 8, section
27 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL

1 436.1703, or section 624a or 624b of this act. The person shall be
2 denied a license under this subdivision for a period of time that
3 corresponds to the period of the licensing sanction that would have
4 been imposed under those sections had the person been licensed at
5 the time of the violation.

6 (m) A person whose commercial driver license application is
7 canceled under section 324(2).

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

13 (2) Upon receiving the appropriate records of conviction, the
14 secretary of state shall revoke the operator's or chauffeur's
15 license of a person and deny issuance of an operator's or
16 chauffeur's license to a person having any of the following,
17 whether under a law of this state, a local ordinance substantially
18 corresponding to a law of this state, or a law of another state
19 substantially corresponding to a law of this state:

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

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

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

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

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

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

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

10 (i) A violation or attempted violation of section 625, except a
11 violation of section 625(2), or a violation of any prior enactment
12 of section 625 in which the defendant operated a vehicle while
13 under the influence of intoxicating or alcoholic liquor or a
14 controlled substance, or a combination of intoxicating or alcoholic
15 liquor and a controlled substance, or while visibly impaired, or
16 with an unlawful bodily alcohol content.

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

18 (iii) Former section 625b.

19 (d) One conviction for a violation or attempted violation of
20 section 315(5), section 601b(3), section 601c(2), section 602a(4)
21 or (5), section 617, section 625(4) or (5), section 653a(4), or
22 section 904(4) or (5).

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

26 (f) One conviction for a violation or attempted violation of
27 section 479a(4) or (5) of the Michigan penal code, 1931 PA 328, MCL

1 750.479a.

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

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

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

15 (iii) Former section 625b.

16 (3) The secretary of state shall revoke a license under
17 subsection (2) notwithstanding a court order unless the court order
18 complies with section 323.

19 (4) The secretary of state shall not issue a license under
20 this act to a person whose license has been revoked under this act
21 or revoked and denied under subsection (2) until all of the
22 following occur, as applicable:

23 (a) The later of the following:

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

26 (ii) The expiration of not less than 5 years after the date of
27 a subsequent revocation or denial occurring within 7 years after

1 the date of any prior revocation or denial.

2 (b) For a denial under subsection (2)(a), (b), (c), and (g),
3 the person rebuts by clear and convincing evidence the presumption
4 resulting from the prima facie evidence that he or she is a
5 habitual offender. The convictions that resulted in the revocation
6 and denial constitute prima facie evidence that he or she is a
7 habitual offender.

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

9 (5) The secretary of state may deny issuance of an operator's
10 license as follows:

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

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

1 (6) 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 (7) Multiple convictions or civil infraction determinations
6 resulting from the same incident shall be treated as a single
7 violation for purposes of denial or revocation of a license under
8 this section.

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

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

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

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

17 (d) The vehicle was necessary for the commission of the
18 felony.

19 Sec. 319. (1) The secretary of state shall immediately suspend
20 a person's license as provided in this section upon receiving a
21 record of the person's conviction for a crime described in this
22 section, whether the conviction is under a law of this state, a
23 local ordinance substantially corresponding to a law of this state,
24 or a law of another state substantially corresponding to a law of
25 this state.

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

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

3 (b) A violation of section 413 of the Michigan penal code,
4 1931 PA 328, MCL 750.413.

5 (c) A violation of section 1 of former 1931 PA 214, MCL
6 752.191, or section 626c.

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

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

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

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

16 (iv) The vehicle was necessary for the commission of the
17 felony.

18 (e) A violation of section 602a(2) or (3) of this act or
19 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL
20 750.479a.

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

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

25 (b) A violation of section 601b(2), section 601c(1), section
26 626, or section 653a(3).

27 (c) Malicious destruction resulting from the operation of a

1 vehicle under section 382(1)(b), (c), or (d) of the Michigan penal
2 code, 1931 PA 328, MCL 750.382.

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

5 (4) The secretary of state shall suspend the person's license
6 for 30 days for malicious destruction resulting from the operation
7 of a vehicle under section 382(1)(a) of the Michigan penal code,
8 1931 PA 328, MCL 750.382.

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

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

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

19 (6) For a violation of section 414 of the Michigan penal code,
20 1931 PA 328, MCL 750.414, the secretary of state shall suspend the
21 person's license as follows:

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

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

26 (7) For a violation of section 624a or 624b of this act or
27 section 703(1) of the Michigan liquor control code of 1998, 1998 PA

1 58, MCL 436.1703, the secretary of state shall suspend the person's
2 license as follows:

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

7 (b) If the person has 2 or more prior convictions for an
8 offense described in this subsection or section 33b(1) of former
9 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue
10 the person a restricted license after the first 60 days of
11 suspension.

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

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

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

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

3 (c) For 30 days for a violation of section 625(6) 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.

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

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

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

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

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

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

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

27 (11) For a violation or attempted violation of section 411a(2)

1 of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a
2 school, the secretary of state shall suspend the license of a
3 person 14 years of age or over but less than 21 years of age until
4 3 years after the date of the conviction or juvenile disposition
5 for the violation. The secretary of state may issue the person a
6 restricted license after the first 365 days of suspension.

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

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

17 **(14)** ~~(13)~~—If the secretary of state receives records of more
18 than 1 conviction of a person resulting from the same incident, a
19 suspension shall be imposed only for the violation to which the
20 longest period of suspension applies under this section.

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

1 violation, or may grant a restricted license.

2 (16) ~~(15)~~—The secretary of state shall not issue a restricted
3 license to a person whose license is suspended under this section
4 unless a restricted license is authorized under this section and
5 the person is otherwise eligible for a license.

6 (17) ~~(16)~~—The secretary of state shall not issue a restricted
7 license to a person under subsection (8) that would permit the
8 person to operate a commercial motor vehicle.

9 (18) ~~(17)~~—A restricted license issued under this section shall
10 permit the person to whom it is issued to take any driving skills
11 test required by the secretary of state and to drive under 1 or
12 more of the following circumstances:

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

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

15 (i) The person's residence.

16 (ii) The person's work location.

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

19 (iv) The court probation department.

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

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

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

26 (19) ~~(18)~~—While driving with a restricted license, the person
27 shall carry proof of his or her destination and the hours of any

1 employment, class, or other reason for traveling and shall display
2 that proof upon a peace officer's request.

3 **(20)** ~~(19)~~—Subject to subsection ~~(21)~~—**(22)**, as used in
4 subsection (8), "prior conviction" means a conviction for any of
5 the following, whether under a law of this state, a local ordinance
6 substantially corresponding to a law of this state, or a law of
7 another state substantially corresponding to a law of this state:

8 (a) Except as provided in subsection ~~(20)~~—**(21)**, a violation or
9 attempted violation of any of the following:

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

17 (ii) Section 625m.

18 (iii) Former section 625b.

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

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

27 **(22)** ~~(21)~~—If 2 or more convictions described in subsection

1 ~~(19)~~ (20) are convictions for violations arising out of the same
2 transaction, only 1 conviction shall be used to determine whether
3 the person has a prior conviction.

4 Enacting section 1. This amendatory act does not take effect
5 unless Senate Bill No. _____ or House Bill No. 5381(request no.
6 01654'07 a) of the 94th Legislature is enacted into law.