



HOUSE BILL No. 5390

March 3 1994 Introduced by Reps London Profit Jersevic Byrum Freeman Hammerstrom, Mathieu Hill Yokich, McNutt Rhead Kaza Dalman Jamian McBryde Bodem, Galloway, Bullard and Ciaramitaro and referred to the Committee on Judiciary

A bill to amend sections 303, 319, and 602a of Act No 300 of the Public Acts of 1949, entitled as amended Michigan vehicle code, section 303 as amended by Act No 98 of the Public Acts of 1991, section 319 as amended by Act No 93 of the Public Acts of 1991 and section 602a as amended by Act No 406 of the Public Acts of 1988 being sections 257 303 257 319 and 257 602a of the Michigan Compiled Laws

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Sections 303, 319, and 602a of Act No 300 of
2 the Public Acts of 1949 section 303 as amended by Act No 98 of
3 the Public Acts of 1991, section 319 as amended by Act No 93 of
4 the Public Acts of 1991 and section 602a as amended by Act
5 No 406 of the Public Acts of 1988, being sections 257 303,

1 257 319 and 257 602a of the Michigan Compiled Laws are amended
2 to read as follows

3 Sec 303 (1) The secretary of state shall not issue a
4 license under this act to any of the following

5 (a) A person as an operator, who is less than 18 years of
6 age, except ~~that~~ the secretary of state may issue a license to
7 a person who is not less than 16 years of age and who has satis-
8 factorily passed a driver education course and examination given
9 by a public school or nonpublic school of this or another state
10 offering a course approved by the department of education, or an
11 equivalent course and examination as prescribed in section 811
12 The secretary of state may issue A RESTRICTED LICENSE to a person
13 not less than 14 years of age ~~a restricted license~~ as provided
14 in this act This subdivision ~~shall~~ DOES not apply to a person
15 who has ~~been the holder of~~ HELD 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) A person as a chauffeur who is less than 18 years of
20 age except ~~that~~ the secretary of state may issue a license to
21 a person who is not less than 16 years of age and who has satis-
22 factorily passed a driver education course and examination given
23 by a public school or nonpublic school of this or another state
24 offering a course approved by the department of education, or an
25 equivalent course and examination as prescribed in section 811

26 (c) A person whose license has been suspended during the
27 period for which the license was suspended

1 (d) A person who has been convicted under section 625(4) or
2 (5)

3 (e) A person who is an habitual violator of the criminal
4 laws relating to operating a vehicle while impaired by or under
5 the influence of intoxicating liquor or a controlled substance or
6 a combination of intoxicating liquor and a controlled substance
7 or with a blood alcohol content of 0.10 or more by weight of
8 alcohol. Convictions of any of the following whether under a
9 law of this state, a local ordinance substantially corresponding
10 to a law of this state, or a law of another state substantially
11 corresponding to a law of this state ~~shall be~~ ARE prima facie
12 evidence that the person is an habitual violator as described in
13 this subdivision.

14 (1) Any combination of 2 convictions within 7 years for 1 or
15 more of the following:

16 (A) A violation of section 625(1) (4) or (5)

17 (B) A violation of former section 625(1) or (2)

18 (2) Any combination of 3 convictions within 10 years for 1
19 or more of the following:

20 (A) A violation of section 625(1) (3) (4), or (5)

21 (B) A violation of former section 625(1) or (2) or former
22 section 625b

23 (f) A person who in the opinion of the secretary of state is
24 afflicted with or suffering from a physical or mental disability
25 or disease ~~which prevents~~ PREVENTING that person from exercis-
26 ing reasonable and ordinary control over a motor vehicle while
27 operating the motor vehicle upon the highways.

