

# HOUSE BILL No. 4645

March 25, 1991, Introduced by Rep. Bennane and referred to the Committee on Judiciary.

A bill to amend sections 204, 249, 254, and 303 of Act No. 300 of the Public Acts of 1949, entitled as amended "Michigan vehicle code,"

section 249 as amended by Act No. 255 of the Public Acts of 1988, section 254 as amended by Act No. 98 of the Public Acts of 1990, and section 303 as amended by Act No. 346 of the Public Acts of 1988, being sections 257.204, 257.249, 257.254, and 257.303 of the Michigan Compiled Laws; and to add section 254a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 204, 249, 254, and 303 of Act No. 300  
2 of the Public Acts of 1949, section 249 as amended by Act No. 255  
3 of the Public Acts of 1988, section 254 as amended by Act No. 98  
4 of the Public Acts of 1990, and section 303 as amended by Act  
5 No. 346 of the Public Acts of 1988, being sections 257.204,

1 257.249, 257.254, and 257.303 of the Michigan Compiled Laws, are  
2 amended and section 254a is added to read as follows:

3       Sec. 204. (1) Except as OTHERWISE provided in this act, the  
4 secretary of state shall observe, enforce, and administer this  
5 act. The secretary of state shall not establish a highway  
6 patrol.

7       (2) The secretary of state may promulgate rules pursuant to  
8 THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act No. 306 of the  
9 Public Acts of 1969, as amended, being sections 24.201 to  
10 ~~24.315~~ 24.328 of the Michigan Compiled Laws, necessary to  
11 administer this act.

12       (3) The secretary of state may adopt an official seal.

13       (4) THE PROSECUTING ATTORNEY MAY ENFORCE ANY VIOLATION OF  
14 THIS ACT THAT IS A MISDEMEANOR OR A FELONY.

15       Sec. 249. (1) The secretary of state may deny the applica-  
16 tion of a person for a license as a dealer and refuse to issue  
17 the person a license as a dealer, or may suspend or revoke a  
18 license already issued, if the secretary of state finds that ~~the~~  
19 ~~applicant or licensee has done~~ 1 or more of the following  
20 APPLY:

21       (a) ~~Has~~ THE APPLICANT OR LICENSEE HAS made a false state-  
22 ment of a material fact in his or her application.

23       (b) ~~Has~~ THE APPLICANT OR LICENSEE HAS not complied with  
24 the provisions of this chapter.

25       (c) ~~Has~~ THE APPLICANT OR LICENSEE HAS sold or offered for  
26 sale a new vehicle of a type required to be registered under this

1 act without having authority of a contract with a manufacturer or  
2 distributor of the new vehicle.

3 (d) ~~Has~~ THE APPLICANT OR LICENSEE HAS been guilty of a  
4 fraudulent act in connection with selling or otherwise dealing in  
5 vehicles of a type required to be registered under this act.

6 (e) ~~Has~~ THE APPLICANT OR LICENSEE HAS entered into or is  
7 about to enter into a contract or agreement with a manufacturer  
8 or distributor of vehicles of a type required to be registered  
9 under this act ~~, which~~ THAT is contrary to any provision of  
10 this act.

11 (f) ~~Has~~ THE APPLICANT OR LICENSEE HAS no established place  
12 of business ~~which~~ THAT is used or will be used for the purpose  
13 of selling, displaying, and offering for sale or dealing in vehi-  
14 cles of a type required to be registered, and does not have  
15 proper servicing facilities.

16 (g) If the applicant is a corporation or partnership, a  
17 stockholder, officer, director, or partner of the applicant has  
18 been guilty of any act or omission ~~which~~ THAT would be cause  
19 for refusing, revoking, or suspending a license issued to the  
20 officer, director, or partner as an individual.

