

# HOUSE BILL No. 5468

January 14, 1998, Introduced by Reps. Hale, Kelly, Wallace, Hanley, Bogardus, Thomas, Schermesser, Willard, Curtis, Harder, Griffin, Scott, Vaughn, DeHart, Varga and Price and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 249, 254, and 303 (MCL 257.249, 257.254, and 257.303[1]), section 249 as amended by 1993 PA 300, section 254 as amended by 1990 PA 98, and section 303 as amended by 1996 PA 587, and by adding section 254a.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 249. (1) The secretary of state may deny the applica-  
2       tion of a person for a license as a dealer and refuse to issue  
3       the person a license as a dealer, or may suspend or revoke a  
4       license already issued, if the secretary of state finds that 1 or  
5       more of the following apply:

6       (a) The applicant or licensee has made a false statement of  
7       a material fact in his or her application.

1 (b) The applicant or licensee has not complied with the  
2 provisions of this chapter or a rule promulgated under this  
3 chapter.

4 (c) The applicant or licensee has sold or offered for sale a  
5 new vehicle of a type required to be registered under this act  
6 without having authority of a contract with a manufacturer or  
7 distributor of the new vehicle.

8 (d) The applicant or licensee has been guilty of a fraudu-  
9 lent act in connection with selling or otherwise dealing in vehi-  
10 cles of a type required to be registered under this act.

11 (e) The applicant or licensee has entered into or is about  
12 to enter into a contract or agreement with a manufacturer or dis-  
13 tributor of vehicles of a type required to be registered under  
14 this act ~~, which~~ THAT is contrary to any provision of this  
15 act.

16 (f) The applicant or licensee has no established place of  
17 business ~~which~~ THAT is used or will be used for ~~the purpose~~  
18 ~~of~~ selling, displaying, and offering for sale or dealing in  
19 vehicles of a type required to be registered, and does not have  
20 proper servicing facilities.

21 (g) The applicant or licensee is a corporation or partner-  
22 ship ~~—~~ and a stockholder, officer, director, or partner of the  
23 applicant or licensee has been guilty of any act or omission that  
24 would be cause for refusing, revoking, or suspending a license  
25 issued to the stockholder, officer, director, or partner as an  
26 individual.

1 (h) The applicant or licensee has possessed a vehicle or a  
2 vehicle part ~~that has been~~ confiscated under section 415 of the  
3 Michigan penal code, ~~Act No. 328 of the Public Acts of 1931, as~~  
4 ~~amended, being section 750.415 of the Michigan Compiled Laws~~  
5 1931 PA 328, MCL 750.415. The secretary of state shall conduct a  
6 hearing pursuant to the administrative procedures act of 1969,  
7 ~~Act No. 306 of the Public Acts of 1969, as amended, being sec-~~  
8 ~~tions 24.201 to 24.328 of the Michigan Compiled Laws~~ 1969 PA  
9 306, MCL 24.201 TO 24.328, before ~~the secretary of state takes~~  
10 TAKING any action under this subdivision.

11 (i) The applicant or licensee has been convicted under sec-  
12 tion 415 of ~~Act No. 328 of the Public Acts of 1931, as amended~~  
13 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.415.

14 (j) The applicant or licensee has been convicted of violat-  
15 ing ~~Act No. 119 of the Public Acts of 1986, being sections~~  
16 ~~257.1351 to 257.1355 of the Michigan Compiled Laws~~ 1986 PA 119,  
17 MCL 257.1351 TO 257.1355.

18 (2) UPON RECEIVING AN ABSTRACT OF CONVICTION, THE SECRETARY  
19 OF STATE SHALL REVOKE THE LICENSE OF A PERSON AS A DEALER AND  
20 SHALL DENY THE APPLICATION OF A PERSON FOR A LICENSE AS A DEALER  
21 UNTIL THE EXPIRATION OF NOT LESS THAN 5 YEARS AFTER THE DATE OF  
22 THE PERSON'S CONVICTION IF 1 OR MORE OF THE FOLLOWING APPLY:

23 (A) THE APPLICANT OR LICENSEE HAS BEEN CONVICTED UNDER SEC-  
24 TION 535A OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.535A.

25 (B) THE APPLICANT OR LICENSEE HAS BEEN CONVICTED UNDER SEC-  
26 TION 413 OR 535C OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL  
27 750.413 AND 750.535C, AND HAS 1 OR MORE PRIOR CONVICTIONS FOR

1 VIOLATIONS OR ATTEMPTED VIOLATIONS OF SECTION 413, 414, 415, 535,  
2 535A, OR 535C OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL  
3 750.413, 750.414, 750.415, 750.535, 750.535A, AND 750.535C.