1 (g) A person who is unable to understand highway warning or
2 direction signs in the English language

3 (h) A person who is an habitually reckless driver Four
4 convictions of reckless driving under this act or any other law
5 of this state relating to reckless driving or under a local ordi-
6 nance of this state or a law of another state ~~which~~ THAT
7 defines the term reckless driving substantially ~~similar~~
8 SIMILARLY to the law of this state ~~shall be~~ ARE prima facie
9 evidence that the person is an habitually reckless driver

10 (i) A person who is an habitual criminal Two convictions
11 of a felony involving the use of a motor vehicle in this or
12 another state ~~shall be~~ ARE prima facie evidence that the person
13 is an habitual criminal

14 (j) A person who is unable to pass a knowledge skill or
15 ability test administered by the secretary of state in connection
16 with the issuance of an original operator s or chauffeur s
17 license original motorcycle indorsement, or an original or
18 renewal of a vehicle group designation or vehicle indorsement

19 (k) A person who has been convicted OF received a probate
20 court disposition FOR or been determined responsible for 2 or
21 more moving violations under a law of this state, a local ordi-
22 nance substantially corresponding to a law of this state or a
23 law of another state substantially corresponding to a law of this
24 state within the preceding 3 years — if the violations
25 occurred ~~prior to the~~ BEFORE issuance of an original license to
26 the person in this or another state

1 (l) A nonresident

2 (m) A person not licensed under this act who has been
3 convicted of or received a probate court disposition for commit-
4 ting a crime described in section 319, 324, or 904 A person
5 shall be denied a license under this subdivision for the length
6 of time that corresponds to the period of the licensing sanction
7 that would have been imposed under section 319, 324, or 904 if
8 the person had been licensed at the time of the violation

9 (N) A PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF SEC-
10 TION 602A(4) OR (5) OR A VIOLATION OF SECTION 479A(4) OR (5) OF
11 THE MICHIGAN PENAL CODE ACT NO 328 OF THE PUBLIC ACTS OF 1931
12 BEING SECTION 750 479A OF THE MICHIGAN COMPILED LAWS

13 (2) Upon receipt of the appropriate records of conviction
14 the secretary of state shall revoke the operator s or chauffeur s
15 license of a person having any of the following ~~convictions,~~
16 whether under a law of this state a local ordinance substan-
17 tially corresponding to a law of this state or a law of another
18 state substantially corresponding to a law of this state

19 (a) Four convictions of reckless driving within 7 years

20 (b) Two convictions of a felony involving the use of a motor
21 vehicle within 7 years

22 (c) Any combination of 2 convictions within 7 years for 1 or
23 more of the following

24 (i) A violation of section 625(1)

25 (ii) A violation of former section 625(1) or (2)

26 (iii) A violation of section 625(4) or (5)

(d) One conviction under section 625(4) or (5)

(e) Any combination of 3 convictions within 10 years for 1
3 or more of the following

(1) A violation of section 625(1), (3), (4), or (5)

(2) A violation of former section 625(1) or (2) or former
6 section 625b

(F) A VIOLATION OF SECTION 602A(4) OR (5) OF THIS ACT OR
8 SECTION 479A OF THE MICHIGAN PENAL CODE ACT NO 328 OF THE
9 PUBLIC ACTS OF 1931, BEING SECTION 750 479A OF THE MICHIGAN
10 COMPILED LAWS

(3) The secretary of state shall revoke a license under sub-
12 section (2) notwithstanding a court order issued under section
13 625 section 625b former section 625(1) or (2) or former sec-
14 tion 625b or a local ordinance substantially corresponding to
15 section 625, section 625b former section 625(1) or (2), or
16 former section 625b

(4) The secretary of state shall not issue a license under
18 this act to a person whose license has been revoked under this
19 act or denied under subsection (1)(d) (e) (h) or (1) until
20 both of the following occur

(a) The later of the following

(1) The expiration of not less than 1 year after the license
23 was revoked or denied

(2) The expiration of not less than 5 years after the date
25 of a subsequent revocation or denial occurring within 7 years
26 after the date of any prior revocation or denial

