

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 869

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 727 and 732 (MCL 257.727 and 257.732), section 727 as amended by 1993 PA 301 and section 732 as amended by 1996 PA 493.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 727. If a person is arrested without a warrant in any
2 of the following cases, the arrested person shall, without unrea-
3 sonable delay, be arraigned by the magistrate who is nearest or
4 most accessible within the judicial district as provided in
5 section 13 of chapter IV of the code of criminal procedure, ~~Act~~
6 ~~No. 175 of the Public Acts of 1927, being section 764.13 of the~~
7 ~~Michigan Compiled Laws~~ 1927 PA 175, MCL 764.13, or, if a minor,
8 taken before the ~~probate court~~ FAMILY DIVISION OF CIRCUIT COURT

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1 within the county in which the offense charged is alleged to have
2 been committed:

3 (a) The person is arrested upon a charge of negligent
4 homicide.

5 (b) The person is arrested under section 625(1), (3), (4),
6 ~~or~~ (5), (6), OR (7), or an ordinance substantially correspond-
7 ing to section 625(1), ~~or~~ (3), OR (6).

8 (c) A person is arrested under section 626 or an ordinance
9 substantially corresponding to that section. If under the exist-
10 ing circumstances it does not appear that releasing the person
11 pending the issuance of a warrant will constitute a public
12 menace, the arresting officer may proceed as provided by
13 section 728.

14 (d) A person arrested does not have in his or her immediate
15 possession a valid operator's or chauffeur's license or the
16 receipt described in section 311a. If the arresting officer oth-
17 erwise satisfactorily determines the identity of the person and
18 the practicability of subsequent apprehension if the person fails
19 to voluntarily appear before a designated magistrate or ~~probate~~
20 ~~court~~ THE FAMILY DIVISION OF CIRCUIT COURT as directed, the
21 officer may release the person from custody with instructions to
22 appear in court, given in the form of a citation as prescribed by
23 section 728.

24 Sec. 732. (1) Each municipal judge and each clerk of a
25 court of record shall keep a full record of every case in which a
26 person is charged with or cited for a violation of this act or a
27 local ordinance substantially corresponding to this act

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1 regulating the operation of vehicles on highways. Except as
2 provided in subsection (15), the municipal judge or clerk of the
3 court of record shall prepare and forward to the secretary of
4 state an abstract of the court record as follows:

5 (a) Within 14 days after a conviction, forfeiture of bail,
6 or entry of a civil infraction determination or default judgment
7 ~~—~~ upon a charge of or citation for violating OR ATTEMPTING TO
8 VIOLATE this act or a local ordinance SUBSTANTIALLY corresponding
9 to this act regulating the operation of vehicles on highways.

10 (b) Immediately for each case charging a violation of
11 section 625(1), (3), (4), (5), ~~or~~ (6), OR (7) or SECTION 625M
12 OR a local ordinance substantially corresponding to
13 section 625(1), (3), or (6) OR SECTION 625M in which the charge
14 is dismissed or the defendant is acquitted.

15 (2) If a city or village department, bureau, or person is
16 authorized to accept a payment of money as a settlement for a
17 violation of a local ordinance SUBSTANTIALLY corresponding to
18 this act, the city or village department, bureau, or person shall
19 send a full report of each case in which a person pays any amount
20 of money to the city or village department, bureau, or person to
21 the secretary of state upon a form prescribed by the secretary of
22 state.

23 (3) The abstract or report required under this section shall
24 be made upon a form furnished by the secretary of state. An
25 abstract shall be certified by signature, stamp, or facsimile
26 signature of the person required to prepare the abstract as

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1 correct. An abstract or report shall include all of the
2 following:

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

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

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

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

11 (e) The date of the conviction, finding, forfeiture, judg-
12 ment, or civil infraction determination.

13 (f) Whether bail was forfeited.

14 (g) Any license ~~revocation,~~ restriction, suspension, or
15 denial ordered by the court ~~pursuant to this act~~ AS PROVIDED BY
16 LAW.

17 (H) THE VEHICLE IDENTIFICATION NUMBER AND REGISTRATION PLATE
18 NUMBER OF ALL VEHICLES THAT ARE ORDERED IMMOBILIZED OR FORFEITED.

19 (I) ~~(h)~~ Other information considered necessary to the sec-
20 retary of state.

21 (4) The clerk of the court also shall forward an abstract of
22 the court record to the secretary of state upon a person's con-
23 viction involving any of the following:

24 (a) A violation of section 413, 414, or 479a of the Michigan
25 penal code, ~~Act No. 328 of the Public Acts of 1931, being sec-~~
26 ~~tions 750.413, 750.414, and 750.479a of the Michigan Compiled~~
27 ~~Laws~~ 1931 PA 328, MCL 750.413, 750.414, AND 750.479A.

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1 (b) A violation of section 1 of ~~Act No. 214 of the Public~~
2 ~~Acts of 1931, being section 752.191 of the Michigan Compiled~~
3 ~~Laws~~ 1931 PA 214, MCL 752.191.

