

# HOUSE BILL No. 5032

October 28, 2015, Introduced by Rep. Lucido and referred to the Committee on Insurance.

A bill to amend 1949 PA 300, entitled  
"Michigan vehicle code,"  
by amending sections 221, 227a, 328, and 907 (MCL 257.221,  
257.227a, 257.328, and 257.907), section 221 as amended by 1998 PA  
64, section 227a as added by 1995 PA 287, section 328 as amended by  
2015 PA 135, and section 907 as amended by 2015 PA 126.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 221. (1) The secretary of state shall create and maintain  
2 a computerized central file of all applications for registration of  
3 motor vehicles and is not required to retain any other record of  
4 the application. The computerized central file shall be interfaced  
5 with the law enforcement information network as provided in the

1 ~~L.E.I.N.-C.J.I.S.~~ policy council act, ~~of 1974,~~ 1974 PA 163, MCL  
2 28.211 to ~~28.216-~~28.215.

3 (2) The secretary of state shall preserve the records  
4 described in subsection (1) for 3 years after the date of  
5 registration. The records shall be available to state and federal  
6 agencies and the friend of the court as provided under section 4 of  
7 the ~~L.E.I.N.-C.J.I.S.~~ policy council act, ~~of 1974,~~ 1974 PA 163, MCL  
8 28.214, and rules promulgated under that section, and to the public  
9 through the secretary of state's commercial look-up service.

10 (3) UPON RECEIPT OF A NOTIFICATION THAT AN AUTOMOBILE  
11 INSURANCE POLICY HAS EXPIRED WITHOUT BEING RENEWED OR IS TERMINATED  
12 OR THAT A POLICYHOLDER CANCELS HIS OR HER AUTOMOBILE INSURANCE  
13 POLICY AS PROVIDED IN SECTION 3101A OF THE INSURANCE CODE OF 1956,  
14 1956 PA 218, MCL 500.3101A, THE SECRETARY OF STATE SHALL ENTER THAT  
15 INFORMATION INTO THE LAW ENFORCEMENT INFORMATION NETWORK.

16 Sec. 227a. (1) If a court has notified the secretary of state  
17 of a vehicle registration number as provided in section ~~328(4)~~  
18 ~~328(5)~~ and the owner has not secured proof that the vehicle  
19 involved in the violation is currently insured under chapter 31 of  
20 the insurance code of 1956, ~~Act No. 218 of the Public Acts of 1956,~~  
21 ~~being sections 500.3101 to 500.3179 of the Michigan Compiled Laws,~~  
22 1956 PA 218, MCL 500.3101 TO 500.3179, the secretary of state shall  
23 not renew, replace, or transfer the registration plate of the  
24 vehicle involved in the violation or allow the purchase of a new  
25 registration plate for the vehicle involved in the violation, until  
26 the owner or the owner's representative appears at a branch office  
27 and does both of the following:

1 (a) Shows a certified statement from an automobile insurer on  
2 a standard form prescribed by the commissioner of insurance that  
3 the vehicle involved in the violation is currently insured under a  
4 prepaid noncancelable policy for a period of not less than 6 months  
5 under chapter 31 of ~~Act No. 218 of the Public Acts of 1956.~~**THE**  
6 **INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.3101 TO 500.3179.**

7 (b) Pays a fee of \$50.00 in addition to any other fee required  
8 by law, of which \$25.00 shall be allocated to the secretary of  
9 state to defray the costs of administering this section.

10 (2) The secretary of state may cancel the registration of a  
11 motor vehicle ~~under either of the following circumstances:~~

12 ~~— (a) The secretary of state receives notice that a court has~~  
13 ~~determined that a vehicle involved in the violation was not insured~~  
14 ~~as required by chapter 31 of Act No. 218 of the Public Acts of~~  
15 ~~1956, at the time of registration.~~

16 ~~— (b) The~~ **IF THE** secretary of state receives notice that a court  
17 has determined that the owner or the owner's representative  
18 presented a certificate of insurance that was forged, altered,  
19 fraudulent, or counterfeit when insurance was required by this act.