(b) The person meets the requirements of the department

(5) Multiple convictions, civil infraction determinations

or probate court dispositions resulting from the same incident

shall be treated as a single violation for purposes of denial or

revocation of a license under this section

Sec 319 (1) The secretary of state shall immediately sus-

pend ~~for a period of not less than 90 days or more than 2 years~~

~~the~~ A PERSON S license ~~of a person~~ FOR NOT LESS THAN 90 DAYS

OR MORE THAN 2 YEARS upon receiving a record of the PERSON S con-

viction or probate court disposition ~~of the person~~ for any of

the following crimes or attempts to commit any of the following

crimes whether the conviction or probate court disposition is

under a law of this state a local ordinance substantially corre-

sponding to a law of this state, or a law of another state sub-

stantially corresponding to a law of this state

(a) Fraudulently altering or forging documents pertaining to

motor vehicles in violation of section 257

(b) Perjury or ~~the~~ making ~~of~~ a false certification to

the secretary of state under any law requiring the registration

of a motor vehicle or regulating the operation of a motor vehicle

on a highway

(c) A violation of section 324, 413, or 414 of the Michigan

penal code Act No 328 of the Public Acts of 1931 being sec-

tions 750 324 750 413, and 750 414 of the Michigan Compiled

Laws — or a violation of section 1 of Act No 214 of the

Public Acts of 1931, being section 752 191 of the Michigan

Compiled Laws

1 (d) Conviction upon 3 charges of reckless driving within the
2 preceding 36 months

3 (e) Failing to stop and disclose identity at the scene of an
4 accident resulting in death or injury to another person in vio-
5 lation of section 617 or 617a

6 (f) A felony in which a motor vehicle was used As used in
7 this section felony in which a motor vehicle was used means a
8 felony during the commission of which the person convicted oper-
9 ated a motor vehicle and while operating the vehicle presented
10 real or potential harm to persons or property and 1 or more of
11 the following circumstances existed

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

13 (ii) The vehicle was used to transport a victim of the
14 felony

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

16 (iv) The vehicle was necessary for the commission of the
17 felony

18 (2) 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~~
23 ~~period of~~ not more than 1 year as ordered by the court as part
24 of the sentence

25 (3) The secretary of state shall immediately suspend ~~the~~ A
26 PERSON S license ~~of a person~~ for the period specified in the
27 certificate of conviction upon ~~receipt of~~ RECEIVING the

1 person s license and certificate of conviction forwarded to the
 2 secretary of state pursuant to section 367c of the Michigan penal
 3 code Act No 328 of the Public Acts of 1931 being section
 4 750 367c of the Michigan Compiled Laws

5 (4) If a court has not ordered a suspension of a person s
 6 license as authorized by this act the secretary of state shall
 7 suspend the license as follows notwithstanding a court order
 8 issued under section 625(1) (3) (4) or (5) ~~or~~ section 625b
 9 ~~or~~ former section 625(1) or (2), or former section 625b, or a
 10 local ordinance substantially corresponding to section 625(1) or
 11 (3) ~~or~~ section 625b ~~or~~ former section 625(1) or (2) or
 12 former section 625b

13 (a) For ~~a period of~~ not less than 90 days or more than 1
 14 year ~~—~~ upon receiving a record of the PERSON'S conviction ~~of~~
 15 ~~the person~~ for a violation of section 625(3) a local ordinance
 16 substantially corresponding to section 625(3), or a law of
 17 another state substantially corresponding to section 625(3) if
 18 the person has no prior convictions within 7 years for a viola-
 19 tion of section 625(1) (3) (4) or (5) ~~or~~ former section
 20 625(1) or (2) or former section 625b, a local ordinance substan-
 21 tially corresponding to section 625(1) or (3), ~~or~~ former sec-
 22 tion 625(1) or (2) or former section 625b or a law of another
 23 state substantially corresponding to section 625(1) (3), (4) or
 24 (5) ~~or~~ former section 625(1) or (2), or former section 625b

25 (b) For ~~a period of~~ not less than 6 months or more than 2
 26 years ~~—~~ UPON RECEIVING A RECORD OF THE PERSON S CONVICTION if
 27 the person has the following convictions within a 7-year period

1 whether under the law of this state a local ordinance
2 substantially corresponding to a law of this state or a law of
3 another state substantially corresponding to a law of this
4 state

