

SENATE BILL NO. 125

January 27, 1999, Introduced by Senator GAST and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 320a and 732 (MCL 257.320a and 257.732), section 320a as amended by 1998 PA 350 and section 732 as amended by 1998 PA 348.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 320a. (1) The secretary of state, within 10 days after
2 the receipt of a properly prepared abstract from this or another
3 state, shall record the date of conviction, civil infraction
4 determination, or probate court disposition, and the number of
5 points for each, based on the following formula, except as other-
6 wise provided in this section and section 629c:

7 (a) Manslaughter, negligent homicide, or a felony
8 resulting from the operation of a motor vehicle, ORV,
9 OR SNOWMOBILE..... 6 points

1 (b) A violation of section 625(1), (4), (5), or
 2 (7), SECTION 81134 OR 82127(1) OF THE NATURAL RESOURCES
 3 AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL
 4 324.81134 AND 324.82127, or a law or ordinance substan-
 5 tially corresponding to section 625(1), (4), (5), or
 6 (7) OR SECTION 81134 OR 82127(1) OF THE NATURAL
 7 RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA
 8 451, MCL 324.81134 AND 324.82127..... 6 points

9 (c) Failing to stop and disclose identity at the
 10 scene of an accident when required by law..... 6 points

11 (d) Operating a motor vehicle in a reckless manner 6 points

12 (e) Violation of any law or ordinance pertaining
 13 to speed by exceeding the lawful maximum by more than
 14 15 miles per hour..... 4 points

15 (f) Violation of section 625(3) or (6), SECTION
 16 81135 OR 82127(3) OF THE NATURAL RESOURCES AND ENVIRON-
 17 MENTAL PROTECTION ACT, 1994 PA 451, MCL 324.81135 AND
 18 324.82127, or a law or ordinance substantially corre-
 19 sponding to section 625(3) or (6) OR SECTION 81135 OR
 20 82127(3) OF THE NATURAL RESOURCES AND ENVIRONMENTAL
 21 PROTECTION ACT, 1994 PA 451, MCL 324.81135 AND
 22 324.82127..... 4 points

23 (g) Fleeing or eluding an officer..... 6 points

24 (h) Violation of section 626a or a law or ordi-
 25 nance substantially corresponding to section 626a..... 4 points

26 (i) Violation of any law or ordinance pertaining
 27 to speed by exceeding the lawful maximum by more than

1 10 but not more than 15 miles per hour or careless
2 driving in violation of section 626b or a law or ordi-
3 nance substantially corresponding to section 626b..... 3 points

4 (j) Violation of any law or ordinance pertaining
5 to speed by exceeding the lawful maximum by 10 miles
6 per hour or less..... 2 points

7 (k) Disobeying a traffic signal or stop sign, or
8 improper passing..... 3 points

9 (l) Violation of section 624a, 624b, or a law or
10 ordinance substantially corresponding to section 624a
11 or 624b..... 2 points

12 (m) Until April 1, 2002, violation of section
13 310e(4) or (6) or a law or ordinance substantially cor-
14 responding to section 310e(4) or (6)..... 2 points

15 (n) All other moving violations pertaining to the
16 operation of motor vehicles reported under this section 2 points

17 (o) A refusal by a person less than 21 years of
18 age to submit to a preliminary breath test required by
19 a peace officer under section 625a..... 2 points

20 (2) Points shall not be entered for a violation of
21 section 310e(15), 311, 625m, 658, 717, 719, 719a, or 723.

22 (3) Points shall not be entered for bond forfeitures.

23 (4) Points shall not be entered for overweight loads or for
24 defective equipment.

25 (5) If more than 1 conviction, civil infraction determina-
26 tion, or probate court disposition results from the same

1 incident, points shall be entered only for the violation that
2 receives the highest number of points under this section.

3 (6) If a person has accumulated 9 points as provided in this
4 section, the secretary of state may call the person in for an
5 interview as to the person's driving ability and record after due
6 notice as to time and place of the interview. If the person
7 fails to appear as provided in this subsection, the secretary of
8 state shall add 3 points to the person's record.