20 **(3) THE SECRETARY OF STATE SHALL REVOKE THE REGISTRATION OF A**  
21 **VEHICLE IF THE AUTOMOBILE INSURANCE POLICY FOR THAT VEHICLE HAS**  
22 **EXPIRED WITHOUT BEING RENEWED OR IS TERMINATED OR THE OWNER CANCELS**  
23 **HIS OR HER AUTOMOBILE INSURANCE POLICY AS PROVIDED IN SECTION 3101A**  
24 **OF THE INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.3101A.**

25 ~~(4) (3)~~ Before a cancellation occurs under subsection (2), the  
26 person who will be affected by the cancellation shall be given  
27 notice and an opportunity to be heard.

1           Sec. 328. (1) The owner of a motor vehicle who operates or  
2 permits the operation of the motor vehicle upon the highways of  
3 this state or the operator of the motor vehicle shall produce,  
4 under subsection (2), upon the request of a police officer,  
5 evidence that the motor vehicle is insured under chapter 31 of the  
6 insurance code of 1956, 1956 PA 218, MCL 500.3101 to 500.3179.  
7 Subject to section 907(15), an owner or operator of a motor vehicle  
8 who fails to produce evidence of insurance upon request under this  
9 subsection or who fails to have motor vehicle insurance for the  
10 vehicle as required under chapter 31 of the insurance code of 1956,  
11 1956 PA 218, MCL 500.3101 to 500.3179, is ~~responsible for~~ **GUILTY OF**  
12 ~~a civil infraction.~~ **MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT**  
13 **MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN \$500.00 FOR A FIRST**  
14 **OFFENSE, AND A FINE OF NOT MORE THAN \$1,000.00 FOR A SECOND OR**  
15 **SUBSEQUENT OFFENSE, OR BOTH.** If a person displays an electronic  
16 copy of his or her certificate of insurance using an electronic  
17 device, the police officer shall only view the electronic copy of  
18 the certificate of insurance and shall not manipulate the  
19 electronic device to view any other information on the electronic  
20 device. A person who displays an electronic copy of his or her  
21 certificate of insurance using an electronic device as provided in  
22 this subsection shall not be presumed to have consented to a search  
23 of the electronic device. A police officer may require the person  
24 to electronically forward the electronic copy of the certificate of  
25 insurance to a specified location provided by the police officer.  
26 The police officer may then view the electronic copy of the  
27 certificate of insurance in a setting in which it is safe for the

1 officer to verify that the information contained in the electronic  
2 copy of the certificate of insurance is valid and accurate. This  
3 state, a law enforcement agency, or an employee of this state or a  
4 law enforcement agency is not liable for damage to or loss of an  
5 electronic device that occurs as a result of a police officer's  
6 viewing an electronic copy of a certificate of insurance in the  
7 manner provided in this section, regardless of whether the police  
8 officer or the owner or operator of the vehicle was in possession  
9 of the electronic device at the time the damage or loss occurred.

10 (2) ~~A~~ **UNLESS A SEARCH OF THE LAW ENFORCEMENT INFORMATION**  
11 **NETWORK SHOWS THAT THE AUTOMOBILE INSURANCE POLICY FOR A MOTOR**  
12 **VEHICLE HAS EXPIRED WITHOUT BEING RENEWED OR IS TERMINATED OR THE**  
13 **POLICYHOLDER HAS CANCELED HIS OR HER AUTOMOBILE INSURANCE, A**  
14 certificate of insurance, in paper or electronic form and issued by  
15 an insurance company, that certifies that the security that meets  
16 the requirements of sections 3101 and 3102 of the insurance code of  
17 1956, 1956 PA 218, MCL 500.3101 and 500.3102, is in force is prima  
18 facie evidence that insurance is in force for the motor vehicle  
19 described in the certificate of insurance until the expiration date  
20 shown on the certificate. The certificate, in addition to  
21 describing the motor vehicles for which insurance is in effect,  
22 must, if applicable, state the name of each person named on the  
23 policy, policy declaration, or a declaration certificate whose  
24 operation of the vehicle would cause the liability coverage of that  
25 insurance to become void.