5 (1) One conviction under section 625(1) or former section
6 625(1) or (2) However if the conviction is under a law of
7 another state substantially corresponding to section 625(1) or
8 former section 625(1) or (2) the secretary of state may waive
9 the suspension under this subdivision if the person submits proof
10 that a court suspended or restricted his or her license for a
11 period equal to or greater than the period of suspension or
12 restriction authorized under this subsection and that the suspen-
13 sion or restriction was served in the other state or may grant
14 restrictions

15 (11) Any combination of 2 convictions under section 625(3)
16 or former section 625b

17 (111) One conviction under section 625(1) or former section
18 625(1) or (2) and 1 conviction under section 625(3) or former
19 section 625b

20 (1v) One conviction under section 625(4) or (5) followed by
21 1 conviction under section 625(3)

22 (5) Upon ~~receipt of~~ RECEIVING a certificate of conviction
23 pursuant to section 33b(3) of the Michigan liquor control act
24 Act No 8 of the Public Acts of the Extra Session of 1933 being
25 section 436 33b of the Michigan Compiled Laws or a local ordi-
26 nance or law of another state substantially corresponding to
27 section 33b(3) of Act No 8 of the Public Acts of the Extra

1 Session of 1933 the secretary of state shall suspend the
2 person s operator s or chauffeur s license for ~~a period of~~
3 90 days A suspension under this subsection shall be in addition
4 to any other suspension of the person s license

5 (6) Upon receipt of the record of the conviction or probate
6 court disposition of a person for a violation of section ~~602a~~
7 602A(2) OR (3) of this act or A VIOLATION OF section ~~479a(1)~~
8 ~~(4), or (5)~~ 479A(2) OR (3) of Act No 328 of the Public Acts of
9 1931 being section 750 479a of the Michigan Compiled Laws the
10 secretary of state immediately shall suspend the license of the
11 person for the period ordered by the court as part of the sen-
12 tence or disposition

13 (7) A suspension pursuant to this section shall be imposed
14 notwithstanding a court order issued under section 625(1) (3)
15 (4) or (5) — or section 625b ~~—~~ or a local ordinance substan-
16 tially corresponding to section 625(1) or (3) or section 625b

17 (8) If the secretary of state receives records of more than
18 1 conviction or probate court disposition of a person resulting
19 from the same incident a suspension shall be imposed only for
20 the violation to which the longest period of suspension applies
21 under this section

22 (9) As used in this section probate court disposition
23 means the entry of a probate court order of disposition for a
24 child found to be within the provisions of chapter XIIIA of Act
25 No 288 of the Public Acts of 1939 being sections 712A 1 to
26 712A 28 of the Michigan Compiled Laws

1 Sec 602a (1) A driver of a motor vehicle who is given by
2 hand voice emergency light or siren a visual or audible signal
3 by a police or conservation officer acting in the lawful per-
4 formance of his or her duty directing the driver to bring his or
5 her motor vehicle to a stop ~~, and who~~ SHALL NOT willfully
6 ~~fails~~ FAIL to obey that direction by increasing the speed of
7 the motor vehicle extinguishing the lights of the motor vehicle
8 or otherwise attempting to flee or elude the officer ~~— is~~
9 ~~guilty of a misdemeanor, and shall be punished by imprisonment~~
10 ~~for not less than 30 days nor more than 1 year and in addition~~
11 ~~may be fined not more than \$1 000 00 and may be ordered to pay~~
12 ~~the costs of the prosecution— The court may depart from the min-~~
13 ~~imum term of imprisonment authorized under this subsection if the~~
14 ~~court finds on the record that there are substantial and compel-~~
15 ~~ling reasons to do so and if the court imposes community service~~
16 ~~as a part of the sentence— (2) Subsection (1) THIS SUBSECTION~~
17 does not apply unless the police or conservation officer giving
18 the signal is in uniform and the vehicle driven by the police or
19 conservation officer is identified as an official police or
20 department of natural resources vehicle

