

# HOUSE BILL No. 5791

August 3, 2016, Introduced by Rep. Kesto and referred to the Committee on Transportation and Infrastructure.

A bill to amend 1949 PA 300, entitled  
"Michigan vehicle code,"  
by amending section 904 (MCL 257.904), as amended by 2015 PA 11.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 904. (1) A person whose operator's or chauffeur's license  
2 or registration certificate has been suspended or revoked, whose  
3 application for license has been denied, or who has never applied  
4 for a license, shall not operate a motor vehicle upon a highway or  
5 other place open to the general public or generally accessible to  
6 motor vehicles, including an area designated for the parking of  
7 motor vehicles, within this state.

8       (2) A person shall not knowingly permit a motor vehicle owned

1 by the person to be operated upon a highway or other place open to  
2 the general public or generally accessible to motor vehicles,  
3 including an area designated for the parking of vehicles, within  
4 this state by a person whose license or registration certificate is  
5 suspended or revoked, whose application for license has been  
6 denied, or who has never applied for a license, except as permitted  
7 under this act.

8 (3) Except as otherwise provided in this section, a person who  
9 violates subsection (1) or (2) is guilty of a misdemeanor  
10 punishable as follows:

11 (a) For a first violation, by imprisonment for not more than  
12 93 days or a fine of not more than \$500.00, or both. Unless the  
13 vehicle was stolen or used with the permission of a person who did  
14 not knowingly permit an unlicensed driver to operate the vehicle,  
15 the registration plates of the vehicle shall be canceled by the  
16 secretary of state upon notification by a peace officer.

17 (b) For a violation that occurs after a prior conviction, by  
18 imprisonment for not more than 1 year or a fine of not more than  
19 \$1,000.00, or both. Unless the vehicle was stolen, the registration  
20 plates of the vehicle shall be canceled by the secretary of state  
21 upon notification by a peace officer.

22 (4) A person who operates a motor vehicle in violation of  
23 subsection (1) and who, by operation of that motor vehicle, causes  
24 the death of another person is guilty of a felony punishable by  
25 imprisonment for not more than 15 years or a fine of not less than  
26 \$2,500.00 or more than \$10,000.00, or both. This subsection does  
27 not apply to a person whose operator's or chauffeur's license was

1 suspended because that person failed to answer a citation or comply  
2 with an order or judgment under section 321a.

3 (5) A person who operates a motor vehicle in violation of  
4 subsection (1) and who, by operation of that motor vehicle, causes  
5 the serious impairment of a body function of another person is  
6 guilty of a felony punishable by imprisonment for not more than 5  
7 years or a fine of not less than \$1,000.00 or more than \$5,000.00,  
8 or both. This subsection does not apply to a person whose  
9 operator's or chauffeur's license was suspended because that person  
10 failed to answer a citation or comply with an order or judgment  
11 under section 321a.

12 (6) In addition to being subject to any other penalty provided  
13 for in this act, if a person is convicted under subsection (4) or  
14 (5), the court may impose the sanction permitted under section  
15 625n. If the vehicle is not ordered forfeited under section 625n,  
16 the court shall order vehicle immobilization under section 904d in  
17 the judgment of sentence.

18 (7) A person shall not knowingly permit a motor vehicle owned  
19 by the person to be operated upon a highway or other place open to  
20 the general public or generally accessible to motor vehicles,  
21 including an area designated for the parking of vehicles, within  
22 this state, by a person whose license or registration certificate  
23 is suspended or revoked, whose application for license has been  
24 denied, or who has never been licensed except as permitted by this  
25 act. If a person permitted to operate a motor vehicle in violation  
26 of this subsection causes the serious impairment of a body function  
27 of another person by operation of that motor vehicle, the person

1 knowingly permitting the operation of that motor vehicle is guilty  
2 of a felony punishable by imprisonment for not more than 2 years,  
3 or a fine of not less than \$1,000.00 or more than \$5,000.00, or  
4 both. If a person permitted to operate a motor vehicle in violation  
5 of this subsection causes the death of another person by operation  
6 of that motor vehicle, the person knowingly permitting the  
7 operation of that motor vehicle is guilty of a felony punishable by  
8 imprisonment for not more than 5 years, or a fine of not less than  
9 \$1,000.00 or more than \$5,000.00, or both.

10 (8) If the prosecuting attorney intends to seek an enhanced  
11 sentence under this section based upon the defendant having 1 or  
12 more prior convictions, the prosecuting attorney shall include on  
13 the complaint and information, or an amended complaint and  
14 information, filed in district court, circuit court, municipal  
15 court, or family division of circuit court, a statement listing the  
16 defendant's prior convictions.

