

HOUSE BILL No. 4002

January 31, 1991, Introduced by Rep. Dolan and referred to the Committee on Judiciary.

A bill to amend sections 303, 319, 625, and 625b of Act No. 300 of the Public Acts of 1949, entitled as amended "Michigan vehicle code,"

section 303 as amended by Act No. 346 of the Public Acts of 1988, section 319 as amended by Act No. 406 of the Public Acts of 1988, and sections 625 and 625b as amended by Act No. 109 of the Public Acts of 1987, being sections 257.303, 257.319, 257.625, and 257.625b of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 303, 319, 625, and 625b of Act No. 300
2 of the Public Acts of 1949, section 303 as amended by Act No. 346
3 of the Public Acts of 1988, section 319 as amended by Act No. 406
4 of the Public Acts of 1988, and sections 625 and 625b as amended
5 by Act No. 109 of the Public Acts of 1987, being sections

1 257.303, 257.319, 257.625, and 257.625b of the Michigan Compiled
2 Laws, are amended to read as follows:

3 Sec. 303. (1) The secretary of state shall not issue a
4 license under this act:

5 (a) To a person, as an operator, who is ~~+7-~~ LESS THAN 18
6 years of age, ~~or less~~ except that the secretary of state may
7 issue a license to a person who is not less than 16 years of age
8 and who has satisfactorily passed a driver education course and
9 examination given by a public school or nonpublic school of this
10 or another state offering a course approved by the department of
11 education, or an equivalent examination as prescribed in section
12 811. The secretary of state may issue to a person not less than
13 14 years of age a restricted license as provided in this act.
14 This subdivision ~~shall~~ DOES not apply to a person who has been
15 the holder of a valid driver's license issued by another state,
16 territory, or possession of the United States or another sover-
17 eignty for at least 1 year immediately before application for a
18 driver's license under this act.

19 (b) To a person, as a chauffeur, who is ~~+7-~~ LESS THAN 18
20 years of age, ~~or less~~ except that the secretary of state may
21 issue a license to a person who is not less than 16 years of age
22 and who has satisfactorily passed a driver education course and
23 examination given by a public school or nonpublic school of this
24 or another state offering a course approved by the department of
25 education, or an equivalent examination as prescribed in section
26 811.

1 (c) To a person whose license has been suspended during the
2 period for which the license was suspended.

3 (d) To a person whose license has been revoked under this
4 act until the later of the following:

5 (i) The expiration of not less than 1 year after the license
6 was revoked.

7 (ii) The expiration of not less than 5 years after the date
8 of a subsequent revocation occurring within 7 years after the
9 date of any prior revocation.

10 (e) To a person who is an habitual violator of the criminal
11 laws relating to operating a vehicle while impaired by or under
12 the influence of intoxicating liquor or a controlled substance or
13 a combination of intoxicating liquor and a controlled substance,
14 or with a blood alcohol content of 0.10% or more by weight of
15 alcohol. Convictions of any of the following, whether under a
16 law of this state, a local ordinance substantially corresponding
17 to a law of this state, or a law of another state substantially
18 corresponding to a law of this state, ~~shall be~~ ARE prima facie
19 evidence that the person is an habitual violator as described in
20 this subdivision:

21 (i) Two convictions under section 625(1) or (2); ~~or~~ 1
22 conviction under section 625(1) and 1 conviction under section
23 625(2); OR 1 CONVICTION UNDER SECTION 625B FOLLOWED BY 1 CONVIC-
24 TION UNDER SECTION 625(1) OR (2), within ~~7~~ 10 years.

25 (ii) Three convictions under section 625b, OR 1 CONVICTION
26 UNDER SECTION 625(1) OR (2) FOLLOWED BY 2 CONVICTIONS UNDER
27 SECTION 625B, within 10 years.

1 (f) To a person who in the opinion of the secretary of state
2 is afflicted with or suffering from a physical or mental disabil-
3 ity or disease ~~which~~ THAT prevents that person from exercising
4 reasonable and ordinary control over a motor vehicle while oper-
5 ating the motor vehicle upon the highways.

