

HOUSE BILL No. 4393

March 9, 1999, Introduced by Reps. DeVuyst, Patterson, DeHart, Wojno, Woronchak, Howell, Mead, Law, Kowall, Rocca, Kuipers, Toy, Mortimer, Voorhees, Basham, Richner, Pappageorge, Bovin, Bradstreet, Jelinek, Gosselin, Garcia, Hager and Bob Brown 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 320 (MCL 257.319 and 257.320), section 319 as amended by 1998 PA 347 and section 320 as amended by 1982 PA 310.

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 AND THE PERSON'S PRIVILEGE TO OPERATE A VESSEL, AN ORV,
19 AND A SNOWMOBILE FOR THE SAME PERIOD for a violation of
20 section 625 or 625m as follows:

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

1 (b) For 90 days for a violation of section 625(3) if the
2 person has no prior convictions within 7 years. However, if the
3 person is convicted of a violation of section 625(3), for operat-
4 ing a vehicle when, due to the consumption of a controlled sub-
5 stance or a combination of intoxicating liquor and a controlled
6 substance, the person's ability to operate the vehicle was visi-
7 bly impaired, the secretary of state shall suspend the person's
8 license under this subdivision for 180 days. The secretary of
9 state may issue the person a restricted license during all or a
10 specified portion of the suspension.

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

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

17 (e) For 180 days for a violation of section 625(7) if the
18 person has no prior convictions within 7 years. The secretary of
19 state may issue the person a restricted license after the first
20 90 days of suspension.

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

25 (9) Except as provided in subsection (11), a suspension
26 under this section shall be imposed notwithstanding a court
27 order.

1 (10) If the secretary of state receives records of more than
2 1 conviction of a person resulting from the same incident, a sus-
3 pension shall be imposed only for the violation to which the
4 longest period of suspension applies under this section.

5 (11) The secretary of state may waive a suspension of a
6 person's license imposed under this act if the person submits
7 proof that a court in another state revoked, suspended, or
8 restricted his or her license for a period equal to or greater
9 than the period of a suspension prescribed under this act for the
10 violation and that the revocation, suspension, or restriction was
11 served for the violation, or may grant a restricted license.

12 (12) The secretary of state shall not issue a restricted
13 license to a person whose license is suspended under this section
14 unless a restricted license is authorized under this section and
15 the person is otherwise eligible for a license.

16 (13) The secretary of state shall not issue a restricted
17 license to a person under subsection (8) that would permit the
18 person to operate a commercial motor vehicle that hauls hazardous
19 material.

20 (14) A restricted license issued under this section shall
21 permit the person to whom it is issued to drive under 1 or more
22 of the following circumstances:

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

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

25 (i) The person's residence.

26 (ii) The person's work location.

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

3 (iv) The court probation department.

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

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

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

10 (15) While driving, the person shall carry proof of his or
11 her destination and the hours of any employment, class, or other
12 reason for traveling and shall display that proof upon a peace
13 officer's request.

14 (16) Subject to subsection (18), as used in subsection (8),
15 "prior conviction" means a conviction for any of the following,
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) Except as provided in subsection (17), a violation or
20 attempted violation of section 625(1), (3), (4), (5), (6), or
21 (7), section 625m, former section 625(1) or (2), or former sec-
22 tion 625b.

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

26 (17) Except for purposes of the suspensions described in
27 subsection (8)(c) and (d), only 1 violation or attempted

1 violation of section 625(6), a local ordinance substantially
2 corresponding to section 625(6), or a law of another state sub-
3 stantially corresponding to section 625(6) may be used as a prior
4 conviction.

5 (18) If 2 or more convictions described in subsection (16)
6 are convictions for violations arising out of the same transac-
7 tion, only 1 conviction shall be used to determine whether the
8 person has a prior conviction.

9 Sec. 320. (1) The secretary of state after notice as pro-
10 vided in this section may conduct an investigation and reexamina-
11 tion of a person, based upon 1 or more of the following:

12 (a) The secretary of state has reason to believe that the
13 person is incompetent to drive a motor vehicle or is afflicted
14 with a mental or physical infirmity or disability rendering it
15 unsafe for that person to drive a motor vehicle.

16 (b) The person, as a driver, has in 1 or more instances been
17 involved in an accident resulting in the death of a person.

18 (c) The person, within a 24-month period, has been involved
19 in 3 accidents resulting in personal injury or damage to the
20 property of a person, and the official police report indicates a
21 moving violation on the part of the driver in each of the
22 accidents.

23 (d) The person has charged against him or her a total of 12
24 or more points as provided in section 320a within a period of 2
25 years.

26 (e) The person has been convicted of violating restrictions,
27 terms, or conditions of the person's license.

1 (2) The secretary of state, upon good cause, may restrict,
2 suspend, revoke, or impose other terms and conditions on the
3 license of a person subject to reexamination and require the
4 immediate surrender of the license of that person. The secretary
5 of state shall, in all cases, prescribe the period of restric-
6 tion, suspension, revocation, or other terms and conditions. IF
7 THE SECRETARY OF STATE REVOKES THE LICENSE OF A PERSON UNDER THIS
8 SUBSECTION, THE SECRETARY OF STATE SHALL ALSO REVOKE THE PRIVI-
9 LEGE OF THE PERSON TO OPERATE A VESSEL, AN ORV, AND A SNOWMOBILE.

10 (3) Service of notice shall be made by regular mail to the
11 last known address of the licensee as shown on the most recent
12 license application or change of address on the license as pro-
13 vided by section 315.

14 (4) A license shall not be suspended under this section for
15 a period of more than 1 year.

16 (5) The reexamination may be held by the secretary of state
17 pursuant to this section notwithstanding any restriction, suspen-
18 sion, revocation, or denial of a license under this section, sec-
19 tion 303 or 319, chapter V, section 625 or 625b, or under any
20 other law of this state. A suspension ordered pursuant to this
21 section shall be in addition to other suspensions.

22 (6) If a licensed operator or chauffeur fails to appear for
23 a reexamination scheduled by the secretary of state pursuant to
24 this section, the licensed operator's or chauffeur's license may
25 be suspended immediately and shall remain suspended until the
26 licensed operator or chauffeur appears for a reexamination by the
27 secretary of state. However, the secretary of state may

1 restrict, suspend, or revoke the license based solely on the
2 licensed operator's or chauffeur's driving record.

3 Enacting section 1. This amendatory act does not take
4 effect unless Senate Bill No. _____ or House Bill No. _____
5 (request no. 00522'99 a) of the 90th Legislature is enacted into
6 law.