

Act No. 342
Public Acts of 1998
Approved by the Governor
October 16, 1998
Filed with the Secretary of State
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

**Introduced by Reps. Freeman, Crissman, Fitzgerald, Gilmer, DeHart, Dobb, Bodem, Hammerstrom, Gernaat, Mathieu, Olshove, McBryde, Willard and Goschka
Reps. Agee, Anthony, Baade, Bankes, Basham, Bogardus, Brewer, Callahan, Cassis, Cherry, Ciaramitaro, Dalman, DeVuyst, Gire, Gustafson, Jansen, Jelinek, Jellema, Kaza, Kelly, Lowe, Mans, Middaugh, Middleton, Murphy, Nye, Oxender, Price, Profit, Prusi, Rocca, Schauer, Schermesser, Scott, Scranton, Stallworth, Vaughn, Voorhees, Wetters, Whyman and Wojno named co-sponsors
Reps. Alley, Birkholz, Brackenridge, Brown, Byl, Gagliardi, Hale, Johnson, Law, LeTarte, London, Owen, Parks, Raczkowski, Richner, Sanborn, Sikkema, Tesanovich and Thomas named co-sponsors**

ENROLLED HOUSE BILL No. 5122

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 904 (MCL 257.904), as amended by 1994 PA 450.

The People of the State of Michigan enact:

Sec. 904. (1) A person whose operator's or chauffeur's license or registration certificate has been suspended or revoked and who has been notified as provided in section 212 of that suspension or revocation, whose application for license has been denied, or who has never applied for a license, shall not operate a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within this state.

(2) A person shall not knowingly permit a motor vehicle owned by the person to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state by a person whose license or registration certificate is suspended or revoked, whose application for license has been denied, or who has never applied for a license, except as permitted under this act.

(3) Except as otherwise provided in this section, a person who violates subsection (1) or (2) is guilty of a misdemeanor punishable as follows:

(a) For a first violation, by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both. Unless the vehicle was stolen or used with the permission of a person who did not knowingly permit an unlicensed driver to operate the vehicle, the registration plates of the vehicle shall be canceled by the secretary of state upon notification by a peace officer.

(b) For a second or subsequent violation, by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both. Unless the vehicle was stolen, the registration plates of the vehicle shall be canceled by the secretary of state upon notification by a peace officer.

(4) A person who operates a motor vehicle in violation of subsection (1) and who, by operation of that motor vehicle, causes the death of another person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not less than \$2,500.00 or more than \$10,000.00, or both. This subsection does not apply to a person whose operator's or chauffeur's license was suspended because that person failed to answer a citation or comply with an order or judgment pursuant to section 321a.

(5) A person who operates a motor vehicle in violation of subsection (1) and who, by operation of that motor vehicle, causes the serious impairment of a body function of another person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not less than \$1,000.00 or more than \$5,000.00, or both. This subsection does not apply to a person whose operator's or chauffeur's license was suspended because that person failed to answer a citation or comply with an order or judgment pursuant to section 321a. As used in this subsection and subsection (7), "serious impairment of a body function" includes, but is not limited to, 1 or more of the following:

- (a) Loss of a limb or loss of use of a limb.
- (b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
- (c) Loss of an eye or ear or loss of use of an eye or ear.
- (d) Loss or substantial impairment of a bodily function.
- (e) Serious visible disfigurement.
- (f) A comatose state that lasts for more than 3 days.
- (g) Measurable brain or mental impairment.
- (h) A skull fracture or other serious bone fracture.
- (i) Subdural hemorrhage or subdural hematoma.

(6) In addition to being subject to any other penalty provided for in this act, if a person is convicted under subsection (4) or (5), the court may impose the sanction permitted under section 625n or 904d. If the violation occurs within 7 years of a prior conviction or within 10 years of 2 or more prior convictions, the court shall order vehicle immobilization under section 904d in the judgment of sentence.