17 (9) A prior conviction under this section shall be established  
18 at or before sentencing by 1 or more of the following:

19 (a) A copy of a judgment of conviction.

20 (b) An abstract of conviction.

21 (c) A transcript of a prior trial, plea, or sentencing.

22 (d) A copy of a court register of action.

23 (e) A copy of the defendant's driving record.

24 (f) Information contained in a presentence report.

25 (g) An admission by the defendant.

26 (10) Upon receiving a record of a person's conviction or civil  
27 infraction determination for the unlawful operation of a motor

1 vehicle or a moving violation reportable under section 732 while  
2 the person's operator's or chauffeur's license is suspended or  
3 revoked, the secretary of state immediately shall impose an  
4 additional like period of suspension or revocation. This subsection  
5 applies only if the violation occurs during a suspension of  
6 definite length or if the violation occurs before the person is  
7 approved for a license following a revocation.

8 (11) ~~Upon~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,**  
9 **UPON** receiving a record of a person's conviction or civil  
10 infraction determination for the unlawful operation of a motor  
11 vehicle or a moving violation reportable under section 732 while  
12 the person's operator's or chauffeur's license is indefinitely  
13 suspended or whose application for a license has been denied, the  
14 secretary of state immediately shall impose a 30-day period of  
15 suspension or denial. **THIS SUBSECTION DOES NOT APPLY IF THE**  
16 **UNLAWFUL OPERATION OF A MOTOR VEHICLE OR MOVING VIOLATION UNDER**  
17 **SECTION 732 OCCURRED WHILE THE PERSON'S OPERATOR'S OR CHAUFFEUR'S**  
18 **LICENSE WAS SUSPENDED UNDER SECTION 321A, 511, OR 732A.**

19 (12) Upon receiving a record of the conviction, bond  
20 forfeiture, or a civil infraction determination of a person for  
21 unlawful operation of a motor vehicle requiring a vehicle group  
22 designation while the designation is suspended or revoked under  
23 section 319b, or while the person is disqualified from operating a  
24 commercial motor vehicle by the United States Secretary of  
25 Transportation or under 49 USC 31301 to 31317, the secretary of  
26 state immediately shall impose an additional like period of  
27 suspension or revocation. This subsection applies only if the

1 violation occurs during a suspension of definite length or if the  
2 violation occurs before the person is approved for a license  
3 following a revocation.

4 (13) If the secretary of state receives records of more than 1  
5 conviction or civil infraction determination resulting from the  
6 same incident, all of the convictions or civil infraction  
7 determinations shall be treated as a single violation for purposes  
8 of imposing an additional period of suspension or revocation under  
9 subsection (10), (11), or (12).

10 (14) Before a person is arraigned before a district court  
11 magistrate or judge on a charge of violating this section, the  
12 arresting officer shall obtain the person's driving record from the  
13 secretary of state and shall furnish the record to the court. The  
14 driving record of the person may be obtained from the secretary of  
15 state's computer information network.

16 (15) This section does not apply to a person who operates a  
17 vehicle solely for the purpose of protecting human life or property  
18 if the life or property is endangered and summoning prompt aid is  
19 essential.

20 (16) A person whose vehicle group designation is suspended or  
21 revoked and who has been notified as provided in section 212 of  
22 that suspension or revocation, or whose application for a vehicle  
23 group designation has been denied as provided in this act, or who  
24 has never applied for a vehicle group designation and who operates  
25 a commercial motor vehicle within this state, except as permitted  
26 under this act, while any of those conditions exist is guilty of a  
27 misdemeanor punishable, except as otherwise provided in this

1 section, by imprisonment for not less than 3 days or more than 93  
2 days or a fine of not more than \$100.00, or both.

3 (17) If a person has a second or subsequent suspension or  
4 revocation under this section within 7 years as indicated on the  
5 person's Michigan driving record, the court shall proceed as  
6 provided in section 904d.

7 (18) Any period of suspension or revocation required under  
8 subsection (10) ~~, (11), or~~ (12) does not apply to a person who has  
9 only 1 currently effective suspension or denial on his or her  
10 Michigan driving record under section 321a and was convicted of or  
11 received a civil infraction determination for a violation that  
12 occurred during that suspension or denial. This subsection may only  
13 be applied once during the person's lifetime.

14 (19) For purposes of this section, a person who never applied  
15 for a license includes a person who applied for a license, was  
16 denied, and never applied again.

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