9 (7) If a person violates a speed restriction established by
10 an executive order issued during a state of energy emergency as
11 provided by 1982 PA 191, MCL 10.81 to 10.89, the secretary of
12 state shall enter points for the violation pursuant to subsection
13 (1).

14 (8) The secretary of state shall enter 6 points upon the
15 record of a person whose license is suspended or denied pursuant
16 to section 625f. However, if a conviction, civil infraction
17 determination, or probate court disposition results from the same
18 incident, additional points for that offense shall not be
19 entered.

20 (9) If a Michigan driver commits a violation in another
21 state that would be a civil infraction if committed in Michigan,
22 and a conviction results solely because of the failure of the
23 Michigan driver to appear in that state to contest the violation,
24 upon receipt of the abstract of conviction by the secretary of
25 state, the violation shall be noted on the driver's record, but
26 no points shall be assessed against his or her driver's license.

1 Sec. 732. (1) Each municipal judge and each clerk of a
2 court of record shall keep a full record of every case in which a
3 person is charged with or cited for a violation of this act or a
4 local ordinance substantially corresponding to this act regulat-
5 ing the operation of vehicles on highways AND WITH THOSE OFFENSES
6 PERTAINING TO THE OPERATION OF ORVS OR SNOWMOBILES FOR WHICH
7 POINTS ARE ASSESSED UNDER SECTION 320A(1)(B) OR (F). Except as
8 provided in subsection (15), the municipal judge or clerk of the
9 court of record shall prepare and forward to the secretary of
10 state an abstract of the court record as follows:

11 (a) Within 14 days after a conviction, forfeiture of bail,
12 or entry of a civil infraction determination or default judgment
13 upon a charge of or citation for violating or attempting to vio-
14 late this act or a local ordinance substantially corresponding to
15 this act regulating the operation of vehicles on highways.

16 (b) Immediately for each case charging a violation of
17 section 625(1), (3), (4), (5), (6), or (7) or section 625m or a
18 local ordinance substantially corresponding to section 625(1),
19 (3), or (6) or section 625m in which the charge is dismissed or
20 the defendant is acquitted.

21 (c) IMMEDIATELY FOR EACH CASE CHARGING A VIOLATION OF SEC-
22 TION 82127(1) OR (3), 81134, OR 81135 OF THE NATURAL RESOURCES
23 AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.82127,
24 324.81134, AND 324.81135, OR A LOCAL ORDINANCE SUBSTANTIALLY COR-
25 RESPONDING TO THOSE SECTIONS.

26 (2) If a city or village department, bureau, or person is
27 authorized to accept a payment of money as a settlement for a

1 violation of a local ordinance substantially corresponding to
2 this act, the city or village department, bureau, or person shall
3 send a full report of each case in which a person pays any amount
4 of money to the city or village department, bureau, or person to
5 the secretary of state upon a form prescribed by the secretary of
6 state.

7 (3) The abstract or report required under this section shall
8 be made upon a form furnished by the secretary of state. An
9 abstract shall be certified by signature, stamp, or facsimile
10 signature of the person required to prepare the abstract as
11 correct. An abstract or report shall include all of the
12 following:

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

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

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

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

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

23 (f) Whether bail was forfeited.

24 (g) Any license restriction, suspension, or denial ordered
25 by the court as provided by law.

1 (h) The vehicle identification number and registration plate
2 number of all vehicles that are ordered immobilized or
3 forfeited.

4 (i) Other information considered necessary to the secretary
5 of state.

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

9 (a) A violation of section 413, 414, or 479a of the Michigan
10 penal code, 1931 PA 328, MCL 750.413, 750.414, and 750.479a.

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

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

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

17 (e) An attempt to violate, a conspiracy to violate, or a
18 violation of part 74 or section 17766a of the public health code,
19 1978 PA 368, MCL 333.7401 to 333.7461 and 333.17766a, or a local
20 ordinance that prohibits conduct prohibited under part 74 or sec-
21 tion 17766a of the public health code, 1978 PA 368, MCL 333.7401
22 to 333.7461 and 333.17766a, unless the convicted person is sen-
23 tenced to life imprisonment or a minimum term of imprisonment
24 that exceeds 1 year for the offense.