6 (g) To a person who is unable to understand highway warning
7 or direction signs in the English language.

8 (h) To a person who is an habitually reckless driver. Four
9 convictions of reckless driving under this act or any other law
10 of this state relating to reckless driving or under a local ordi-
11 nance of this state or a law of another state ~~which~~ THAT
12 defines the term "reckless driving" substantially similar to the
13 law of this state ~~shall be~~ ARE prima facie evidence that the
14 person is an habitually reckless driver.

15 (i) To a person who is an habitual criminal. Two convic-
16 tions of a felony involving the use of a motor vehicle in this or
17 another state ~~shall be~~ ARE prima facie evidence that the person
18 is an habitual criminal.

19 (j) To a person who is unable to pass a knowledge, skill, or
20 ability test administered by the secretary of state in connection
21 with the issuance of an original operator's or chauffeur's
22 license, original motorcycle indorsement, or an original or
23 renewal of a vehicle group designation or vehicle indorsement.

24 (k) To a person who has been convicted, received a probate
25 court finding, or been determined responsible for 2 or more
26 moving violations under a law of this state, a local ordinance
27 substantially corresponding to a law of this state, or a law of

1 another state substantially corresponding to a law of this state,
 2 within the preceding 3 years, if the violations occurred ~~prior~~
 3 ~~to~~ BEFORE the issuance of an original license to the person in
 4 this or another state.

5 (1) To a nonresident.

6 (2) Upon receipt of the appropriate records of conviction,
 7 the secretary of state shall revoke the operator's or chauffeur's
 8 license of a person having any of the following convictions,
 9 whether under a law of this state, a local ordinance substan-
 10 tially corresponding to a law of this state, or a law of another
 11 state substantially corresponding to a law of this state:

12 (a) Four convictions of reckless driving within 7 years.

13 (b) Two convictions of a felony involving the use of a motor
 14 vehicle within 7 years.

15 (c) Two convictions under section 625(1) or (2); ~~or~~ 1
 16 conviction under section 625(1) and 1 conviction under section
 17 625(2); OR 1 CONVICTION UNDER SECTION 625B FOLLOWED BY 1 CONVIC-
 18 TION UNDER SECTION 625(1) OR (2), within ~~7~~ 10 years.

19 (d) Three convictions under section 625b, OR 1 CONVICTION
 20 UNDER SECTION 625(1) OR (2) FOLLOWED BY 2 CONVICTIONS UNDER SEC-
 21 TION 625B, within 10 years.

22 (3) The secretary of state shall revoke a license under sub-
 23 section (2) notwithstanding a court order issued under section
 24 625 or 625b, or a local ordinance substantially corresponding to
 25 section 625(1) or (2) or 625b.

26 Sec. 319. (1) The secretary of state shall immediately
 27 suspend for a period of not less than 90 days, ~~not~~ OR more than

1 2 years, the license of a person upon receiving a record of the
2 conviction of the person or the entry of a probate court order of
3 disposition for a child found to be within the provisions of
4 chapter XIIIA of Act No. 288 of the Public Acts of 1939, being
5 sections 712A.1 to 712A.28 of the Michigan Compiled Laws, for any
6 of the following crimes or attempts to commit any of the follow-
7 ing crimes, whether the conviction or probate court disposition
8 is under a law of this state, a local ordinance substantially
9 corresponding to a law of this state, or a law of another state
10 substantially corresponding to a law of this state:

11 (a) Fraudulently altering or forging documents pertaining to
12 motor vehicles, in violation of section 257.

13 (b) Perjury or the making of a false certification to the
14 secretary of state under any law requiring the registration of a
15 motor vehicle or regulating the operation of a motor vehicle on a
16 highway.

17 (c) A violation of section 324, 413, or 414 of the Michigan
18 penal code, Act No. 328 of the Public Acts of 1931, being sec-
19 tions 750.324, 750.413, and 750.414 of the Michigan Compiled
20 Laws; or a violation of section 1 of Act No. 214 of the Public
21 Acts of 1931, being section 752.191 of the Michigan Compiled
22 Laws.

23 (d) Conviction upon 3 charges of reckless driving within the
24 preceding 12 months.

