

HOUSE BILL No. 4295

February 23, 1999, Introduced by Reps. Sanborn, Wojno, DeHart, Patterson, Garcia, Hart, Kuipers, Jelinek, Koetje, Voorhees, Mans, Ehardt, Jamnick, Jansen and Scranton and referred to the Committee on Criminal Law and Corrections.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 319 and 732 (MCL 257.319 and 257.732), section 319 as amended by 1998 PA 347 and section 732 as amended by 1998 PA 348.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 319. (1) The secretary of state shall immediately sus-
2 pend a person's license as provided in this section upon receiv-
3 ing a record of the person's conviction for a crime described in
4 this section, whether the conviction is under a law of this
5 state, a local ordinance substantially corresponding to a law of
6 this state, or a law of another state substantially corresponding
7 to a law of this state.

8 (2) The secretary of state shall suspend the person's
9 license for 1 year for any of the following crimes:

1 (a) Fraudulently altering or forging documents pertaining to
2 motor vehicles in violation of section 257.

3 (b) A violation of section 413 of the Michigan penal code,
4 1931 PA 328, MCL 750.413.

5 (c) A violation of section 1 of 1931 PA 214, MCL 752.191.

6 (d) Failing to stop and disclose identity at the scene of an
7 accident resulting in death or serious injury in violation of
8 section 617.

9 (e) A felony in which a motor vehicle was used. As used in
10 this section, "felony in which a motor vehicle was used" means a
11 felony during the commission of which the person convicted oper-
12 ated a motor vehicle and while operating the vehicle presented
13 real or potential harm to persons or property and 1 or more of
14 the following circumstances existed:

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

16 (ii) The vehicle was used to transport a victim of the
17 felony.

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

19 (iv) The vehicle was necessary for the commission of the
20 felony.

21 (f) A violation of section 602a(2) or (3) of this act or
22 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328,
23 MCL 750.479a.

24 (3) The secretary of state shall suspend the person's
25 license for 90 days for any of the following crimes:

26 (a) Failing to stop and disclose identity at the scene of an
27 accident resulting in injury in violation of section 617a.

1 (b) Reckless driving in violation of section 626.

2 (c) Malicious destruction resulting from the operation of a
3 vehicle under section 382(1)(b), (c), or (d) of the Michigan
4 penal code, 1931 PA 328, MCL 750.382.

5 (d) A violation described in section 367c of the Michigan
6 penal code, 1931 PA 328, MCL 750.367c.

7 (e) A violation of section 703(2) of the Michigan liquor
8 control code of 1998, 1998 PA 58, MCL 436.1703.

9 (4) The secretary of state shall suspend the person's
10 license for 30 days for malicious destruction resulting from the
11 operation of a vehicle under section 382(1)(a) of the Michigan
12 penal code, 1931 PA 328, MCL 750.382.

13 (5) For perjury or making a false certification to the sec-
14 retary of state under any law requiring the registration of a
15 motor vehicle or regulating the operation of a vehicle on a high-
16 way, the secretary shall suspend the person's license as
17 follows:

18 (a) If the person has no prior conviction for an offense
19 described in this subsection within 7 years, for 90 days.

20 (b) If the person has 1 or more prior convictions for an
21 offense described in this subsection within 7 years, for 1 year.

22 (6) For a violation of section 414 of the Michigan penal
23 code, 1931 PA 328, MCL 750.414, the secretary of state shall sus-
24 pend the person's license as follows:

25 (a) If the person has no prior conviction for that offense
26 within 7 years, for 90 days.

1 (b) If the person has 1 or more prior convictions for that
2 offense within 7 years, for 1 year.

3 (7) For a violation of section 624a or 624b of this act or
4 section 703(1) of the Michigan liquor control code of 1998, 1998
5 PA 58, MCL 436.1703, the secretary of state shall suspend the
6 person's license as follows:

7 (a) If the person has 1 prior conviction for an offense
8 described in this subsection or section 33b(1) of former 1933 (Ex
9 Sess) PA 8, for 90 days. The secretary of state may issue the
10 person a restricted license after the first 30 days of
11 suspension.

12 (b) If the person has 2 or more prior convictions for an
13 offense described in this subsection or section 33b(1) of former
14 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may
15 issue the person a restricted license after the first 60 days of
16 suspension.

17 (8) The secretary of state shall suspend the person's
18 license for a violation of section 625 or 625m as follows:

19 (a) For 180 days for a violation of section 625(1) if the
20 person has no prior convictions within 7 years. The secretary of
21 state may issue the person a restricted license during all or a
22 specified portion of the suspension, except that the secretary of
23 state shall not issue a restricted license during the first 30
24 days of suspension.