4 (c) Negligent homicide, manslaughter, or murder resulting
5 from the operation of a ~~motor~~ vehicle.

6 (d) A violation of section ~~33b~~ 703 of the Michigan liquor
7 control ~~act, Act No. 8 of the Public Acts of the Extra Session~~
8 ~~of 1933, being section 436.33b of the Michigan Compiled Laws~~
9 CODE OF 1998, 1998 PA 58, MCL 436.1703, or a local ordinance sub-
10 stantially corresponding to that section.

11 (e) An attempt to violate, a conspiracy to violate, or a
12 violation of part 74 or section 17766a of the public health code,
13 ~~Act No. 368 of the Public Acts of 1978, being sections 333.7401~~
14 ~~to 333.7461 and 333.17766a of the Michigan Compiled Laws~~ 1978
15 PA 368, MCL 333.7401 TO 333.7461 AND 333.17766A, or a local ordi-
16 nance that prohibits conduct prohibited under part 74 or section
17 17766a of ~~Act No. 368 of the Public Acts of 1978~~ THE PUBLIC
18 HEALTH CODE, 1978 PA 368, MCL 333.7401 TO 333.7461 AND
19 333.17766A, unless the convicted person is sentenced to life
20 imprisonment or a minimum term of imprisonment that exceeds 1
21 year for the offense.

22 (f) An attempt to commit ~~any of the offenses~~ AN OFFENSE
23 described in subdivisions (a) to (d).

24 (5) As used in subsections (6) to (8), "felony in which a
25 motor vehicle was used" means a felony during the commission of
26 which the person operated a motor vehicle and while operating the

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1 vehicle presented real or potential harm to persons or property
2 and 1 or more of the following circumstances existed:

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

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

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

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

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

14 "You are charged with the commission of a felony in which a
15 motor vehicle was used. If you are convicted and the judge finds
16 that the conviction is for a felony in which a motor vehicle was
17 used, as defined in section 319 of the Michigan vehicle code,
18 ~~Act No. 300 of the Public Acts of 1949, being section 257.319 of~~
19 ~~the Michigan Compiled Laws~~ 1949 PA 300, MCL 257.319, your
20 driver's license shall be suspended by the secretary of state."

21 (7) If a juvenile is accused of an act, the nature of which
22 constitutes a felony in which a motor vehicle was used, other
23 than a felony specified in subsection (4) or section ~~319(1)(a)~~
24 ~~to (e)~~ 319, the prosecuting attorney or ~~juvenile~~ FAMILY divi-
25 sion of ~~the probate~~ CIRCUIT court shall include the following
26 statement on the petition filed in the ~~probate~~ court:

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1 "You are accused of an act the nature of which constitutes a
2 felony in which a motor vehicle was used. If the accusation is
3 found to be true and the judge or referee finds that the nature
4 of the act constitutes a felony in which a motor vehicle was
5 used, as defined in section 319 of the Michigan vehicle code,
6 ~~Act No. 300 of the Public Acts of 1949, being section 257.319 of~~
7 ~~the Michigan Compiled Laws 1949 PA 300, MCL 257.319, your~~
8 driver's license shall be suspended by the secretary of state."

9 (8) If the ~~judge or juvenile court referee~~ COURT deter-
10 mines as part of the sentence or disposition that the felony for
11 which the ~~defendant~~ PERSON was convicted or adjudicated and
12 with respect to which notice was given ~~pursuant to~~ UNDER sub-
13 section (6) or (7) is a felony in which a motor vehicle was used,
14 the clerk of the court shall forward an abstract of the court
15 record of that conviction to the secretary of state.

16 (9) As used in subsections (10) and (11), "felony in which a
17 commercial motor vehicle was used" means a felony during the com-
18 mission of which the person operated a commercial motor vehicle
19 and while the person was operating the vehicle 1 or more of the
20 following circumstances existed:

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

22 (b) The vehicle was used to transport a victim of the
23 felony.

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

25 (d) The vehicle was necessary for the commission of the
26 felony.

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1 (10) If a person is charged with a felony in which a
2 commercial motor vehicle was used and for which a vehicle group
3 designation on a license is subject to suspension or revocation
4 under section 319b(1)(c)(iii), 319b(1)(d), or ~~319b(1)(e)(iii) or~~
5 ~~(vi)~~ 319B(1)(E)(v) OR (viii), the prosecuting attorney shall
6 include the following statement on the complaint and information
7 filed in district or circuit court:

8 "You are charged with the commission of a felony in which a
9 commercial motor vehicle was used. If you are convicted and the
10 judge finds that the conviction is for a felony in which a com-
11 mercial motor vehicle was used, as defined in section 319b of the
12 Michigan vehicle code, ~~Act No. 300 of the Public Acts of 1949,~~
13 ~~being section 257.319b of the Michigan Compiled Laws~~ 1949
14 PA 300, MCL 257.319B, all vehicle group designations on your
15 driver's license shall be suspended or revoked by the secretary
16 of state."