25 (e) Failing to stop and disclose identity at the scene of an
26 accident resulting in death or injury to another person, in
27 violation of section 617.

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

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

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

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

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

13 (2) The secretary of state shall suspend, for the period
14 described in subsection (1), the license of a person upon receiv-
15 ing the record of conviction of the person for a violation of a
16 law of another state substantially corresponding to section
17 625(1) or (2).

18 (3) The secretary of state shall suspend the license of a
19 person convicted of malicious destruction resulting from the
20 operation of a motor vehicle under section 382 of the Michigan
21 penal code, Act No. 328 of the Public Acts of 1931, as amended,
22 being section 750.382 of the Michigan Compiled Laws, for a period
23 of not more than 1 year as ordered by the court as part of the
24 sentence.

25 (4) The secretary of state shall immediately suspend the
26 license of a person for the period specified in the certificate
27 of conviction upon receipt of the person's license and

1 certificate of conviction forwarded to the secretary of state
2 pursuant to section 367c of the Michigan penal code, Act No. 328
3 of the Public Acts of 1931, being section 750.367c of the
4 Michigan Compiled Laws.

5 (5) The secretary of state shall suspend, for a period of
6 not less than 6 months ~~nor~~ OR more than 18 months, the license
7 of a person having the following convictions within a ~~7-year~~
8 10-YEAR period, whether under the law of this state, a local
9 ordinance substantially corresponding to a law of this state, or
10 a law of another state substantially corresponding to a law of
11 this state:

12 (a) Two convictions under section 625b.

13 (b) One conviction under section 625(1) or (2) followed by 1
14 conviction under section 625b.

15 (6) Upon receipt of a certificate of conviction pursuant to
16 section 33b(3) of the Michigan liquor control act, Act No. 8 of
17 the Public Acts of the Extra Session of 1933, being section
18 436.33b of the Michigan Compiled Laws, or a local ordinance or
19 law of another state substantially corresponding to section
20 33b(3) of Act No. 8 of the Public Acts of the Extra Session of
21 1933, the secretary of state shall suspend the person's
22 operator's or chauffeur's license for a period of 90 days. A
23 suspension under this subsection ~~shall be~~ IS in addition to any
24 other suspension of the person's license.

25 (7) Upon receipt of the record of the conviction of a
26 person, or the entry of a probate court order of disposition for
27 a child found to be within the provisions of chapter XIIA of Act

1 No. 288 of the Public Acts of 1939, for a violation of section
2 602a of this act or section 479a(1), (4), or (5) of Act No. 328
3 of the Public Acts of 1931, being section 750.479a of the
4 Michigan Compiled Laws, the secretary of state immediately shall
5 suspend the license of the person for the period ordered by the
6 court as part of the sentence or disposition.

7 (8) For purposes of this section, the secretary of state
8 shall treat a conviction or probate court disposition for a child
9 found to be within the provisions of chapter XIIA of Act No. 288
10 of the Public Acts of 1939 for an attempted offense as if the
11 offense had been completed.

12 Sec. 625. (1) A person, whether licensed or not, who is
13 under the influence of intoxicating liquor or a controlled sub-
14 stance, or a combination of intoxicating liquor and a controlled
15 substance, shall not operate a vehicle upon a highway or other
16 place open to the general public, including an area designated
17 for the parking of vehicles, within the state. A peace officer
18 may, without a warrant, arrest a person when the peace officer
19 has reasonable cause to believe that the person was, at the time
20 of an accident, the driver of a vehicle involved in the accident
21 and was operating the vehicle upon a public highway or other
22 place open to the general public, including an area designated
23 for the parking of vehicles, ~~in~~ WITHIN the state while in vio-
24 lation of this subsection or of subsection (2), or of a local
25 ordinance substantially corresponding to this subsection or sub-
26 section (2).

1 (2) A person, whether licensed or not, whose blood contains
2 0.10% or more by weight of alcohol, shall not operate a vehicle
3 upon a highway or other place open to the general public, includ-
4 ing an area designated for the parking of vehicles, within the
5 state.