26 ~~—— (3) If, before the appearance date on a citation issued under~~  
27 ~~subsection (1), the defendant submits proof to the court that the~~

1 ~~motor vehicle had insurance meeting the requirements of sections~~  
2 ~~3101 and 3102 of the insurance code of 1956, 1956 PA 218, MCL~~  
3 ~~500.3101 and 500.3102, at the time the violation of subsection (1)~~  
4 ~~occurred, all of the following apply:~~

5 ~~—— (a) The court shall not assess a fine or costs.~~

6 ~~—— (b) The court shall not forward an abstract of the court~~  
7 ~~record to the secretary of state.~~

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

10 ~~—— (4) If an owner or operator of a motor vehicle is determined~~  
11 ~~to be responsible for a violation of subsection (1), the court in~~  
12 ~~which the civil infraction determination is entered may require the~~  
13 ~~person to surrender his or her operator's or chauffeur's license~~  
14 ~~unless proof that the vehicle has insurance meeting the~~  
15 ~~requirements of sections 3101 and 3102 of the insurance code of~~  
16 ~~1956, 1956 PA 218, MCL 500.3101 and 500.3102, is submitted to the~~  
17 ~~court. If the court requires the license to be surrendered, the~~  
18 ~~court shall order the secretary of state to suspend the person's~~  
19 ~~license. The court shall immediately destroy the license and shall~~  
20 ~~forward an abstract of the court record to the secretary of state~~  
21 ~~as required by section 732. Upon receipt of the abstract, the~~  
22 ~~secretary of state shall suspend the person's license beginning~~  
23 ~~with the date on which the person is determined to be responsible~~  
24 ~~for the civil infraction for a period of 30 days or until proof of~~  
25 ~~insurance meeting the requirements of sections 3101 and 3102 of the~~  
26 ~~insurance code of 1956, 1956 PA 218, MCL 500.3101 and 500.3102, is~~  
27 ~~submitted to the secretary of state, whichever occurs later. A~~

1 ~~person who submits proof of insurance to the secretary of state~~  
2 ~~under this subsection shall pay a service fee of \$25.00 to the~~  
3 ~~secretary of state. The person shall not be required to be examined~~  
4 ~~under section 320e and shall not be required to pay a replacement~~  
5 ~~license fee.~~

6 (3) IF AN OWNER OR OPERATOR OF A MOTOR VEHICLE FAILS, UPON  
7 REQUEST OF A POLICE OFFICER, TO PRODUCE EVIDENCE THAT THE MOTOR  
8 VEHICLE IS INSURED UNDER CHAPTER 31 OF THE INSURANCE CODE OF 1956,  
9 1956 PA 218, MCL 500.3101 TO 500.3179, OR IF A SEARCH OF THE LAW  
10 ENFORCEMENT INFORMATION NETWORK SHOWS THAT THE AUTOMOBILE INSURANCE  
11 POLICY FOR THE MOTOR VEHICLE HAS EXPIRED WITHOUT BEING RENEWED OR  
12 IS TERMINATED OR THE POLICYHOLDER HAS CANCELED HIS OR HER  
13 AUTOMOBILE INSURANCE POLICY, THE POLICE OFFICER SHALL DO ALL OF THE  
14 FOLLOWING:

15 (A) IMMEDIATELY CONFISCATE THE MOTOR VEHICLE'S REGISTRATION  
16 PLATE AND DESTROY IT.

17 (B) IMPOUND THE MOTOR VEHICLE.

18 (C) NOTIFY THE SECRETARY OF STATE THROUGH THE LAW ENFORCEMENT  
19 INFORMATION NETWORK IN A FORM PRESCRIBED BY THE SECRETARY OF STATE  
20 THAT THE REGISTRATION PLATE WAS CONFISCATED AND DESTROYED, AND THAT  
21 THE MOTOR VEHICLE WAS IMPOUNDED.

22 (4) THE OWNER OF A MOTOR VEHICLE IMPOUNDED UNDER SUBSECTION  
23 (3) IS LIABLE FOR THE EXPENSES INCURRED IN THE REMOVAL AND STORAGE  
24 OF THE MOTOR VEHICLE WHETHER OR NOT IT IS RETURNED TO HIM OR HER.  
25 THE MOTOR VEHICLE SHALL BE RETURNED TO THE OWNER ONLY IF THE OWNER  
26 PAYS THE EXPENSES OF REMOVAL AND STORAGE. IF REDEMPTION IS NOT MADE  
27 OR THE VEHICLE IS NOT RETURNED AS DESCRIBED UNDER THIS SUBSECTION,