25 (f) An attempt to commit an offense described in subdivi-
26 sions (a) to (d).

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

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

7 (b) The vehicle was used to transport a victim of the
8 felony.

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

10 (d) The vehicle was necessary for the commission of the
11 felony.

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

17 "You are charged with the commission of a felony in which a
18 motor vehicle was used. If you are convicted and the judge finds
19 that the conviction is for a felony in which a motor vehicle was
20 used, as defined in section 319 of the Michigan vehicle code,
21 1949 PA 300, MCL 257.319, your driver's license shall be sus-
22 pended by the secretary of state."

23 (7) If a juvenile is accused of an act, the nature of which
24 constitutes a felony in which a motor vehicle was used, other
25 than a felony specified in subsection (4) or section 319, the
26 prosecuting attorney or family division of circuit court shall

1 include the following statement on the petition filed in the
2 court:

3 "You are accused of an act the nature of which constitutes a
4 felony in which a motor vehicle was used. If the accusation is
5 found to be true and the judge or referee finds that the nature
6 of the act constitutes a felony in which a motor vehicle was
7 used, as defined in section 319 of the Michigan vehicle code,
8 1949 PA 300, MCL 257.319, your driver's license shall be sus-
9 pended by the secretary of state."

10 (8) If the court determines as part of the sentence or dis-
11 position that the felony for which the person was convicted or
12 adjudicated and with respect to which notice was given 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.

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)(v) or
5 (viii), the prosecuting attorney shall include the following
6 statement on the complaint and information filed in district or
7 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, 1949 PA 300, MCL 257.319b, all vehicle
13 group designations on your driver's license shall be suspended or
14 revoked by the secretary of state."

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

21 (12) Every person required to forward abstracts to the sec-
22 retary of state under this section shall certify for the period
23 from January 1 through June 30 and for the period from July 1
24 through December 31 that all abstracts required to be forwarded
25 during the period have been forwarded. The certification shall
26 be filed with the secretary of state not later than 28 days after
27 the end of the period covered by the certification. The

1 certification shall be made upon a form furnished by the
2 secretary of state and shall include all of the following:

3 (a) The name and title of the person required to forward
4 abstracts.

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

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

7 (d) The following statement:

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

12 (e) Other information the secretary of state considers
13 necessary.

14 (f) The signature of the person required to forward
15 abstracts.

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

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

25 (15) Except for controlled substance offenses described in
26 subsection (4), the court shall not submit, and the secretary of
27 state shall discard and not enter on the master driving record,

1 an abstract for a conviction or civil infraction determination
2 for any of the following violations:

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

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

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

10 (d) A pedestrian, passenger, or bicycle violation, other
11 than a violation of section 703(1) or (2) of the Michigan liquor
12 control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordi-
13 nance substantially corresponding to section 703(1) or (2) of the
14 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703,
15 or section 624a or 624b or a local ordinance substantially corre-
16 sponding to section 624a or 624b.

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

19 (16) The secretary of state shall discard and not enter on
20 the master driving record an abstract for a bond forfeiture that
21 occurred outside this state. However, the secretary of state
22 shall retain and enter on the master driving record an abstract
23 of an out-of-state bond forfeiture for an offense that occurred
24 after January 1, 1990 in connection with the operation of a com-
25 mercial motor vehicle.

26 (17) The secretary of state shall inform the courts of this
27 state of the nonmoving violations and violations of chapter II

1 that are used by the secretary of state as the basis for the
2 suspension, restriction, revocation, or denial of an operator's
3 or chauffeur's license.

4 (18) If a conviction or civil infraction determination is
5 reversed upon appeal, the person whose conviction or determina-
6 tion has been reversed may serve on the secretary of state a cer-
7 tified copy of the order of reversal. The secretary of state
8 shall enter the order in the proper book or index in connection
9 with the record of the conviction or civil infraction
10 determination.

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

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

26 Enacting section 1. This amendatory act does not take
27 effect unless Senate Bill No. 126

1 of the 90th Legislature is enacted into
2 law.