6 (3) The owner of a vehicle or a person in charge or in con-
7 trol of a vehicle shall not authorize or knowingly permit the
8 vehicle to be operated upon a highway or other place open to the
9 general public, including an area designated for the parking of
10 motor vehicles, within the state by a person who is under the
11 influence of intoxicating liquor or a controlled substance, or a
12 combination of intoxicating liquor and a controlled substance.

13 (4) Except as otherwise provided in this section, a person
14 who is convicted of a violation of subsection (1), (2), or (3) is
15 guilty of a misdemeanor, punishable by imprisonment for not more
16 than 90 days, or a fine of not less than \$100.00 ~~nor~~ OR more
17 than \$500.00, or both, together with costs of the prosecution.
18 As part of the sentence for a violation of subsection (1) or (2),
19 the court shall order the secretary of state to suspend the
20 operator's or chauffeur's license of the person for a period of
21 not less than 6 months ~~nor~~ OR more than 2 years. The court may
22 order the secretary of state to issue to the person a restricted
23 license permitting the person during all or a specified portion
24 of the period of suspension to drive only to and from the
25 person's residence and work location; in the course of the
26 person's employment or occupation; to and from an alcohol or drug
27 education program or treatment program as ordered by the court;

1 to and from the person's residence and an educational institution
2 at which the person is enrolled as a student; or pursuant to a
3 combination of these restrictions. The court may also order that
4 the restricted license include the requirement that a person
5 shall not operate a motor vehicle unless the vehicle is equipped
6 with a functioning certified ignition interlock device. The
7 device shall be set to render the motor vehicle inoperable if the
8 device detects 0.02% or more by weight of alcohol in the blood of
9 the person who offers a breath sample. The court may order
10 installation of a certified ignition interlock device on any
11 motor vehicle that the person owns or operates, the costs of
12 which shall be borne by the person whose license is restricted.
13 The court shall not order the secretary of state to issue a
14 restricted chauffeur's license ~~which~~ THAT would permit a person
15 to operate a truck or truck tractor, including a trailer, ~~which~~
16 THAT hauls hazardous material. The court shall not order the
17 secretary of state to issue a restricted license unless the
18 person states under oath and the court finds that the person is
19 unable to take public transportation to and from his or her work
20 location, place of alcohol or drug education or treatment, or
21 educational institution, and does not have ~~any~~ family members
22 or others able to provide transportation. The court order and
23 license shall indicate the person's work location and the
24 approved route or routes and permitted times of travel. ~~For~~
25 ~~purposes of~~ AS USED IN this subsection, "work location"
26 includes, as applicable, either or both of the following:

1 (i) The specific place or places of employment.

2 (ii) The territory or territories regularly visited by the
3 person in pursuance of the person's occupation.

4 (5) A person who violates subsection (1) or (2) or a local
5 ordinance substantially corresponding to subsection (1) or (2)
6 within ~~7~~ 10 years of a prior conviction may be sentenced to
7 imprisonment for not more than 1 year, or a fine of not more than
8 \$1,000.00, or both. As part of the sentence, the court shall
9 order the secretary of state to revoke the operator's or
10 chauffeur's license of the person. ~~For purposes of~~ AS USED IN
11 this section, "prior conviction" means a conviction under subsec-
12 tion (1) or (2) OR SECTION 625B, a local ordinance substantially
13 corresponding to subsection (1) or (2) OR SECTION 625B, or a law
14 of another state substantially corresponding to subsection (1) or
15 (2) OR SECTION 625B.

16 (6) A person who violates subsection (1) or (2) or a local
17 ordinance substantially corresponding to subsection (1) or (2)
18 within 10 years of 2 or more prior convictions, as defined in
19 subsection (5), is guilty of a felony. As part of the sentence,
20 the court shall order the secretary of state to revoke the
21 operator's or chauffeur's license of the person.

22 (7) As part of the sentence for a violation of subsection
23 (1) or (2), or a local ordinance substantially corresponding to
24 subsection (1) or (2), the court may order the person to perform
25 service to the community, as designated by the court, without
26 compensation, for a period not to exceed 12 days. The person
27 shall reimburse the state or appropriate local unit of government

1 for the cost of insurance incurred by the state or local unit of
2 government as a result of the person's activities under this
3 subsection.