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 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.413.

9 (B) THE PERSON HAS 3 OR MORE CONVICTIONS UNDER SECTION 535A  
10 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.535A.

11 (C) THE PERSON HAS 3 OR MORE CONVICTIONS UNDER SECTION 535C  
12 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.535C.

13 Sec. 254. (1) ~~Any person who shall knowingly make any~~ A  
14 PERSON WHO DOES ANY OF THE FOLLOWING IS GUILTY OF A FELONY PUN-  
15 ISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A FINE OF  
16 NOT MORE THAN \$20,000.00, OR BOTH:

17 (A) KNOWINGLY MAKES A false statement of a material fact ~~—~~  
18 ~~either~~ in his or her application for the certificate of title  
19 required by this act ~~—~~, or in ~~any~~ AN assignment of that title.  
20 ~~—, or who, with~~

21 (6) WITH intent to procure or pass title to a motor vehicle  
22 ~~which~~ he or she knows or has reason to believe has been stolen  
23 ~~—, shall receive or transfer~~ OR HAS 1 OR MORE MAJOR COMPONENT  
24 PARTS THAT HAVE BEEN STOLEN, RECEIVES OR TRANSFERS possession of  
25 the ~~same~~ VEHICLE from or to another ~~—, or who shall have~~  
26 PERSON.

1 (2) A PERSON WHO HAS in his or her possession any vehicle  
2 ~~which~~ he or she knows or has reason to believe has been stolen  
3 ~~, and who is not an officer of the law engaged at the time in~~  
4 ~~the performance of his or her duty as such officer,~~ is guilty of  
5 a felony ~~, punishable by a fine of not more than \$5,000.00, or~~  
6 ~~by~~ imprisonment for not more than 10 years OR A FINE OF NOT MORE  
7 THAN \$5,000.00, or both.

8 (3) THIS SECTION DOES NOT APPLY TO A PEACE OFFICER PERFORM-  
9 ING HIS OR HER DUTIES AS A PEACE OFFICER AT THE TIME OF A VIOLA-  
10 TION OF THIS SECTION.

11 (4) This ~~provision shall~~ SECTION DOES not ~~be exclusive of~~  
12 ~~any other penalties prescribed by~~ PROHIBIT THE PROSECUTION OF A  
13 PERSON UNDER any OTHER law for the larceny ~~of the~~ OR unautho-  
14 rized taking of a 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, OR EXCHANGES A MOTOR VEHICLE  
19 CERTIFICATE OF TITLE WITHOUT ALSO SELLING, GIVING, OR EXCHANGING  
20 THE MOTOR VEHICLE FOR WHICH THE TITLE WAS ISSUED.

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

26 (2) A PERSON WHO WITH THE INTENT TO MISLEAD ANOTHER PERSON  
27 AS TO THE IDENTITY OF A MOTOR VEHICLE BUYS, RECEIVES, OR

1 POSSESSES A MOTOR VEHICLE CERTIFICATE OF TITLE OR IDENTIFYING  
2 MARKER THAT BELONGS TO ANOTHER VEHICLE IS GUILTY OF A FELONY PUN-  
3 ISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF  
4 NOT MORE THAN \$20,000.00, OR BOTH.

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

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

13 (5) AS USED IN THIS SECTION:

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

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

24 (C) "VEHICLE IDENTIFICATION NUMBER DERIVATIVE" MEANS A PART  
25 OF THE VEHICLE IDENTIFICATION NUMBER THAT IS UNIQUE IN ITSELF BUT  
26 IS ALPHABETICALLY OR NUMERICALLY IDENTIFIABLE TO THE VEHICLE  
27 IDENTIFICATION NUMBER.

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

3           (a) A person, as an operator, who is less than 18 years of  
4 age, except as otherwise provided in this act.

5           (b) A person, as a chauffeur, who is less than 18 years of  
6 age, except as otherwise provided in this act.

7           (c) A person whose license has been suspended during the  
8 period for which the license was suspended.

9           (d) A person who has been convicted of or received a probate  
10 court disposition for a violation of section 625(4) or (5).

11           (e) A person who has been convicted of or received a probate  
12 court disposition for negligent homicide, manslaughter, or murder  
13 resulting from the operation of a motor vehicle.