21 ~~(3) A person who violates subsection (1) within 5 years of~~
22 ~~a prior conviction of a violation of subsection (1) is guilty of~~
23 ~~a felony, and shall be punished by imprisonment for a mandatory~~
24 ~~minimum term of not less than 1 year and a maximum term of not~~
25 ~~more than 4 years, and by a fine of not more than \$10,000 00—~~
26 ~~together with the costs of the prosecution—~~

1 ~~(4) The driver of a motor vehicle who attempts to flee or~~
 2 ~~elude a police or conservation officer in violation of subsection~~
 3 ~~(1) and while attempting to so flee or elude causes serious~~
 4 ~~bodily injury to a person, is guilty of a felony, and shall be~~
 5 ~~punished by imprisonment for a minimum term of not less than 1~~
 6 ~~year and a maximum term of not more than 4 years, and by a fine~~
 7 ~~of not more than \$10 000 00 together with the costs of the~~
 8 ~~prosecution. The court may depart from the minimum term of~~
 9 ~~imprisonment authorized under this subsection if the court finds~~
 10 ~~on the record that there are substantial and compelling reasons~~
 11 ~~to do so and if the court imposes community service as a part of~~
 12 ~~the sentence.~~

13 (2) EXCEPT AS PROVIDED IN SUBSECTION (3), (4), OR (5) AN
 14 INDIVIDUAL WHO VIOLATES SUBSECTION (1) IS GUILTY OF FOURTH-DEGREE
 15 FLEEING AND ELUDING A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT
 16 MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN \$500 00, OR BOTH

17 (3) EXCEPT AS PROVIDED IN SUBSECTION (4) OR (5) AN INDIVID-
 18 UAL WHO VIOLATES SUBSECTION (1) IS GUILTY OF THIRD-DEGREE FLEEING
 19 AND ELUDING A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE
 20 THAN 5 YEARS OR A FINE OF NOT MORE THAN \$1,000 00 OR BOTH IF 1
 21 OR MORE OF THE FOLLOWING CIRCUMSTANCES APPLY

22 (A) THE VIOLATION RESULTS IN A COLLISION OR ACCIDENT

23 (B) A PORTION OF THE VIOLATION OCCURRED IN AN AREA WHERE THE
 24 SPEED LIMIT IS 35 MILES AN HOUR OR LESS, WHETHER THAT SPEED LIMIT
 25 IS POSTED OR IMPOSED AS A MATTER OF LAW

26 (C) THE INDIVIDUAL HAS A PRIOR CONVICTION FOR FOURTH-DEGREE
 27 FLEEING AND ELUDING ATTEMPTED FOURTH-DEGREE FLEEING AND ELUDING

1 OR FLEEING AND ELUDING UNDER A CURRENT OR FORMER LAW OF THIS
2 STATE PROHIBITING SUBSTANTIALLY SIMILAR CONDUCT

3 (4) EXCEPT AS PROVIDED IN SUBSECTION (5), AN INDIVIDUAL WHO
4 VIOLATES SUBSECTION (1) IS GUILTY OF SECOND-DEGREE FLEEING AND
5 ELUDING A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10
6 YEARS OR A FINE OF NOT MORE THAN \$5 000 00 OR BOTH, IF 1 OR MORE
7 OF THE FOLLOWING CIRCUMSTANCES APPLY

8 (A) THE VIOLATION RESULTS IN SERIOUS INJURY TO AN
9 INDIVIDUAL

10 (B) THE INDIVIDUAL HAS 1 OR MORE PRIOR CONVICTIONS FOR
11 FIRST- SECOND- OR THIRD-DEGREE FLEEING AND ELUDING, ATTEMPTED
12 FIRST- SECOND- OR THIRD-DEGREE FLEEING AND ELUDING, OR FLEEING
13 AND ELUDING UNDER A CURRENT OR FORMER LAW OF THIS STATE PROHIBIT-
14 ING SUBSTANTIALLY SIMILAR CONDUCT

