

# HOUSE BILL No. 5185

September 27, 1991, Introduced by Reps. Leland, Palamara, Rocca, Barns, Middaugh, Hertel, Gire, Niederstadt, Randall, Wozniak, Pitoniak, Owen, Baade, Dobronski, Joe Young, Sr., DeMars, Stopczynski, Trim, Nye, Hoffman, Bartnik, Strand, Harder, Clarke, Munsell, Sikkema, Willis Bullard, London, Dobb, Shugars, Oxender, Bobier, Ostling, Gilmer, Bennane, Jonker, Olshove, Hickner, Kosteva, Gubow, Bennett, Murphy, Hunter, Keith and Mathieu and referred to the Committee on Judiciary.

A bill to amend section 732 of Act No. 300 of the Public Acts of 1949, entitled as amended  
"Michigan vehicle code,"

as amended by Act No. 100 of the Public Acts of 1991, being section 257.732 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 732 of Act No. 300 of the Public Acts of  
2 1949, as amended by Act No. 100 of the Public Acts of 1991, being  
3 section 257.732 of the Michigan Compiled Laws, is amended to read  
4 as follows:

5 Sec. 732. (1) Each municipal judge and each clerk of a  
6 court of record shall keep a full record of every case in which a  
7 person is charged with or cited for a violation of this act or of  
8 a law corresponding to this act regulating the operation of  
9 vehicles on highways, OR FOR A VIOLATION OF SECTION 89A OR 529A

1 OF THE MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF  
2 1931, BEING SECTIONS 750.89A AND 750.529A OF THE MICHIGAN  
3 COMPILED LAWS.

4       (2) Within 14 days after the conviction or forfeiture of  
5 bail of a person, or entry of a civil infraction determination,  
6 default judgment, or probate court order of disposition for a  
7 child found to be within the provisions of chapter XIIA of Act  
8 No. 288 of the Public Acts of 1939, being sections 712A.1 to  
9 712A.28 of the Michigan Compiled Laws, upon a charge of, or  
10 citation for, violating this act or a local ordinance correspond-  
11 ing to this act regulating the operation of vehicles on highways,  
12 OR FOR A VIOLATION OF SECTION 89A OR 529A OF ACT NO. 328 OF THE  
13 PUBLIC ACTS OF 1931, and, for each case charging a violation of  
14 section 625(1), (3), (4), or (5), or a local ordinance substan-  
15 tially corresponding to section 625(1) or (3) in which the charge  
16 is dismissed or the defendant is acquitted, except as provided in  
17 subsection (15), the municipal judge or clerk of the court of  
18 record shall prepare and immediately forward to the secretary of  
19 state an abstract of the record of the court for the case. The  
20 abstract shall be certified by signature, stamp, or facsimile  
21 signature by the person required to prepare the abstract to be  
22 true and correct. If a city or village department, bureau, or  
23 person is authorized to accept a payment of money as a settlement  
24 for a violation of a local ordinance corresponding to this act,  
25 the city or village department, bureau, or person shall send a  
26 full report of each case in which a person pays any amount of  
27 money to the city or village department, bureau, or person to the

1 secretary of state upon a form prescribed by the secretary of  
2 state.

3 (3) The abstract or report required under this section shall  
4 be made upon a form furnished by the secretary of state and shall  
5 include all of the following:

6 (a) The name, address, and date of birth of the person  
7 charged or cited.

8 (b) The number of the person's operator's or chauffeur's  
9 license, if any.

10 (c) The date and nature of the violation.

11 (d) The type of vehicle driven at the time of the violation  
12 and, if the vehicle is a commercial motor vehicle, that vehicle's  
13 group designation and indorsement classification.

14 (e) The date of the conviction, finding, forfeiture, judg-  
15 ment, or determination.

16 (f) Whether bail was forfeited.

17 (g) Any license revocation, restriction, suspension, or  
18 denial ordered by the court pursuant to this act.

19 (h) Other information considered necessary to the secretary  
20 of state.