14           (f) A person who is an habitual violator of the criminal  
15 laws relating to operating a vehicle while impaired by or under  
16 the influence of intoxicating liquor, a controlled substance, or  
17 a combination of intoxicating liquor and a controlled substance  
18 or with an alcohol content of 0.10 grams or more per 100 millili-  
19 ters of blood, per 210 liters of breath, or per 67 milliliters of  
20 urine. Convictions of any of the following, whether under a law  
21 of this state, a local ordinance substantially corresponding to a  
22 law of this state, or a law of another state substantially corre-  
23 sponding to a law of this state, are prima facie evidence that  
24 the person is an habitual violator as described in this  
25 subdivision:

26           (i) Any combination of 2 convictions within 7 years for any  
27 of the following:

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

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

3 (ii) Any combination of 3 convictions within 10 years for  
4 any of the following if any of the convictions resulted from an  
5 arrest on or after January 1, 1992:

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

7 (B) A violation of former section 625(1) or (2) or former  
8 section 625b.

9 (g) A person who in the opinion of the secretary of state is  
10 afflicted with or suffering from a physical or mental disability  
11 or disease preventing that person from exercising reasonable and  
12 ordinary control over a motor vehicle while operating the motor  
13 vehicle upon the highways.

14 (h) A person who is unable to understand highway warning or  
15 direction signs in the English language.

16 (i) A person who is an habitually reckless driver. Two con-  
17 victions within 7 years of reckless driving under this act or any  
18 other law of this state relating to reckless driving or under a  
19 local ordinance of this state or a law of another state that  
20 defines the term "reckless driving" substantially similarly to  
21 the law of this state are prima facie evidence that the person is  
22 an habitually reckless driver.

23 (j) A person who is an habitual criminal. Two convictions  
24 of a felony in which a motor vehicle was used in this or another  
25 state are prima facie evidence that the person is an habitual  
26 criminal.

1           (k) A person who is unable to pass a knowledge, skill, or  
2 ability test administered by the secretary of state in connection  
3 with the issuance of an original operator's or chauffeur's  
4 license, original motorcycle indorsement, or an original or  
5 renewal of a vehicle group designation or vehicle indorsement.

6           (l) A person who has been convicted of, has received a pro-  
7 bate court disposition for, or has been determined responsible  
8 for 2 or more moving violations under a law of this state, a  
9 local ordinance substantially corresponding to a law of this  
10 state, or a law of another state substantially corresponding to a  
11 law of this state within the preceding 3 years, if the violations  
12 occurred before issuance of an original license to the person in  
13 this or another state.

14           (m) A nonresident, including a foreign exchange student.

15           (n) A person not licensed under this act who has been con-  
16 victed of, has received a probate court disposition for, or has  
17 been determined responsible for a crime or civil infraction  
18 described in section 319, 324, or 904. A person shall be denied  
19 a license under this subdivision for the length of time corre-  
20 sponding to the period of the licensing sanction that would have  
21 been imposed under section 319, 324, or 904 if the person had  
22 been licensed at the time of the violation.

23           (o) A person not licensed under this act who has been con-  
24 victed of or received a probate court disposition for committing  
25 a crime described in section 319e. A person shall be denied a  
26 license under this subdivision for the length of time that  
27 corresponds to the period of the licensing sanction that would

1 have been imposed under section 319e if the person had been  
2 licensed at the time of the violation.

3 (p) A person not licensed under this act who is determined  
4 to have violated section 33b(1) of the Michigan liquor control  
5 act, ~~Act No. 8 of the Public Acts of the Extra Session of 1933,~~  
6 ~~being section 436.33b of the Michigan Compiled Laws~~ 1933 (EX  
7 SESS) PA 8, MCL 436.33B, or section 624a or 624b. The person  
8 shall be denied a license under this subdivision for a period of  
9 time that corresponds to the period of the licensing sanction  
10 that would have been imposed under those sections had the person  
11 been licensed at the time of the violation.

12 (q) A person who has been convicted of a violation of sec-  
13 tion 602a(4) or (5) or a violation of section 479a(4) or (5) of  
14 the Michigan penal code, ~~Act No. 328 of the Public Acts of 1931,~~  
15 ~~being section 750.479a of the Michigan Compiled Laws~~ 1931 PA  
16 328, MCL 750.479A.

17 (R) A PERSON WHO HAS ANY OF THE FOLLOWING:

18 (i) ONE OR MORE CONVICTIONS UNDER SECTION 535A OF THE  
19 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.535A.