4 (8) Before imposing sentence for a violation of subsection
5 (1) or (2) or a local ordinance substantially corresponding to
6 subsection (1) or (2), the court shall order the person to
7 undergo screening and assessment by a person or agency designated
8 by the office of substance abuse services, to determine whether
9 the person is likely to benefit from rehabilitative services,
10 including alcohol or drug education and alcohol or drug treatment
11 programs. As part of the sentence, the court may order the
12 person to participate in and successfully complete 1 or more
13 appropriate rehabilitative programs. The person shall pay for
14 the costs of the screening, assessment, and rehabilitative
15 services.

16 (9) Before accepting a plea of guilty under this section,
17 the court shall advise the accused of the statutory consequences
18 possible as the result of a plea of guilty in respect to suspen-
19 sion or revocation of an operator's or chauffeur's license, the
20 penalty imposed for violation of this section, and the limitation
21 on the right of appeal.

22 (10) The operator's or chauffeur's license of a person found
23 guilty of violating subsection (1) or (2), or a local ordinance
24 substantially corresponding to subsection (1) or (2), shall be
25 surrendered to the court in which the person was convicted, and
26 the court shall immediately forward the surrendered license and
27 an abstract of conviction to the secretary of state. The

1 abstract of conviction shall indicate the sentence imposed. Upon
2 receipt of, and pursuant to the abstract of conviction, the sec-
3 retary of state shall suspend or revoke the person's license and,
4 if ordered by the court and the person is otherwise eligible for
5 a license, issue to the person a restricted license stating the
6 limited driving privileges indicated on the abstract. If the
7 license is not forwarded to the secretary of state, an explana-
8 tion of the reason why the license is absent shall be attached.
9 If the conviction is appealed to circuit court, that court may,
10 ex parte, order the secretary of state to rescind the suspension,
11 revocation, or restricted license issued pursuant to this
12 section.

13 Sec. 625b. (1) A person shall not operate a vehicle upon a
14 highway or other place open to the general public, including an
15 area designated for the parking of vehicles, within the state
16 when, due to the consumption of an intoxicating liquor, a con-
17 trolled substance, or a combination of an intoxicating liquor and
18 a controlled substance, the person has visibly impaired his or
19 her ability to operate the vehicle. If a person is charged with
20 violating section 625(1) or (2), a finding of guilty is permissi-
21 ble under this section.

22 (2) Except as otherwise provided in this section, a person
23 convicted of a violation of this section is guilty of a misde-
24 meanor, punishable by imprisonment for not more than 90 days, or
25 a fine of not more than \$300.00, or both, together with costs of
26 the prosecution. As part of the sentence, the court shall order
27 the secretary of state to suspend the operator's or chauffeur's

1 license of the person for a period of not less than 90 days nor
2 more than 1 year. The court may order the secretary of state to
3 issue to the person a restricted license permitting the person
4 during all or a specified portion of the period of suspension to
5 drive only to and from the person's residence and work location;
6 in the course of the person's employment or occupation; to and
7 from an alcohol or drug education program or treatment program as
8 ordered by the court; to and from the person's residence and an
9 educational institution at which the person is enrolled as a stu-
10 dent; or pursuant to a combination of these restrictions. The
11 court may also order that the restricted license include the
12 requirement that a person shall not operate a motor vehicle
13 unless the vehicle is equipped with a functioning certified igni-
14 tion interlock device. The device shall be set to render the
15 motor vehicle inoperable if the device detects 0.02% or more by
16 weight of alcohol in the blood of the person who offers a breath
17 sample. The court may order installation of a certified ignition
18 interlock device on any motor vehicle that the person owns or
19 operates, the costs of which shall be borne by the person whose
20 license is restricted. The court shall not order the secretary
21 of state to issue a restricted chauffeur's license ~~which~~ THAT
22 would permit a person to operate a truck or truck tractor,
23 including a trailer, ~~which~~ THAT hauls hazardous material. The
24 court shall not order the secretary of state to issue a
25 restricted license unless the person states under oath and the
26 court finds that the person is unable to take public
27 transportation to and from his or her work location, place of

1 alcohol or drug education or treatment, or educational
2 institution, and does not have ~~any~~ family members or others
3 able to provide transportation. The court order and license
4 shall indicate the person's work location and the approved route
5 or routes and permitted times of travel. ~~For purposes of~~ AS
6 USED IN this subsection, "work location" includes, as applicable,
7 either or both of the following:

8 (i) The specific place or places of employment.