17 (11) If the judge determines as part of the sentence that
18 the felony for which the defendant was convicted and with respect
19 to which notice was given ~~pursuant to~~ UNDER subsection (10) is
20 a felony in which a commercial motor vehicle was used, the clerk
21 of the court shall forward an abstract of the court record of
22 that conviction to the secretary of state.

23 (12) Every person required to forward abstracts to the sec-
24 retary of state under this section shall certify for the period
25 from January 1 through June 30 and for the period from July 1
26 through December 31 that all abstracts required to be forwarded
27 during the period have been forwarded. The certification shall

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1 be filed with the secretary of state not later than 28 days after
2 the end of the period covered by the certification. The certifi-
3 cation shall be made upon a form furnished by the secretary of
4 state and shall include all of the following:

5 (a) The name and title of the person required to forward
6 abstracts.

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

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

9 (d) The following statement:

10 "I certify that all abstracts required by section 732 of the
11 Michigan vehicle code, MCL 257.732; MSA 9.2432, for the period
12 _____ through _____ have been forwarded to the secre-
13 tary of state."

14 (e) Other information the secretary of state considers
15 necessary.

16 (f) The signature of the person required to forward
17 abstracts.

18 (13) The failure, refusal, or neglect of a person to comply
19 with this section constitutes misconduct in office and is grounds
20 for removal from office.

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

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1 (15) Except for controlled substance offenses described in
2 subsection (4), the court shall not submit, and the secretary of
3 state shall discard and not enter on the master driving record,
4 an abstract for a conviction or civil infraction determination
5 for any of the following violations:

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

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

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

13 (d) ~~Except for~~ A PEDESTRIAN, PASSENGER, OR BICYCLE VIOLA-
14 TION, OTHER THAN a violation of section ~~33b(1) or (2) of Act~~
15 ~~No. 8 of the Public Acts of the Extra Session of 1933~~ 703(1) OR
16 (2) OF THE MICHIGAN LIQUOR CONTROL CODE OF 1998, 1998 PA 58,
17 MCL 436.1703, or a local ordinance substantially corresponding to
18 section ~~33b(1) or (2) of Act No. 8 of the Public Acts of the~~
19 ~~Extra Session of 1933~~ 703(1) OR (2) OF THE MICHIGAN LIQUOR CON-
20 TROL CODE OF 1998, 1998 PA 58, MCL 436.1703, or section 624a or
21 624b or a local ordinance substantially corresponding to section
22 624a or 624b. ~~, a pedestrian, passenger, or bicycle violation.~~

23 (e) A violation of section 710e or a local ordinance sub-
24 stantially corresponding to section 710e.

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

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1 shall retain and enter on the master driving record an abstract
2 of an out-of-state bond forfeiture for an offense that occurred
3 after January 1, 1990 in connection with the operation of a com-
4 mercial motor vehicle.

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

10 (18) If a conviction or civil infraction determination is
11 reversed upon appeal, the person whose conviction or determina-
12 tion has been reversed may serve on the secretary of state a cer-
13 tified copy of the order of reversal. The secretary of state
14 shall enter the order in the proper book or index in connection
15 with the record of the conviction or civil infraction
16 determination.

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, or settlement to the secretary of state if
21 the modification will increase the economy and efficiency of col-
22 lecting and utilizing the records. If the permitted abstract of
23 court record reporting a conviction, civil infraction determina-
24 tion, or settlement originates as a part of the written notice to
25 appear, authorized in section 728(1) or 742(1), the form of the
26 written notice and report shall be as prescribed by the secretary
27 of state.

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1 (20) Except as provided in this act and notwithstanding any
2 other provision of law, a court shall not order expunction of any
3 violation reportable to the secretary of state under this
4 section.

5 Enacting section 1. This amendatory act takes effect
6 October 1, 1999.

7 Enacting section 2. This amendatory act does not take
8 effect unless all of the following bills of the 89th Legislature
9 are enacted into law:

- 10 (a) Senate Bill No. 268.
- 11 (b) Senate Bill No. 269.
- 12 (c) Senate Bill No. 625.
- 13 (d) Senate Bill No. 627.
- 14 (e) Senate Bill No. 870.
- 15 (f) Senate Bill No. 953.
- 16 (g) House Bill No. 4210.
- 17 (h) House Bill No. 4576.
- 18 (i) House Bill No. 4959.
- 19 (j) House Bill No. 4960.
- 20 (k) House Bill No. 4961.
- 21 (l) House Bill No. 5122.
- 22 (m) House Bill No. 5123.
- 23 (n) House Bill No. 5951.
- 24 (o) House Bill No. 5952.
- 25 (p) House Bill No. 5953.
- 26 (q) House Bill No. 5954.

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1 (r) House Bill No. 5955.

2 (s) House Bill No. 5956.