

HOUSE BILL No. 5924

June 9, 1992, Introduced by Reps. London, Bartnik, Jamian, Hoffman, McBryde, Strand, Bodem, Fitzgerald, Middaugh, Rocca, Gnodtke, Bender, Johnson, Horton, McNutt, Nye, Oxender, Bandstra, Brackenridge, Dolan, Middleton, Gernaat, Gilmer, Shugars, Bankes, DeLange, Willis Bullard, Martin, Van Singel, Munsell, Dalman, Sikkema, Bobier, Walberg and Porreca and referred to the Committee on Judiciary.

A bill to amend sections 319 and 321a of Act No. 300 of the Public Acts of 1949, entitled as amended

"Michigan vehicle code,"

section 319 as amended by Act No. 93 of the Public Acts of 1991 and section 321a as amended by Act No. 95 of the Public Acts of 1991, being sections 257.319 and 257.321a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 319 and 321a of Act No. 300 of the
2 Public Acts of 1949, section 319 as amended by Act No. 93 of the
3 Public Acts of 1991 and section 321a as amended by Act No. 95 of
4 the Public Acts of 1991, being sections 257.319 and 257.321a of
5 the Michigan Compiled Laws, are amended to read as follows:

6 Sec. 319. (1) The secretary of state shall immediately
7 suspend for a period of not less than 90 days or more than 2

1 years, the license of a person upon receiving a record of the
2 conviction or probate court disposition of the person for any of
3 the following crimes or attempts to commit any of the following
4 crimes, whether the conviction or probate court disposition is
5 under a law of this state, a local ordinance substantially corre-
6 sponding to a law of this state, or a law of another state sub-
7 stantially corresponding to a law of this state:

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

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

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

20 (d) Conviction upon 3 charges of reckless driving within the
21 preceding 36 months.

22 (e) Failing to stop and disclose identity at the scene of an
23 accident resulting in death or injury to another person, in vio-
24 lation of section 617 or 617a.

25 (f) A felony in which a motor vehicle was used. As used in
26 this section, "felony in which a motor vehicle was used" means a
27 felony during the commission of which the person convicted

1 operated a motor vehicle and while operating the vehicle
2 presented real or potential harm to persons or property and 1 or
3 more of the following circumstances existed:

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

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

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

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

10 (2) The secretary of state shall suspend the license of a
11 person convicted of malicious destruction resulting from the
12 operation of a motor vehicle under section 382 of the Michigan
13 penal code, Act No. 328 of the Public Acts of 1931, as amended,
14 being section 750.382 of the Michigan Compiled Laws, for a period
15 of not more than 1 year as ordered by the court as part of the
16 sentence.

17 (3) The secretary of state shall immediately suspend the
18 license of a person for the period specified in the certificate
19 of conviction upon receipt of the person's license and certifi-
20 cate of conviction forwarded to the secretary of state pursuant
21 to section 367c of the Michigan penal code, Act No. 328 of the
22 Public Acts of 1931, being section 750.367c of the Michigan
23 Compiled Laws.

24 (4) If a court has not ordered a suspension of a person's
25 license as authorized by this act, the secretary of state shall
26 suspend the license as follows, notwithstanding a court order
27 issued under section 625(1), (3), (4), or (5), or section 625b,

1 or former section 625(1) or (2), or former section 625b, or a
2 local ordinance substantially corresponding to section 625(1) or
3 (3), or section 625b, or former section 625(1) or (2), or former
4 section 625b:

5 (a) For a period of not less than 90 days or more than 1
6 year, upon receiving a record of the conviction of the person for
7 a violation of section 625(3), a local ordinance substantially
8 corresponding to section 625(3), or a law of another state sub-
9 stantially corresponding to section 625(3), if the person has no
10 prior convictions within 7 years for a violation of section
11 625(1), (3), (4), or (5), or former section 625(1) or (2), or
12 former section 625b, a local ordinance substantially correspond-
13 ing to section 625(1) or (3), or former section 625(1) or (2), or
14 former section 625b, or a law of another state substantially cor-
15 responding to section 625(1), (3), (4), or (5), or former section
16 625(1) or (2), or former section 625b.

17 (b) For a period of not less than 6 months or more than 2
18 years, if the person has the following convictions within a
19 7-year period, whether under the law of this state, a local ordi-
20 nance substantially corresponding to a law of this state, or a
21 law of another state substantially corresponding to a law of this
22 state:

23 (i) One conviction under section 625(1) or former section
24 625(1) or (2). However, if the conviction is under a law of
25 another state substantially corresponding to section 625(1) or
26 former section 625(1) or (2), the secretary of state may waive
27 the suspension under this subdivision if the person submits proof

1 that a court suspended or restricted his or her license for a
2 period equal to or greater than the period of suspension or
3 restriction authorized under this subsection and that the suspen-
4 sion or restriction was served in the other state, or may grant
5 restrictions.