9 (ii) The territory or territories regularly visited by the
10 person in pursuance of the person's occupation.

11 (3) A person who violates this section or a local ordinance
12 substantially corresponding to this section within ~~7~~ 10 years
13 of a prior conviction may be sentenced to imprisonment for not
14 more than 1 year, or a fine of not more than \$1,000.00, or both.
15 As part of the sentence, the court shall order the secretary of
16 state to suspend the operator's or chauffeur's license of the
17 person for a period of not less than 6 months ~~nor~~ OR more than
18 18 months. The court may order the secretary of state to issue
19 to the person a restricted license as provided in subsection (2),
20 except that a restricted license shall not be issued during the
21 first 60 days of the suspension period. ~~For purposes of~~ AS
22 USED IN this section, "prior conviction" means a conviction under
23 this section ~~or~~ OR section 625(1) or (2), a local ordinance sub-
24 stantially corresponding to this section or section 625(1) or
25 (2), or a law of another state substantially corresponding to
26 this section or section 625(1) or (2).

1 (4) A person who violates this section, or a local ordinance
2 substantially corresponding to this section, within 10 years of 2
3 or more prior convictions, as defined in subsection (3), may be
4 sentenced as provided in subsection (3), except that as part of
5 the sentence the court shall order the secretary of state to
6 revoke the operator's or chauffeur's license of the person.

7 (5) As part of the sentence for a violation of this section
8 or a local ordinance substantially corresponding to this section,
9 the court may order the person to perform service to the communi-
10 ty, as designated by the court, without compensation, for a
11 period not to exceed 12 days. The person shall reimburse the
12 state or appropriate local unit of government for the cost of
13 insurance incurred by the state or local unit of government as a
14 result of the person's activities under this subsection.

15 (6) Before imposing sentence for a violation of this section
16 or a local ordinance substantially corresponding to this section,
17 the court shall order the person to undergo screening and assess-
18 ment by a person or agency designated by the office of substance
19 abuse services, to determine whether the person is likely to ben-
20 efit from rehabilitative services, including alcohol or drug edu-
21 cation and alcohol or drug treatment programs. As part of the
22 sentence, the court may order the person to participate in and
23 successfully complete 1 or more appropriate rehabilitative
24 programs. The person shall pay for the costs of the screening,
25 assessment, and rehabilitative services.

26 (7) Before accepting a plea of guilty under this section,
27 the court shall advise the accused of the statutory consequences

1 possible as a result of a plea of guilty in respect to suspension
2 or revocation of an operator's or chauffeur's license, the pen-
3 alty imposed for violation of this section, and the limitation on
4 the right of appeal.

5 (8) The operator's or chauffeur's license of a person found
6 guilty of violating this section, or a local ordinance substan-
7 tially corresponding to this section, shall be surrendered to the
8 court in which the person was convicted. The court shall immedi-
9 ately forward the surrendered license and an abstract of convic-
10 tion to the secretary of state. The abstract of conviction shall
11 indicate the sentence imposed. Upon receipt of and pursuant to
12 the abstract of conviction, the secretary of state shall suspend
13 or revoke the person's license and, if ordered by the court and
14 the person is otherwise eligible for a license, issue to the
15 person a restricted license stating the limited driving privi-
16 leges indicated on the abstract. If the license is not forwarded
17 to the secretary of state, an explanation of the reason why the
18 license is absent shall be attached. If the conviction is
19 appealed to circuit court, that court may, ex parte, order the
20 secretary of state to rescind the suspension, revocation, or
21 restricted license issued pursuant to this section.