21 (h) ~~Has~~ THE APPLICANT OR LICENSEE HAS possessed a vehicle  
22 or a vehicle part ~~which~~ THAT has been confiscated under section  
23 415 of the Michigan penal code, Act No. 328 of the Public Acts  
24 of 1931, as amended, being section 750.415 of the Michigan  
25 Compiled Laws, OR HAS POSSESSED A VEHICLE, A MAJOR COMPONENT  
26 PART, OR OTHER PROPERTY THAT HAS BEEN FORFEITED PURSUANT TO  
27 SECTION 535A OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING

1 SECTION 750.535A OF THE MICHIGAN COMPILED LAWS. The secretary of  
2 state shall conduct a hearing pursuant to the administrative pro-  
3 cedures act of 1969, Act No. 306 of the Public Acts of 1969, as  
4 amended, being sections 24.201 to 24.328 of the Michigan Compiled  
5 Laws, before the secretary of state takes any action under this  
6 subdivision.

7 (i) ~~Has~~ THE APPLICANT OR LICENSEE HAS been convicted under  
8 SECTION 254 OF THIS ACT OR section ~~415~~ 415(1) of ~~the Michigan~~  
9 ~~penal code,~~ Act No. 328 of the Public Acts of 1931, as amended.

10 (j) Until January 1, 1993, THE APPLICANT OR LICENSEE has  
11 been convicted of violating Act No. 119 of the Public Acts of  
12 1986, being sections 257.1351 to 257.1355 of the Michigan  
13 Compiled Laws.

14 (2) THE SECRETARY OF STATE SHALL REVOKE THE LICENSE OF A  
15 PERSON AS A DEALER, UPON RECEIPT OF THE APPROPRIATE ABSTRACTS OF  
16 CONVICTION, AND SHALL DENY THE APPLICATION OF A PERSON FOR A  
17 LICENSE AS A DEALER, UNTIL THE EXPIRATION OF NOT LESS THAN 5  
18 YEARS AFTER THE DATE OF THE PERSON'S LAST CONVICTION IF 1 OR MORE  
19 OF THE FOLLOWING APPLY:

20 (A) THE APPLICANT OR LICENSEE HAS BEEN CONVICTED UNDER SEC-  
21 TION 415(2) OR 535A OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931,  
22 BEING SECTIONS 750.415 AND 750.535A OF THE MICHIGAN COMPILED  
23 LAWS.

24 (B) THE APPLICANT OR LICENSEE HAS BEEN CONVICTED UNDER SEC-  
25 TION 413 OR 535D OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931 AND  
26 HAS 1 OR MORE PRIOR CONVICTIONS FOR VIOLATIONS OR ATTEMPTED  
27 VIOLATIONS OF SECTION 413, 414, 415, 535, 535A, OR 535D OF ACT

1 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.413,  
2 750.414, 750.415, 750.535, 750.535A, AND 750.535D OF THE MICHIGAN  
3 COMPILED LAWS.

4 (3) THE SECRETARY OF STATE SHALL DENY THE APPLICATION OF A  
5 PERSON FOR A LICENSE AS A DEALER IF 1 OR MORE OF THE FOLLOWING  
6 APPLY:

7 (A) THE PERSON HAS 3 OR MORE CONVICTIONS UNDER SECTION 413  
8 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931.

9 (B) THE PERSON HAS 3 OR MORE CONVICTIONS UNDER SECTION 535A  
10 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931.

11 (C) THE PERSON HAS 3 OR MORE CONVICTIONS UNDER SECTION 535D  
12 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931.

13 Sec. 254. ~~Any person who shall knowingly make any false~~  
14 ~~statement of a material fact, either in his or her application~~  
15 ~~for the certificate of title required by this act, or in any~~  
16 ~~assignment of that title, or who, with intent to procure or pass~~  
17 ~~title to a motor vehicle which he or she knows or has reason to~~  
18 ~~believe has been stolen, shall receive or transfer possession of~~  
19 ~~the same from or to another, or who shall have in his or her pos-~~  
20 ~~session any vehicle which he or she knows or has reason to~~  
21 ~~believe has been stolen, and who is not an officer of the law~~  
22 ~~engaged at the time in the performance of his or her duty as such~~  
23 ~~officer, is guilty of a felony, punishable by a fine of not more~~  
24 ~~than \$5,000.00, or by imprisonment for not more than 10 years, or~~  
25 ~~both. This provision shall not be exclusive of any other penal-~~  
26 ~~ties prescribed by any law for the larceny of the unauthorized~~  
27 ~~taking of a vehicle.~~ A PERSON WHO DOES EITHER OF THE FOLLOWING