6 (ii) Any combination of 2 convictions under section 625(3)
7 or former section 625b.

8 (iii) One conviction under section 625(1) or former section
9 625(1) or (2) and 1 conviction under section 625(3) or former
10 section 625b.

11 (iv) One conviction under section 625(4) or (5) followed by
12 1 conviction under section 625(3).

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

23 (6) UPON RECEIPT OF A CERTIFICATE OF CONVICTION PURSUANT TO
24 SECTION 33A(1) OF THE MICHIGAN LIQUOR CONTROL ACT, ACT NO. 8 OF
25 THE PUBLIC ACTS OF THE EXTRA SESSION OF 1933, BEING SECTION
26 436.33A OF THE MICHIGAN COMPILED LAWS, OR A LOCAL ORDINANCE OR
27 LAW OF ANOTHER STATE SUBSTANTIALLY CORRESPONDING TO SECTION

1 33A(1) OF ACT NO. 8 OF THE PUBLIC ACTS OF THE EXTRA SESSION OF
2 1933, THE SECRETARY OF STATE SHALL SUSPEND THE PERSON'S
3 OPERATOR'S OR CHAUFFEUR'S LICENSE FOR A PERIOD OF 180 DAYS. A
4 SUSPENSION UNDER THIS SUBSECTION SHALL BE IN ADDITION TO ANY
5 OTHER SUSPENSION OF THE PERSON'S LICENSE.

6 (7) UPON THE RECEIPT OF A FINDING OF A CIVIL VIOLATION OR
7 PROBATE COURT ORDER OF DISPOSITION FOR A VIOLATION OF SECTION
8 33B(1) OF THE MICHIGAN LIQUOR CONTROL ACT, ACT NO. 8 OF THE
9 PUBLIC ACTS OF THE EXTRA SESSION OF 1933, BEING SECTION 436.33B
10 OF THE MICHIGAN COMPILED LAWS, THE SECRETARY OF STATE SHALL SUS-
11 PEND THE PERSON'S OPERATOR'S OR CHAUFFEUR'S LICENSE FOR THE
12 PERIOD OF TIME INDICATED IN THE FINDING OR ORDER.

13 (8) ~~-(6)-~~ Upon receipt of the record of the conviction or
14 probate court disposition of a person for a violation of section
15 602a of this act or section 479a(1), (4), or (5) of Act No. 328
16 of the Public Acts of 1931, being section 750.479a of the
17 Michigan Compiled Laws, the secretary of state immediately shall
18 suspend the license of the person for the period ordered by the
19 court as part of the sentence or disposition.

20 (9) ~~-(7)-~~ A suspension pursuant to this section shall be
21 imposed notwithstanding a court order issued under
22 section 625(1), (3), (4), or (5), or section 625b, or a local
23 ordinance substantially corresponding to section 625(1) or (3) or
24 section 625b.

25 (10) ~~-(8)-~~ If the secretary of state receives records of
26 more than 1 conviction or probate court disposition of a person
27 resulting from the same incident, a suspension shall be imposed

1 only for the violation to which the longest period of suspension
2 applies under this section.

3 (11) ~~-(9)-~~ As used in this section, "probate court
4 disposition" means the entry of a probate court order of disposi-
5 tion for a child found to be within the provisions of chapter
6 XIIA of Act No. 288 of the Public Acts of 1939, being
7 sections 712A.1 to 712A.28 of the Michigan Compiled Laws.

8 Sec. 321a. (1) A person who fails to answer a citation, or
9 a notice to appear in court for a violation of this act,
10 SECTION 33A(1) OR SECTION 33B(1) OF THE MICHIGAN LIQUOR CONTROL
11 ACT, ACT NO. 8 OF THE PUBLIC ACTS OF THE EXTRA SESSION OF 1933,
12 BEING SECTIONS 436.33A AND 436.33B OF THE MICHIGAN COMPILED LAWS,
13 or a local ordinance substantially corresponding to a provision
14 of this act, or for any matter pending, or who fails to comply
15 with an order or judgment issued pursuant to section 907 is
16 guilty of a misdemeanor. A violation of this subsection shall
17 not be considered a violation for any purpose under section
18 320a.