21 (4) The clerk of the court also shall forward an abstract of  
22 the record of the court to the secretary of state upon the con-  
23 viction of a person or entry of a probate court order of disposi-  
24 tion for a child found to be within the provisions of chapter  
25 XIIIA of Act No. 288 of the Public Acts of 1939 involving any of  
26 the following:

1 (a) A violation of section 89A, 324, 413, 414, or 479a, OR  
2 529A of the Michigan penal code, Act No. 328 of the Public Acts  
3 of 1931, being sections 750.89A, 750.324, 750.413, 750.414, ~~and~~  
4 750.479a, AND 750.429A of the Michigan Compiled Laws.

5 (b) A violation of section 1 of Act No. 214 of the Public  
6 Acts of 1931, being section 752.191 of the Michigan Compiled  
7 Laws.

8 (c) An attempt to commit any of the offenses described in  
9 subdivision (a) or (b).

10 (5) As used in subsections (6) to (8), "felony in which a  
11 motor vehicle was used" means a felony during the commission of  
12 which the person operated a motor vehicle and while operating the  
13 vehicle presented real or potential harm to persons or property  
14 and 1 or more of the following circumstances existed:

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

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

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

19 (d) The vehicle was necessary for the commission of the  
20 felony.

21 (6) If a person is charged with a felony in which a motor  
22 vehicle was used, other than a felony specified in subsection (4)  
23 or section 319(1)(a) to (e), the prosecuting attorney shall  
24 include the following statement on the complaint and information  
25 filed in district or circuit court:

26 "You are charged with the commission of a felony in which a  
27 motor vehicle was used. If you are convicted and the judge finds

1 that the conviction is for a felony in which a motor vehicle was  
2 used, as defined in section 319 of the Michigan vehicle code, Act  
3 No. 300 of the Public Acts of 1949, being section 257.319 of the  
4 Michigan Compiled Laws, your driver's license shall be suspended  
5 by the secretary of state."

6 (7) If a child is accused of an act the nature of which con-  
7 stitutes a felony in which a motor vehicle was used, other than a  
8 felony specified in subsection (4) or section 319(1)(a) to (e),  
9 the prosecuting attorney or juvenile court shall include on the  
10 petition filed in the probate court:

11 "You are accused of an act the nature of which constitutes a  
12 felony in which a motor vehicle was used. If the accusation is  
13 found to be true and the judge or referee finds that the nature  
14 of the act constitutes a felony in which a motor vehicle was  
15 used, as defined in section 319 of the Michigan vehicle code, Act  
16 No. 300 of the Public Acts of 1949, being section 257.319 of the  
17 Michigan Compiled Laws, your driver's license shall be suspended  
18 by the secretary of state."

19 (8) If the judge or juvenile court referee determines as  
20 part of the sentence or disposition that the felony for which the  
21 defendant was convicted or adjudicated and with respect to which  
22 notice was given pursuant to subsection (6) or (7) is a felony in  
23 which a motor vehicle was used, the clerk of the court shall for-  
24 ward an abstract of the court record of that conviction or adju-  
25 dication to the secretary of state.

26 (9) As used in subsections (10) and (11), "Felony in which a  
27 commercial motor vehicle was used" means a felony during the

1 commission of which the person operated a commercial motor  
2 vehicle and while the person was operating the vehicle 1 or more  
3 of the following circumstances existed:

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

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

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

8 (d) The vehicle was necessary for the commission of the  
9 felony.

10 (10) If a person is charged with a felony in which a commer-  
11 cial motor vehicle was used and for which a vehicle group desig-  
12 nation on a license is subject to suspension or revocation under  
13 section 319b(1)(c)(iii), 319b(1)(d), or 319b(1)(e)(iii) or (vi),  
14 the prosecuting attorney shall include the following statement on  
15 the complaint and information filed in district or circuit  
16 court:

17 "You are charged with the commission of a felony in which a  
18 commercial motor vehicle was used. If you are convicted and the  
19 judge finds that the conviction is for a felony in which a com-  
20 mercial motor vehicle was used, as defined in section 319b of the  
21 Michigan vehicle code, Act No. 300 of the Public Acts of 1949,  
22 being section 257.319b of the Michigan Compiled Laws, all vehicle  
23 group designations on your driver's license shall be suspended or  
24 revoked by the secretary of state."

25 (11) If the judge determines as part of the sentence that  
26 the felony for which the defendant was convicted and with respect  
27 to which notice was given pursuant to subsection (10) is a felony

1 in which a commercial motor vehicle was used, the clerk of the  
2 court shall forward an abstract of the court record of that con-  
3 viction to the secretary of state.