15 (C) THE INDIVIDUAL HAS ANY COMBINATION OF 2 OR MORE PRIOR
16 CONVICTIONS FOR FOURTH-DEGREE FLEEING AND ELUDING ATTEMPTED
17 FOURTH-DEGREE FLEEING AND ELUDING OR FLEEING AND ELUDING UNDER A
18 CURRENT OR FORMER LAW OF THIS STATE PROHIBITING SUBSTANTIALLY
19 SIMILAR CONDUCT

20 (5) IF THE VIOLATION RESULTS IN THE DEATH OF ANOTHER INDI-
21 VIDUAL, AN INDIVIDUAL WHO VIOLATES SUBSECTION (1) IS GUILTY OF
22 FIRST-DEGREE FLEEING AND ELUDING, A FELONY PUNISHABLE BY IMPRIS-
23 ONMENT FOR NOT MORE THAN 15 YEARS OR A FINE OF NOT MORE THAN
24 \$10 000 00 OR BOTH

25 (6) ~~(5)~~ As part of the sentence ~~for a violation of~~
26 IMPOSED UNDER subsection ~~(1)~~, (2) OR (3), ~~or (4)~~, the court
27 shall order the secretary of state to suspend the ~~person's~~

1 INDIVIDUAL S operator s or chauffeur s license for a period of 1
2 year The ~~person~~ INDIVIDUAL shall not be eligible to receive a
3 restricted license pursuant to section 323 or 323a during the
4 first 6 months of the period of suspension If a term of impris-
5 onment is served as a part of the sentence, the period of suspen-
6 sion of the ~~person's~~ INDIVIDUAL S license shall begin after the
7 completion of the term of imprisonment

8 (7) AS PART OF THE SENTENCE IMPOSED UNDER SUBSECTION (4) OR
9 (5) THE COURT SHALL ORDER THE SECRETARY OF STATE TO REVOKE THE
10 INDIVIDUAL S OPERATOR S OR CHAUFFEUR'S LICENSE

11 (8) A CONVICTION UNDER THIS SECTION DOES NOT PROHIBIT A CON-
12 VICTION AND SENTENCE UNDER ANY OTHER APPLICABLE PROVISION EXCEPT
13 SECTION 479A OF THE MICHIGAN PENAL CODE ACT NO 328 OF THE
14 PUBLIC ACTS OF 1931 BEING SECTION 750 479A OF THE MICHIGAN
15 COMPILED LAWS FOR CONDUCT ARISING OUT OF THE SAME TRANSACTION

16 (9) ~~(6)~~ As used in this section serious ~~bodily~~ injury
17 means ~~serious impairment of a body function or permanent serious~~
18 ~~disfigurement~~ A PHYSICAL INJURY THAT CONSTITUTES PERMANENT SERI-
19 OUS BODILY DISFIGUREMENT OR THAT SERIOUSLY AND IRREPARABLY
20 IMPAIRS THE FUNCTIONING OF A BODY ORGAN OR LIMB SERIOUS INJURY
21 INCLUDES BUT IS NOT LIMITED TO 1 OR MORE OF THE FOLLOWING

22 (1) LOSS OF A LIMB OR USE OF A LIMB

23 (11) LOSS OF A HAND FOOT FINGER OR THUMB OR USE OF A
24 HAND FOOT FINGER OR THUMB

25 (111) LOSS OF AN EYE OR EAR OR USE OF AN EYE OR EAR

26 (11v) LOSS OR SUBSTANTIAL IMPAIRMENT OF A BODILY FUNCTION

1 (v) SERIOUS VISIBLE DISFIGUREMENT

2 (vi) A COMATOSE STATE THAT LASTS FOR MORE THAN 3 DAYS

3 (vii) MEASURABLE BRAIN DAMAGE OR MENTAL IMPAIRMENT

4 (viii) A SKULL FRACTURE OR OTHER SERIOUS BONE FRACTURE

5 (ix) SUBDURAL HEMORRHAGE OR HEMATOMA

6 Section 2 This amendatory act shall not take effect unless

7 Senate Bill No 1040 or House Bill No _____ (request

8 no 00187 93 *) of the 87th Legislature is enacted into law