19 (2) Except as provided in subsection (3), 28 days or more
20 after the date of noncompliance with an order or judgment, the
21 court shall give notice by mail at the last known address of the
22 person that if the person fails to appear or fails to comply with
23 the order or judgment issued pursuant to section 907, including,
24 but not limited to, paying all fines and costs, within 14 days
25 after the notice is issued, the secretary of state shall suspend
26 the person's operator's or chauffeur's license. If the person
27 fails to appear or fails to comply with the order or judgment

1 issued pursuant to section 907, including, but not limited to,
2 paying all fines and costs, within the 14-day period, the court
3 shall, within 14 days, inform the secretary of state, who shall
4 immediately suspend the license of the person and notify the
5 person of the suspension by regular mail at the person's last
6 known address.

7 (3) If the person is charged with, or convicted of, a viola-
8 tion of section 625(1), (2), (3), (4), or (5), or a local ordi-
9 nance substantially corresponding to section 625(1), (2), or (3),
10 and the person fails to answer a citation or a notice to appear
11 in court, or for any matter pending, or fails to comply with an
12 order or judgment of the court, including, but not limited to,
13 paying all fines, costs, and crime victim rights assessments, the
14 court shall immediately give notice by first-class mail sent to
15 the person's last known address that if the person fails to
16 appear within 7 days after the notice is issued, or fails to
17 comply with the order or judgment of the court, including, but
18 not limited to, paying all fines, costs, and crime victim rights
19 assessments, within 14 days after the notice is issued, the sec-
20 retary of state shall suspend the person's operator's or
21 chauffeur's license. If the person fails to appear within the
22 7-day period, or fails to comply with the order or judgment of
23 the court, including, but not limited to, paying all fines,
24 costs, and crime victim rights assessments, within the 14-day
25 period, the court shall immediately inform the secretary of state
26 who shall immediately suspend the person's operator's or

1 chauffeur's license and notify the person of the suspension by
2 first-class mail sent to the person's last known address.

3 (4) A suspension imposed under subsection (2) or (3) shall
4 remain in effect until both of the following occur:

5 (a) The court informs the secretary of state that the person
6 has appeared before the court and that all matters relating to
7 the violation or to the noncompliance with section 907 are
8 resolved.

9 (b) The person has paid to the court a \$25.00 driver license
10 reinstatement fee. The increase in the reinstatement fee from
11 \$10.00 to \$25.00 shall be imposed for a license that is suspended
12 on or after April 5, 1988 regardless of when the license was
13 suspended.

14 (5) The court shall not notify the secretary of state, and
15 the secretary of state shall not suspend the person's license, if
16 the person fails to appear in response to a citation issued for,
17 or fails to comply with an order or judgment involving 1 or more
18 of the following infractions:

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

20 (b) A pedestrian, passenger, or bicycle violation.

21 (6) The court may notify a person who has done either of the
22 following, that if the person does not appear within 10 days
23 after the notice is issued, the court will inform the secretary
24 of state of the person's failure to appear:

25 (a) Failed to answer 2 or more parking violation notices or
26 citations for violating a provision of this act or an ordinance
27 substantially corresponding to a provision of this act pertaining

1 to handicapper parking issued or served after the effective date
2 of the amendatory act that added this subdivision.

3 (b) Failed to answer 6 or more parking violation notices or
4 citations, issued or served after March 31, 1981, regarding ille-
5 gal parking.

6 (7) The secretary of state, upon being informed of the fail-
7 ure of a person to appear as provided in subsection (6), shall
8 not issue a license to the person until both of the following
9 occur:

10 (a) The court informs the secretary of state that the person
11 has resolved all outstanding matters regarding the notices or
12 citations.

13 (b) The person has paid to the court a \$25.00 driver license
14 reinstatement fee. The increase in the reinstatement fee from
15 \$10.00 to \$25.00 shall be imposed for a license that is suspended
16 on or after April 5, 1988 regardless of when the license was
17 suspended. If the court determines that the person is not
18 responsible for any of the parking violations for which the
19 person's license was suspended under this subsection, the court
20 shall waive payment of the fee.

21 (8) For the purposes of subsections (4)(a) and (7)(a), the
22 court shall give to the person a copy of the information being
23 transmitted to the secretary of state. Upon showing that copy,
24 the person shall not be arrested or issued a citation for driving
25 on a suspended license on the basis of any matter resolved under
26 subsection (4)(a) or (7)(a), even if the information being sent

1 to the secretary of state has not yet been received or recorded
2 by the department.

3 (9) Sixty percent of the driver license reinstatement fees
4 received under subsections (4)(b) and (7)(b) shall be transmitted
5 by the court to the secretary of state on a monthly basis. The
6 funds received by the secretary of state pursuant to this subsec-
7 tion shall be deposited in the state general fund and shall be
8 used to defray the expenses of the secretary of state in process-
9 ing the suspension and reinstatement of driver licenses under
10 this section.