1 IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE  
2 THAN 10 YEARS OR A FINE OF NOT MORE THAN \$20,000.00, OR BOTH:

3 (A) KNOWINGLY MAKES A FALSE STATEMENT OF A MATERIAL FACT,  
4 EITHER IN HIS OR HER APPLICATION FOR THE CERTIFICATE OF TITLE  
5 REQUIRED BY THIS ACT OR IN AN ASSIGNMENT OF THE CERTIFICATE OF  
6 TITLE.

7 (B) WITH INTENT TO PROCURE OR PASS TITLE TO A MOTOR VEHICLE  
8 THAT HE OR SHE KNOWS OR HAS REASON TO BELIEVE HAS BEEN STOLEN OR  
9 HAS 1 OR MORE MAJOR COMPONENT PARTS THAT HAVE BEEN STOLEN,  
10 RECEIVES OR TRANSFERS POSSESSION OF THE VEHICLE FROM OR TO  
11 ANOTHER.

12 (2) THIS SECTION DOES NOT PROHIBIT THE PROSECUTION OF A  
13 PERSON UNDER ANY OTHER LAW FOR THE LARCENY OR THE UNAUTHORIZED  
14 TAKING OF A MOTOR VEHICLE OR MAJOR COMPONENT PART.

15 SEC. 254A. (1) A PERSON WHO DOES EITHER OF THE FOLLOWING IS  
16 GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN  
17 10 YEARS OR A FINE OF NOT MORE THAN \$20,000.00, OR BOTH:

18 (A) KNOWINGLY SELLS, GIVES TO A PERSON, OR EXCHANGES A MOTOR  
19 VEHICLE CERTIFICATE OF TITLE WITHOUT ALSO SELLING, GIVING TO THE  
20 PERSON, OR EXCHANGING THE MOTOR VEHICLE FOR WHICH THE TITLE WAS  
21 ISSUED.

22 (B) SELLS, GIVES TO A PERSON, OR EXCHANGES A MOTOR VEHICLE  
23 CERTIFICATE OF TITLE OR IDENTIFYING MARKER KNOWING THAT THE CER-  
24 TIFICATE OF TITLE OR IDENTIFYING MARKER WILL BE USED TO DISGUISE  
25 THE IDENTITY OF A STOLEN MOTOR VEHICLE OR A MOTOR VEHICLE THAT  
26 HAS 1 OR MORE MAJOR COMPONENT PARTS THAT ARE STOLEN.

1 (2) A PERSON WHO, WITH THE INTENT TO MISLEAD ANOTHER PERSON  
2 AS TO THE IDENTITY OF A MOTOR VEHICLE, BUYS, RECEIVES, OR  
3 POSSESSES A MOTOR VEHICLE CERTIFICATE OF TITLE OR IDENTIFYING  
4 MARKER THAT BELONGS TO ANOTHER VEHICLE, IS GUILTY OF A FELONY  
5 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR BY A FINE  
6 OF NOT MORE THAN \$20,000.00, OR BOTH.

7 (3) A PERSON WHO KNOWINGLY MAKES OR PRESENTS A FALSE,  
8 FORGED, OR ALTERED DOCUMENT TO OBTAIN A MOTOR VEHICLE CERTIFICATE  
9 OF TITLE FROM THE SECRETARY OF STATE IS GUILTY OF A FELONY PUN-  
10 ISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR BY A FINE OF  
11 NOT MORE THAN \$10,000.00, OR BOTH.

12 (4) THIS SECTION DOES NOT PROHIBIT THE PROSECUTION OF A  
13 PERSON UNDER ANY OTHER LAW FOR THE LARCENY OR THE UNAUTHORIZED  
14 TAKING OF A MOTOR VEHICLE OR MAJOR COMPONENT PART.