25 (b) For 90 days for a violation of section 625(3) if the
26 person has no prior convictions within 7 years. However, if the
27 person is convicted of a violation of section 625(3), for

1 operating a vehicle when, due to the consumption of a controlled
2 substance or a combination of intoxicating liquor and a con-
3 trolled substance, the person's ability to operate the vehicle
4 was visibly impaired, the secretary of state shall suspend the
5 person's license under this subdivision for 180 days. The secre-
6 tary of state may issue the person a restricted license during
7 all or a specified portion of the suspension.

8 (c) For 30 days for a violation of section 625(6) if the
9 person has no prior convictions within 7 years. The secretary of
10 state may issue the person a restricted license during all or a
11 specified portion of the suspension.

12 (d) For 90 days for a violation of section 625(6) if the
13 person has 1 or more prior convictions within 7 years.

14 (e) For 180 days for a violation of section 625(7) if the
15 person has no prior convictions within 7 years. The secretary of
16 state may issue the person a restricted license after the first
17 90 days of suspension.

18 (f) For 90 days for a violation of section 625m if the
19 person has no prior convictions within 7 years. The secretary of
20 state may issue the person a restricted license during all or a
21 specified portion of the suspension.

22 (9) FOR A PERSON CONVICTED OF A VIOLATION OF SECTION 2(1) OF
23 THE YOUTH TOBACCO ACT, 1915 PA 31, MCL 722.642, WHO HAS 1 OR MORE
24 PRIOR CONVICTIONS FOR VIOLATION OF THAT SECTION, THE SECRETARY OF
25 STATE SHALL SUSPEND THE PERSON'S LICENSE AS FOLLOWS:

26 (A) IF THE PERSON HAS 1 PRIOR CONVICTION FOR A VIOLATION
27 DESCRIBED IN THIS SUBSECTION, FOR A PERIOD OF NOT LESS THAN 60

1 DAYS OR MORE THAN 90 DAYS, IF A SUSPENSION IS ORDERED BY THE
2 COURT AS PART OF THE SENTENCE. THE SECRETARY OF STATE SHALL
3 ISSUE THE PERSON A RESTRICTED LICENSE AFTER THE FIRST 30 DAYS OF
4 SUSPENSION IF ORDERED BY THE COURT AS PART OF THE SENTENCE.

5 (B) IF THE PERSON HAS 2 OR MORE PRIOR CONVICTIONS FOR A VIO-
6 LATION DESCRIBED IN THIS SUBSECTION, FOR A PERIOD OF NOT LESS
7 THAN 90 DAYS OR MORE THAN 180 DAYS AS ORDERED BY THE COURT AS
8 PART OF THE SENTENCE. THE SECRETARY OF STATE SHALL ISSUE THE
9 PERSON A RESTRICTED LICENSE AFTER THE FIRST 60 DAYS OF SUSPENSION
10 IF ORDERED BY THE COURT AS PART OF THE SENTENCE.

11 (10) ~~(9)~~ Except as provided in subsection ~~(11)~~ (12), a
12 suspension under this section shall be imposed notwithstanding a
13 court order.

14 (11) ~~(10)~~ If the secretary of state receives records of
15 more than 1 conviction of a person resulting from the same inci-
16 dent, a suspension shall be imposed only for the violation to
17 which the longest period of suspension applies under this
18 section.

19 (12) ~~(11)~~ The secretary of state may waive a suspension of
20 a person's license imposed under this act if the person submits
21 proof that a court in another state revoked, suspended, or
22 restricted his or her license for a period equal to or greater
23 than the period of a suspension prescribed under this act for the
24 violation and that the revocation, suspension, or restriction was
25 served for the violation, or may grant a restricted license.

26 (13) ~~(12)~~ The secretary of state shall not issue a
27 restricted license to a person whose license is suspended under

1 this section unless a restricted license is authorized under this
2 section and the person is otherwise eligible for a license.

3 (14) ~~-(13)-~~ The secretary of state shall not issue a
4 restricted license to a person under subsection (8) that would
5 permit the person to operate a commercial motor vehicle that
6 hauls hazardous material.

7 (15) ~~-(14)-~~ A restricted license issued under this section
8 shall permit the person to whom it is issued to drive under 1 or
9 more of the following circumstances:

10 (a) In the course of the person's employment or occupation.

11 (b) To and from any combination of the following:

12 (i) The person's residence.

13 (ii) The person's work location.

14 (iii) An alcohol or drug education or treatment program as
15 ordered by the court.

16 (iv) The court probation department.

17 (v) A court-ordered community service program.

18 (vi) An educational institution at which the person is
19 enrolled as a student.