(7) A person shall not knowingly permit a motor vehicle owned by the person to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state, by a person whose license or registration certificate is suspended or revoked, whose application for license has been denied, or who has never been licensed except as permitted by this act. If a person permitted to operate a motor vehicle in violation of this subsection causes the serious impairment of a body function of another person by operation of that motor vehicle, the person knowingly permitting the operation of that motor vehicle is guilty of a felony punishable by imprisonment for not more than 2 years, or a fine of not less than \$1,000.00 or more than \$5,000.00, or both. If a person permitted to operate a motor vehicle in violation of this subsection causes the death of another person by operation of that motor vehicle, the person knowingly permitting the operation of that motor vehicle is guilty of a felony punishable by imprisonment for not more than 5 years, or a fine of not less than \$1,000.00 or more than \$5,000.00, or both.

(8) Upon receiving a record of a person's conviction or civil infraction determination for the unlawful operation of a motor vehicle or a moving violation of this act or a local ordinance substantially corresponding to this act while the person's operator's or chauffeur's license is suspended or revoked, the secretary of state immediately shall impose an additional like period of suspension or revocation. This subsection applies only if the violation occurs during a suspension of definite length or if the violation occurs before the person is approved for a license following a revocation.

(9) Upon receiving a record of a person's conviction or civil infraction determination for the unlawful operation of a motor vehicle or a moving violation of this act or a local ordinance substantially corresponding to this act while the person's operator's or chauffeur's license is expired for 60 days or more, indefinitely suspended, or whose application for a license has been denied, the secretary of state immediately shall impose an additional 30-day period of suspension or denial.

(10) Upon receiving a record of the conviction, bond forfeiture, or a civil infraction determination of a person for unlawful operation of a motor vehicle requiring a vehicle group designation while the designation is suspended pursuant to section 319a or 319b, or revoked, the secretary of state immediately shall impose an additional like period of suspension or revocation. A prior conviction shall be established as provided in section 625(16). This subsection applies only if the violation occurs during a suspension of definite length, if the violation occurs before the person is approved for a license following a revocation, or if the person operates a commercial vehicle while disqualified under the commercial motor vehicle safety act of 1986, title XII of Public Law 99-570, 100 Stat. 3207-170.

(11) If the secretary of state receives records of more than 1 conviction or civil infraction determination resulting from the same incident, all of the convictions or civil infraction determinations shall be treated as a single violation for purposes of imposing an additional period of suspension or revocation under subsection (8), (9), or (10).

(12) Before a person is arraigned before a district court magistrate or judge on a charge of violating this section, the arresting officer shall obtain the person's driving record from the secretary of state and shall furnish the record to the court. The driving record of the person may be obtained from the secretary of state's computer information network.

(13) This section does not apply to a person who operates a vehicle solely for the purpose of protecting human life or property if the life or property is endangered and summoning prompt aid is essential.

(14) A person whose vehicle group designation is suspended or revoked and who has been notified as provided in section 212 of that suspension or revocation, or whose application for a vehicle group designation has been denied as provided in this act, or who has never applied for a vehicle group designation and who operates a commercial motor vehicle within this state, except as permitted under this act, while any of those conditions exist is guilty of a misdemeanor punishable, except as otherwise provided in this section, by imprisonment for not less than 3 days or more than 93 days or a fine of not more than \$100.00, or both.

(15) If a person has a second or subsequent suspension or revocation under this section within 7 years as indicated on the person's Michigan driving record, the court shall proceed as provided in section 904d.

(16) This section does not apply to a person who has 1 currently effective suspension or denial on his or her Michigan driving record under section 321a and has never been convicted of or received a civil infraction determination for a violation that occurred during that suspension or denial.

(17) For purposes of this section, a person who never applied for a license includes a person who applied for a license, was denied, and never applied again.

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

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

- (a) Senate Bill No. 268.
- (b) Senate Bill No. 269.
- (c) Senate Bill No. 625.
- (d) Senate Bill No. 627.
- (e) Senate Bill No. 869.
- (f) Senate Bill No. 870.
- (g) Senate Bill No. 953.
- (h) House Bill No. 4210.
- (i) House Bill No. 4576.
- (j) House Bill No. 4959.
- (k) House Bill No. 4960.
- (l) House Bill No. 4961.
- (m) House Bill No. 5123.
- (n) House Bill No. 5951.
- (o) House Bill No. 5952.
- (p) House Bill No. 5953.
- (q) House Bill No. 5954.
- (r) House Bill No. 5955.
- (s) House Bill No. 5956.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.