15 (5) AS USED IN THIS SECTION:

16 (A) "IDENTIFYING MARKER" MEANS A VEHICLE IDENTIFICATION  
17 NUMBER, FEDERAL SAFETY STICKER, ENGINE NUMBER, TRANSMISSION  
18 NUMBER, BODY TAG, OR COMPONENT PART NUMBER, OR AN IDENTITY PLATE  
19 OR STICKER THAT IS STAMPED OR OTHERWISE MARKED WITH THE VEHICLE  
20 IDENTIFICATION NUMBER OR VEHICLE IDENTIFICATION NUMBER  
21 DERIVATIVE.

22 (B) "VEHICLE IDENTIFICATION NUMBER" MEANS AN IDENTIFICATION  
23 NUMBER ASSIGNED TO A VEHICLE BY THE MANUFACTURER OR A SPECIAL  
24 IDENTIFYING NUMBER ASSIGNED TO A VEHICLE BY THE SECRETARY OF  
25 STATE UNDER SECTION 230.

26 (C) "VEHICLE IDENTIFICATION NUMBER DERIVATIVE" MEANS A PART  
27 OF THE VEHICLE IDENTIFICATION NUMBER THAT IS UNIQUE IN ITSELF BUT

1 IS ALPHABETICALLY AND NUMERICALLY IDENTIFIABLE TO THE VEHICLE  
2. IDENTIFICATION NUMBER.

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

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

19       (b) ~~To a~~ A person, as a chauffeur, who is ~~+17 years of age~~  
20 ~~or~~ less THAN 18 YEARS OF AGE, except that the secretary of state  
21 may issue a license to a person who is not less than 16 years of  
22 age and who has satisfactorily passed a driver education course  
23 and examination given by a public school or nonpublic school of  
24 this or another state offering a course approved by the depart-  
25 ment of education, or an equivalent COURSE AND examination as  
26 prescribed in section 811.



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

3 (d) ~~To a~~ A person whose license has been revoked under  
4 this 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 (iii) IF THE LICENSE WAS REVOKED UNDER SUBSECTION (2)(E) TO  
11 (G), THE EXPIRATION OF NOT LESS THAN 2 YEARS AFTER THE DATE OF  
12 THE PERSON'S LAST CONVICTION.

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

24 (i) Two convictions under section 625(1) or (2), or 1 con-  
25 viction under section 625(1) and 1 conviction under section  
26 625(2) within 7 years.

1 (ii) Three convictions under section 625b within 10 years.

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

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

9 (h) ~~To a~~ A person who is an habitually reckless driver.

10 Four convictions of reckless driving under this act or any other  
11 law of this state relating to reckless driving or under a local  
12 ordinance of this state or a law of another state which defines  
13 the term "reckless driving" substantially similar to the law of  
14 this state ~~shall be~~ ARE prima facie evidence that the person is  
15 an habitually reckless driver.

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

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

26 (k) ~~To a~~ A person who has been convicted, received a  
27 probate court finding, or been determined responsible for 2 or

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

7 (1) ~~To a~~ A nonresident.

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

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

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

17 (c) Two convictions under section 625(1) or (2), or 1 con-  
18 viction under section 625(1) and 1 conviction under section  
19 625(2) within 7 years.

20 (d) Three convictions under section 625b within 10 years.

21 (E) ONE OR MORE CONVICTIONS UNDER SECTION 535A OF THE  
22 MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF 1931,  
23 BEING SECTION 750.535A OF THE MICHIGAN COMPILED LAWS.

24 (F) TWO OR MORE CONVICTIONS UNDER SECTION 413 OF ACT NO. 328  
25 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.413 OF THE MICHIGAN  
26 COMPILED LAWS.

1 (G) TWO OR MORE CONVICTIONS UNDER SECTION 535D OF ACT  
2 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.535D OF THE  
3 MICHIGAN COMPILED LAWS.

4 (3) The secretary of state shall revoke a license under sub-  
5 section (2) notwithstanding a court order issued under section  
6 625 or 625b, or a local ordinance substantially corresponding to  
7 section 625(1) or (2) or 625b.

8 Section 2. This amendatory act shall not take effect unless  
9 Senate Bill \_\_\_\_\_ or House Bill No. 4643 (request no. 01292'91)  
10 of the 86th Legislature is enacted into law.