20 (ii) TWO OR MORE CONVICTIONS UNDER SECTION 413 OF THE  
21 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.413.

22 (iii) TWO OR MORE CONVICTIONS UNDER SECTION 535C OF THE  
23 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.535C.

24 (2) Upon receiving the appropriate records of conviction,  
25 the secretary of state shall revoke the operator's or chauffeur's  
26 license of a person having any of the following, whether under a  
27 law of this state, a local ordinance substantially corresponding

1 to a law of this state, or a law of another state substantially  
2 corresponding to a law of this state:

3 (a) Two convictions of reckless driving in violation of sec-  
4 tion 626 within 7 years.

5 (b) Two convictions of a felony in which a motor vehicle was  
6 used within 7 years.

7 (c) Any combination of 2 convictions within 7 years for any  
8 of the following:

9 (i) A violation of section 625(1).

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

11 (iii) A violation of section 625(4) or (5).

12 (iv) Negligent homicide, manslaughter, or murder resulting  
13 from the operation of a motor vehicle.

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

15 (e) One conviction of negligent homicide, manslaughter, or  
16 murder resulting from the operation of a motor vehicle.

17 (f) Any combination of 3 convictions within 10 years for any  
18 of the following if any of the convictions resulted from an  
19 arrest on or after January 1, 1992:

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

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

23 (iii) Negligent homicide, manslaughter, or murder resulting  
24 from the operation of a motor vehicle.

25 (g) A CONVICTION FOR A violation of section 602a(4) or (5)  
26 of this act or section 479a(4) or (5) of the Michigan penal code,

1 ~~Act No. 328 of the Public Acts of 1931, being section 750.479a~~  
2 ~~of the Michigan Compiled Laws 1931 PA 328, MCL 750.479A.~~

3 (H) ONE OR MORE CONVICTIONS UNDER SECTION 535A OF THE  
4 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.535A.

5 (I) TWO OR MORE CONVICTIONS UNDER SECTION 413 OF THE  
6 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.413.

7 (J) TWO OR MORE CONVICTIONS UNDER SECTION 535C OF THE  
8 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.535C.

9 (3) The secretary of state shall revoke a license under sub-  
10 section (2) notwithstanding a court order issued under section  
11 625, section 625b, former section 625(1) or (2), or former sec-  
12 tion 625b or a local ordinance substantially corresponding to  
13 section 625, section 625b, former section 625(1) or (2), or  
14 former section 625b.

15 (4) The secretary of state shall not issue a license under  
16 this act to a person whose license has been revoked under this  
17 act or denied under subsection (1)(d), (e), (f), (i), ~~or~~ (j),  
18 (Q), OR (R) until ~~both of~~ THE PERSON MEETS THE DEPARTMENT'S  
19 REQUIREMENTS AND the following ~~occur~~ HAVE OCCURRED AS  
20 APPLICABLE:

21 (a) ~~The~~ EXCEPT FOR A DENIAL UNDER SUBSECTION (1)(R) OR A  
22 REVOCATION UNDER SUBSECTION (2)(H), (I), OR (J), EXPIRATION OF  
23 THE later of the following:

24 (i) ~~The expiration of not~~ NOT less than 1 year after the  
25 license was revoked or denied.

1       (ii) ~~The expiration of not~~ NOT less than 5 years after the  
2 date of a subsequent revocation or denial occurring within 7  
3 years after the date of any prior revocation or denial.

4       (b) ~~The person meets the requirements of the department~~  
5 FOR A DENIAL UNDER SUBSECTION (1)(R) OR A REVOCATION UNDER SUB-  
6 SECTION (2)(H), (I), OR (J), NOT LESS THAN 2 YEARS AFTER THE  
7 REVOCATION OR DENIAL.

8       (5) Multiple convictions or civil infraction determinations  
9 resulting from the same incident shall be treated as a single  
10 violation for purposes of denial or revocation of a license under  
11 this section.

12       (6) As used in this section, "felony in which a motor vehi-  
13 cle was used" means a felony during the commission of which the  
14 person operated a motor vehicle and while operating the vehicle  
15 presented real or potential harm to persons or property and 1 or  
16 more of the following circumstances existed:

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

18       (b) The vehicle was used to transport a victim of the  
19 felony.

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

21       (d) The vehicle was necessary for the commission of the  
22 felony.

23       Enacting section 1. This amendatory act does not take  
24 effect unless Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_  
25 (request no. 01082'97) of the 89th Legislature is enacted into  
26 law.