1 IT SHALL BE CONSIDERED AN ABANDONED VEHICLE AND DISPOSED OF UNDER  
2 SECTION 252A.

3 (5) If an owner or operator of a motor vehicle is ~~determined~~  
4 ~~to be responsible for~~ **FOUND GUILTY OF** a violation of subsection  
5 (1), the court ~~in which the civil infraction determination is~~  
6 ~~entered~~ shall notify the secretary of state of the vehicle  
7 registration number and the year and make of the motor vehicle  
8 being operated at the time of the violation. A notification under  
9 this subsection shall be made on the abstract or on a form approved  
10 by the supreme court administrator. Upon receipt, the secretary of  
11 state shall immediately enter this information in the records of  
12 the department. The secretary of state shall not renew, transfer,  
13 or replace the registration plate of the vehicle involved in the  
14 violation or allow the purchase of a new registration plate for the  
15 vehicle involved in the violation until the owner meets the  
16 requirements of section 227a or unless the vehicle involved in the  
17 violation is transferred or sold to a person other than the owner's  
18 spouse, mother, father, sister, brother, or child.

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

23 ~~—— (7) Points shall not be entered on a driver's record under~~  
24 ~~section 320a for a violation of this section.~~

25 (7) ~~(8)~~ This section does not apply to the owner or operator  
26 of a motor vehicle that is registered in a state other than this  
27 state or a foreign country or province.

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

5           (2) If a person is determined under sections 741 to 750 to be  
6 responsible or responsible "with explanation" for a civil  
7 infraction under this act or a local ordinance substantially  
8 corresponding to a provision of this act, the judge or district  
9 court magistrate may order the person to pay a civil fine of not  
10 more than \$100.00 and costs as provided in subsection (4). However,  
11 if the civil infraction was a moving violation that resulted in an  
12 at-fault collision with another vehicle, a person, or any other  
13 object, the civil fine ordered under this section shall be  
14 increased by \$25.00 but the total civil fine shall not exceed  
15 \$100.00. However, for a violation of section 602b, the person shall  
16 be ordered to pay costs as provided in subsection (4) and a civil  
17 fine of \$100.00 for a first offense and \$200.00 for a second or  
18 subsequent offense. For a violation of section 674(1)(s) or a local  
19 ordinance substantially corresponding to section 674(1)(s), the  
20 person shall be ordered to pay costs as provided in subsection (4)  
21 and a civil fine of not less than \$100.00 or more than \$250.00. For  
22 a violation of section 676c, the person shall be ordered to pay  
23 costs as provided in subsection (4) and a civil fine of \$1,000.00.  
24 ~~For a violation of section 328, the civil fine ordered under this~~  
25 ~~subsection shall be not more than \$50.00.~~ For a violation of  
26 section 710d, the civil fine ordered under this subsection shall  
27 not exceed \$10.00, subject to subsection (12). For a violation of

1 section 710e, the civil fine and court costs ordered under this  
2 subsection shall be \$25.00. For a violation of section 682 or a  
3 local ordinance substantially corresponding to section 682, the  
4 person shall be ordered to pay costs as provided in subsection (4)  
5 and a civil fine of not less than \$100.00 or more than \$500.00. For  
6 a violation of section 240, the civil fine ordered under this  
7 subsection shall be \$15.00. For a violation of section 252a(1), the  
8 civil fine ordered under this subsection shall be \$50.00. For a  
9 violation of section 676a(3), the civil fine ordered under this  
10 section shall be not more than \$10.00. For a first violation of  
11 section 319f(1), the civil fine ordered under this section shall be  
12 not less than \$2,500.00 or more than \$2,750.00; for a second or  
13 subsequent violation, the civil fine shall be not less than  
14 \$5,000.00 or more than \$5,500.00. For a violation of section  
15 319g(1)(a), the civil fine ordered under this section shall be not  
16 more than \$10,000.00. For a violation of section 319g(1)(g), the  
17 civil fine ordered under this section shall be not less than  
18 \$2,750.00 or more than \$25,000.00. Permission may be granted for  
19 payment of a civil fine and costs to be made within a specified  
20 period of time or in specified installments, but unless permission  
21 is included in the order or judgment, the civil fine and costs  
22 shall be payable immediately.

23 (3) Except as provided in this subsection, if a person is  
24 determined to be responsible or responsible "with explanation" for  
25 a civil infraction under this act or a local ordinance  
26 substantially corresponding to a provision of this act while  
27 driving a commercial motor vehicle, he or she shall be ordered to

1 pay costs as provided in subsection (4) and a civil fine of not  
2 more than \$250.00.