20 (vii) A place of regularly occurring medical treatment for a
21 serious condition for the person or a member of the person's
22 household or immediate family.

23 (16) ~~-(15)-~~ While driving WITH A RESTRICTED LICENSE, the
24 person shall carry proof of his or her destination and the hours
25 of any employment, class, or other reason for traveling and shall
26 display that proof upon a peace officer's request.

1 (17) ~~(16)~~ Subject to subsection ~~(18)~~ (19), as used in
2 subsection (8), "prior conviction" means a conviction for any of
3 the following, whether under a law of this state, a local ordi-
4 nance substantially corresponding to a law of this state, or a
5 law of another state substantially corresponding to a law of this
6 state:

7 (a) Except as provided in subsection ~~(17)~~ (18), a viola-
8 tion or attempted violation of section 625(1), (3), (4), (5),
9 (6), or (7), section 625m, former section 625(1) or (2), or
10 former section 625b.

11 (b) Negligent homicide, manslaughter, or murder resulting
12 from the operation of a vehicle or an attempt to commit any of
13 those crimes.

14 (18) ~~(17)~~ Except for purposes of the suspensions described
15 in subsection (8)(c) and (d), only 1 violation or attempted vio-
16 lation of section 625(6), a local ordinance substantially corre-
17 sponding to section 625(6), or a law of another state substan-
18 tially corresponding to section 625(6) may be used as a prior
19 conviction.

20 (19) ~~(18)~~ If 2 or more convictions described in subsection
21 ~~(16)~~ (17) are convictions for violations arising out of the
22 same transaction, only 1 conviction shall be used to determine
23 whether the person has a prior conviction.

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

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 vio-
8 late this act or a local ordinance substantially corresponding to
9 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), (6), or (7) or section 625m or a
12 local ordinance substantially corresponding to section 625(1),
13 (3), or (6) or section 625m in which the charge is dismissed or
14 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

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~~ THE
10 vehicle's 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 restriction, suspension, or denial ordered
15 by the court as provided by law.

16 (h) The vehicle identification number and registration plate
17 number of all vehicles that are ordered immobilized or
18 forfeited.

19 (i) Other information considered necessary to the secretary
20 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, 1931 PA 328, MCL 750.413, 750.414, and 750.479a.

26 (b) A violation of section 1 of 1931 PA 214, MCL 752.191.

1 (c) Negligent homicide, manslaughter, or murder resulting
2 from the operation of a vehicle.

3 (d) A violation of section 703 of the Michigan liquor con-
4 trol code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance
5 substantially corresponding to that section.

6 (e) ~~An attempt to violate, a~~ A VIOLATION OF OR conspiracy
7 to violate ~~, or a violation of~~ part 74 or section 17766a of the
8 public health code, 1978 PA 368, MCL 333.7401 to 333.7461 and
9 333.17766a, or a local ordinance that prohibits conduct prohib-
10 ited under part 74 or section 17766a of the public health code,
11 1978 PA 368, MCL 333.7401 to 333.7461 and 333.17766a, unless the
12 convicted person is sentenced to life imprisonment or a minimum
13 term of imprisonment that exceeds 1 year for the offense.

14 (F) A VIOLATION OF SECTION 2(1) OF THE YOUTH TOBACCO ACT,
15 1915 PA 31, MCL 722.642(1).

16 (G) ~~(f)~~ An attempt to commit an offense described in sub-
17 divisions (a) to ~~(d)~~ (F).

18 (5) As used in subsections (6) to (8), "felony in which a
19 motor vehicle was used" means a felony during the commission of
20 which the person operated a motor vehicle and while operating the
21 vehicle presented real or potential harm to persons or property
22 and 1 or more of the following circumstances existed:

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

24 (b) The vehicle was used to transport a victim of the
25 felony.

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

1 (d) The vehicle was necessary for the commission of the
2 felony.

3 (6) If a person is charged with a felony in which a motor
4 vehicle was used, other than a felony specified in subsection (4)
5 or section 319, the prosecuting attorney shall include the fol-
6 lowing statement on the complaint and information filed in dis-
7 trict or circuit court:

8 "You are charged with the commission of a felony in which a
9 motor vehicle was used. If you are convicted and the judge finds
10 that the conviction is for a felony in which a motor vehicle was
11 used, as defined in section 319 of the Michigan vehicle code,
12 1949 PA 300, MCL 257.319, your driver's license shall be sus-
13 pended by the secretary of state."