4 (12) Every person required to forward abstracts to the sec-  
5 retary of state under this section shall certify for the period  
6 from January 1 through June 30 and for the period from July 1  
7 through December 31 that all abstracts required to be forwarded  
8 during the period have been forwarded. The certification shall  
9 be filed with the secretary of state not later than 28 days after  
10 the end of the period covered by the certification. The certifi-  
11 cation shall be made upon a form furnished by the secretary of  
12 state and shall include all of the following:

13 (a) The name and title of the person required to forward  
14 abstracts.

15 (b) The court for which the certification is filed.

16 (c) The time period covered by the certification.

17 (d) The following statement:

18 "I certify that all abstracts required by section 732 of the  
19 Michigan vehicle code, MCL 257.732; MSA 9.2432, for the period  
20 \_\_\_\_\_ through \_\_\_\_\_ have been forwarded to the secre-  
21 tary of state."

22 (e) Other information the secretary of state considers  
23 necessary.

24 (f) The signature of the person required to forward  
25 abstracts.

1       (13) The failure, refusal, or neglect of a person to comply  
2 with this section shall constitute misconduct in office and shall  
3 be grounds for removal from office.

4       (14) Except as provided in subsection (15), the secretary of  
5 state shall keep all abstracts received under this section at the  
6 secretary of state's main office and the abstracts shall be open  
7 for public inspection during the office's usual business hours.  
8 Each abstract shall be entered upon the master driving record of  
9 the person to whom it pertains.

10       (15) The court shall not submit, and the secretary of state  
11 shall discard and not enter on the master driving record, an  
12 abstract for a conviction, civil infraction determination, or  
13 probate court order of disposition for any of the following  
14 offenses:

15       (a) The parking or standing of a vehicle.

16       (b) A nonmoving violation that is not the basis for the sec-  
17 retary of state's suspension, revocation, or denial of an  
18 operator's or chauffeur's license.

19       (c) A violation of chapter II that is not the basis for the  
20 secretary of state's suspension, revocation, or denial of an  
21 operator's or chauffeur's license.

22       (d) A pedestrian, passenger, or bicycle violation.

23       (e) A violation of section 710e.

24       (16) The secretary of state shall discard and not enter on  
25 the master driving record an abstract for a bond forfeiture that  
26 occurred outside this state. However, the secretary of state  
27 shall retain and enter on the master driving record an abstract



1 of an out-of-state bond forfeiture for an offense that occurred  
2 after January 1, 1990 in connection with the operation of a com-  
3 mercial motor vehicle.

4 (17) The secretary of state shall inform the courts of this  
5 state of the nonmoving violations and violations of chapter II  
6 that are used by the secretary of state as the basis for the sus-  
7 pension, restriction, revocation, or denial of an operator's or  
8 chauffeur's license.

9 (18) If a conviction, civil infraction determination, or  
10 probate court order of disposition is reversed upon appeal, the  
11 person whose conviction, determination, or order of disposition  
12 has been reversed may serve on the secretary of state a certified  
13 copy of the order of reversal, and the secretary of state shall  
14 enter the order in the proper book or index in connection with  
15 the record of the conviction, civil infraction determination, or  
16 probate court order of disposition.

17 (19) The secretary of state may permit a city or village  
18 department, bureau, person, or court to modify the requirement as  
19 to the time and manner of reporting a conviction, civil infrac-  
20 tion determination, settlement, or probate court order of dispo-  
21 sition to the secretary of state if the modification will  
22 increase the economy and efficiency of collecting and utilizing  
23 the records. If the permitted abstract of court record reporting  
24 a conviction, civil infraction determination, settlement, or pro-  
25 bate court order of disposition originates as a part of the writ-  
26 ten notice to appear, authorized in section 728(1) or 742(1), the

1 form of the written notice and report shall be as prescribed by  
2 the secretary of state.

3 Section 2. This amendatory act shall take effect January 1,  
4 1993.

5 Section 3. This amendatory act shall not take effect unless  
6 Senate Bill No. \_\_\_\_\_ or House Bill No. 5186 (request  
7 no. 04303'91) of the 86th Legislature is enacted into law.