3 (4) If a civil fine is ordered under subsection (2) or (3),  
4 the judge or district court magistrate shall summarily tax and  
5 determine the costs of the action, which are not limited to the  
6 costs taxable in ordinary civil actions, and may include all  
7 expenses, direct and indirect, to which the plaintiff has been put  
8 in connection with the civil infraction, up to the entry of  
9 judgment. Costs shall not be ordered in excess of \$100.00. A civil  
10 fine ordered under subsection (2) or (3) shall not be waived unless  
11 costs ordered under this subsection are waived. Except as otherwise  
12 provided by law, costs are payable to the general fund of the  
13 plaintiff.

14 (5) In addition to a civil fine and costs ordered under  
15 subsection (2) or (3) and subsection (4) and the justice system  
16 assessment ordered under subsection (13), the judge or district  
17 court magistrate may order the person to attend and complete a  
18 program of treatment, education, or rehabilitation.

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

23 (7) Each district of the district court and each municipal  
24 court may establish a schedule of civil fines, costs, and  
25 assessments to be imposed for civil infractions that occur within  
26 the respective district or city. If a schedule is established, it  
27 shall be prominently posted and readily available for public

1 inspection. A schedule need not include all violations that are  
2 designated by law or ordinance as civil infractions. A schedule may  
3 exclude cases on the basis of a defendant's prior record of civil  
4 infractions or traffic offenses, or a combination of civil  
5 infractions and traffic offenses.

6 (8) The state court administrator shall annually publish and  
7 distribute to each district and court a recommended range of civil  
8 fines and costs for first-time civil infractions. This  
9 recommendation is not binding upon the courts having jurisdiction  
10 over civil infractions but is intended to act as a normative guide  
11 for judges and district court magistrates and a basis for public  
12 evaluation of disparities in the imposition of civil fines and  
13 costs throughout the state.

14 (9) If a person has received a civil infraction citation for  
15 defective safety equipment on a vehicle under section 683, the  
16 court shall waive a civil fine, costs, and assessments upon receipt  
17 of certification by a law enforcement agency that repair of the  
18 defective equipment was made before the appearance date on the  
19 citation.

20 (10) A default in the payment of a civil fine or costs ordered  
21 under subsection (2), (3), or (4) or a justice system assessment  
22 ordered under subsection (13), or an installment of the fine,  
23 costs, or assessment, may be collected by a means authorized for  
24 the enforcement of a judgment under chapter 40 of the revised  
25 judiciary act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or  
26 under chapter 60 of the revised judiciary act of 1961, 1961 PA  
27 236, MCL 600.6001 to 600.6098.

1           (11) If a person fails to comply with an order or judgment  
2 issued under this section within the time prescribed by the court,  
3 the driver's license of that person shall be suspended under  
4 section 321a until full compliance with that order or judgment  
5 occurs. In addition to this suspension, the court may also proceed  
6 under section 908.

7           (12) The court may waive any civil fine, cost, or assessment  
8 against a person who received a civil infraction citation for a  
9 violation of section 710d if the person, before the appearance date  
10 on the citation, supplies the court with evidence of acquisition,  
11 purchase, or rental of a child seating system meeting the  
12 requirements of section 710d.

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

24           (14) If a person has received a citation for a violation of  
25 section 223, the court shall waive any civil fine, costs, and  
26 assessment, upon receipt of certification by a law enforcement  
27 agency that the person, before the appearance date on the citation,

1 produced a valid registration certificate that was valid on the  
2 date the violation of section 223 occurred.

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

13 (15) ~~(16)~~ If a person is determined to be responsible or  
14 responsible "with explanation" for a civil infraction under this  
15 act or a local ordinance substantially corresponding to a provision  
16 of this act and the civil infraction arises out of the ownership or  
17 operation of a commercial quadricycle, he or she shall be ordered  
18 to pay costs as provided in subsection (4) and a civil fine of not  
19 more than \$500.00.

20 (16) ~~(17)~~ As used in this section, "moving violation" means an  
21 act or omission prohibited under this act or a local ordinance  
22 substantially corresponding to this act that involves the operation  
23 of a motor vehicle and for which a fine may be assessed.

24 Enacting section 1. This amendatory act takes effect 90 days  
25 after the date it is enacted into law.

26 Enacting section 2. This amendatory act does not take effect  
27 unless Senate Bill No. \_\_\_\_ or House Bill No. 5031 (request no.

1 03954'15) of the 98th Legislature is enacted into law.