14 (7) If a juvenile is accused of an act, the nature of which
15 constitutes a felony in which a motor vehicle was used, other
16 than a felony specified in subsection (4) or section 319, the
17 prosecuting attorney or family division of circuit court shall
18 include the following statement on the petition filed in the
19 court:

20 "You are accused of an act the nature of which constitutes a
21 felony in which a motor vehicle was used. If the accusation is
22 found to be true and the judge or referee finds that the nature
23 of the act constitutes a felony in which a motor vehicle was
24 used, as defined in section 319 of the Michigan vehicle code,
25 1949 PA 300, MCL 257.319, your driver's license shall be sus-
26 pended by the secretary of state."

1 (8) If the court determines as part of the sentence or
2 disposition that the felony for which the person was convicted or
3 adjudicated and with respect to which notice was given under sub-
4 section (6) or (7) is a felony in which a motor vehicle was used,
5 the clerk of the court shall forward an abstract of the court
6 record of that conviction to the secretary of state.

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

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

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

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

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

18 (10) If a person is charged with a felony in which a commer-
19 cial motor vehicle was used and for which a vehicle group desig-
20 nation on a license is subject to suspension or revocation under
21 section 319b(1)(c)(iii), 319b(1)(d), or ~~319b(1)(e)(v) or (viii)~~
22 319B(1)(E)(iii) OR (F)(i), the prosecuting attorney shall include
23 the following statement on the complaint and information filed in
24 district or circuit court:

25 "You are charged with the commission of a felony in which a
26 commercial motor vehicle was used. If you are convicted and the
27 judge finds that the conviction is for a felony in which a

1 commercial motor vehicle was used, as defined in section 319b of
2 the Michigan vehicle code, 1949 PA 300, MCL 257.319b, all vehicle
3 group designations on your driver's license shall be suspended or
4 revoked by the secretary of state."

5 (11) If the judge determines as part of the sentence that
6 the felony for which the defendant was convicted and with respect
7 to which notice was given under subsection (10) is a felony in
8 which a commercial motor vehicle was used, the clerk of the court
9 shall forward an abstract of the court record of that conviction
10 to the secretary of state.

11 (12) Every person required to forward abstracts to the sec-
12 retary of state under this section shall certify for the period
13 from January 1 through June 30 and for the period from July 1
14 through December 31 that all abstracts required to be forwarded
15 during the period have been forwarded. The certification shall
16 be filed with the secretary of state not later than 28 days after
17 the end of the period covered by the certification. The certifi-
18 cation shall be made upon a form furnished by the secretary of
19 state and shall include all of the following:

20 (a) The name and title of the person required to forward
21 abstracts.

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

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

24 (d) The following statement:

25 "I certify that all abstracts required by section 732 of the
26 Michigan vehicle code, MCL 257.732; MSA 9.2432, for the period

1 _____ through _____ have been forwarded to the
2 secretary of state.".

3 (e) Other information the secretary of state considers
4 necessary.

5 (f) The signature of the person required to forward
6 abstracts.

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

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

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

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

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

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

1 (d) A pedestrian, passenger, or bicycle violation, other
2 than a violation of section 703(1) or (2) of the Michigan liquor
3 control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordi-
4 nance substantially corresponding to section 703(1) or (2) of the
5 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703,
6 or section 624a or 624b or a local ordinance substantially corre-
7 sponding to section 624a or 624b.

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

10 (16) The secretary of state shall discard and not enter on
11 the master driving record an abstract for a bond forfeiture that
12 occurred outside this state. However, the secretary of state
13 shall retain and enter on the master driving record an abstract
14 of an out-of-state bond forfeiture for an offense that occurred
15 after January 1, 1990 in connection with the operation of a com-
16 mercial motor vehicle.

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

22 (18) If a conviction or civil infraction determination is
23 reversed upon appeal, the person whose conviction or determina-
24 tion has been reversed may serve on the secretary of state a cer-
25 tified copy of the order of reversal. The secretary of state
26 shall enter the order in the proper book or index in connection

1 with the record of the conviction or civil infraction
2 determination.

3 (19) The secretary of state may permit a city or village
4 department, bureau, person, or court to modify the requirement as
5 to the time and manner of reporting a conviction, civil infrac-
6 tion determination, or settlement to the secretary of state if
7 the modification will increase the economy and efficiency of col-
8 lecting and utilizing the records. If the permitted abstract of
9 court record reporting a conviction, civil infraction determina-
10 tion, or settlement originates as a part of the written notice to
11 appear, authorized in section 728(1) or 742(1), the form of the
12 written notice and report shall be as prescribed by the secretary
13 of state.

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

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

20 Enacting section 2. This amendatory act does not take
21 effect unless Senate Bill No. _____ or House Bill No. _____
22 (request no. 00244'99 *) of the 90th Legislature is enacted into
23 law.