

# HOUSE BILL No. 5120

October 2, 2001, Introduced by Reps. Richardville, Ehardt, Stewart, Pappageorge, Schermesser, Shackleton, Ruth Johnson, Vander Veen, Woronchak, Dennis and Lemmons and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 320a, 727c, and 743 (MCL 257.320a, 257.727c, and 257.743), section 320a as amended by 2000 PA 460, section 727c as amended by 1999 PA 73, and section 743 as amended by 1988 PA 346.

**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:

- 1           (a) Manslaughter, negligent homicide, or a felony
- 2 resulting from the operation of a motor vehicle, ORV,
- 3 or snowmobile..... 6 points
- 4           (b) A violation of section 653a(4)..... 6 points
- 5           (c) A violation of section 625(1), (4), (5), or
- 6 (7), section 81134 or 82127(1) of the natural resources
- 7 and environmental protection act, 1994 PA 451,
- 8 MCL 324.81134 and 324.82127, or a law or ordinance sub-
- 9 stantially corresponding to section 625(1), (4), (5),
- 10 or (7) or ~~---~~ section 81134 or 82127(1) of the natural
- 11 resources and environmental protection act, 1994
- 12 PA 451, MCL 324.81134 and 324.82127..... 6 points
- 13           (d) Failing to stop and disclose identity at the
- 14 scene of an accident when required by law..... 6 points
- 15           (e) Operating a motor vehicle in violation of sec-
- 16 tion 626 or section 653a(3)..... 6 points
- 17           (f) Fleeing or eluding an officer..... 6 points
- 18           (g) Violation of any law or ordinance pertaining
- 19 to speed by exceeding the lawful maximum by more than
- 20 15 miles per hour..... 4 points
- 21           (h) Violation of section 625(3) or (6), section
- 22 81135 or 82127(3) of the natural resources and environ-
- 23 mental protection act, 1994 PA 451, MCL 324.81135 and
- 24 324.82127, or a law or ordinance substantially corre-
- 25 sponding to section 625(3) or (6) or ~~---~~ section 81135
- 26 or 82127(3) of the natural resources and environmental

|    |   |          |
|----|---|----------|
| 1  | protection act, 1994 PA 451, MCL 324.81135 and          |          |
| 2  | 324.82127.....  | 4 points |
| 3  | (i) Violation of section 626a or a law or ordi-         |          |
| 4  | nance substantially corresponding to section 626a.....  | 4 points |
| 5  | (j) Violation of section 653a(2).....                   | 4 points |
| 6  | (k) Violation of any law or ordinance pertaining        |          |
| 7  | to speed by exceeding the lawful maximum by more than   |          |
| 8  | 10 but not more than 15 miles per hour or careless      |          |
| 9  | driving in violation of section 626b or a law or ordi-  |          |
| 10 | nance substantially corresponding to section 626b.....  | 3 points |
| 11 | (l) Violation of any law or ordinance pertaining        |          |
| 12 | to speed by exceeding the lawful maximum by 10 miles    |          |
| 13 | per hour or less.....                                   | 2 points |
| 14 | (m) Disobeying a traffic signal or stop sign, or        |          |
| 15 | improper passing.....                                   | 3 points |
| 16 | (n) Violation of section 624a, 624b, or a law or        |          |
| 17 | ordinance substantially corresponding to section 624a   |          |
| 18 | or 624b.....  | 2 points |
| 19 | (o) Violation of section 310e(4) or (6) or a law        |          |
| 20 | or ordinance substantially corresponding to section     |          |
| 21 | 310e(4) or (6).....                                     | 2 points |
| 22 | (p) All other moving violations pertaining to the       |          |
| 23 | operation of motor vehicles reported under this section | 2 points |
| 24 | (q) A refusal by a person less than 21 years of         |          |
| 25 | age to submit to a preliminary breath test required by  |          |
| 26 | a peace officer under section 625a.....                 | 2 points |

1 (2) Points shall not be entered for a violation of section  
2 310e(14), 311, 625m, 658, 717, 719, 719a, or 723.

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

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

6 (5) If more than 1 conviction, civil infraction determina-  
7 tion, or probate court disposition results from the same inci-  
8 dent, points shall be entered only for the violation that  
9 receives the highest number of points under this section.

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

16 (7) If a person violates a speed restriction established by  
17 an executive order issued during a state of energy emergency as  
18 provided by 1982 PA 191, MCL 10.81 to 10.89, the secretary of  
19 state shall enter points for the violation pursuant to subsection  
20 (1).

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

1           (9) If a Michigan driver commits a violation in another  
2 state that would be a civil infraction if committed in Michigan,  
3 and a conviction results solely because of the failure of the  
4 Michigan driver to appear in that state to contest the violation,  
5 upon receipt of the abstract of conviction by the secretary of  
6 state, the violation shall be noted on the driver's record, but  
7 no points shall be assessed against his or her driver's license.

8           (10) POINTS SHALL NOT BE ENTERED UPON THE DRIVING RECORD OF  
9 A PERSON WHO, WITHIN 60 DAYS AFTER HE OR SHE IS CONVICTED OF OR  
10 FOUND RESPONSIBLE FOR A VIOLATION FOR WHICH POINTS MAY OTHERWISE  
11 BE ENTERED UNDER THIS SECTION, DOES ALL OF THE FOLLOWING:

12           (A) SUCCESSFULLY COMPLETES A COURSE OF DRIVER IMPROVEMENT  
13 INSTRUCTION AT A DRIVER IMPROVEMENT SCHOOL RECOGNIZED BY THE SEC-  
14 RETARY OF STATE.

15           (B) PRESENTS A DRIVER IMPROVEMENT CERTIFICATE FOR SUCCESS-  
16 FULLY COMPLETING THAT COURSE OF DRIVER IMPROVEMENT INSTRUCTION TO  
17 THE SECRETARY OF STATE.

18           (11) SUBSECTION (10) DOES NOT APPLY IF ANY OF THE FOLLOWING  
19 CIRCUMSTANCES EXIST:

20           (A) THE PERSON WAS PREVIOUSLY ALLOWED A WAIVER OF POINTS AS  
21 PROVIDED UNDER SUBSECTION (10) WITHIN 1 YEAR BEFORE THE DATE OF  
22 CONVICTION OR FINDING OF RESPONSIBILITY FOR THE VIOLATION FOR  
23 WHICH A WAIVER OF POINTS IS SOUGHT.

24           (B) THE PERSON WAS PREVIOUSLY ALLOWED A WAIVER OF POINTS AS  
25 PROVIDED UNDER SUBSECTION (10) FOR 3 OTHER VIOLATIONS.

26           (C) THE CONVICTION OR FINDING OF RESPONSIBILITY IS FOR ANY  
27 OF THE FOLLOWING VIOLATIONS:

1           (i) FLEEING OR ELUDING A POLICE OR CONSERVATION OFFICER IN  
2 VIOLATION OF SECTION 602A OF THIS ACT, OR IN VIOLATION OF SECTION  
3 479A OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.479A.

4           (ii) FAILING TO STOP AND DISCLOSE IDENTITY AT THE SCENE OF  
5 AN ACCIDENT IN VIOLATION OF SECTION 617, 617A, OR 618.

6           (iii) OPERATING A MOTOR VEHICLE UNDER THE INFLUENCE OF AN  
7 INTOXICATING LIQUOR OR A CONTROLLED SUBSTANCE, OR A COMBINATION  
8 OF AN INTOXICATING LIQUOR AND A CONTROLLED SUBSTANCE, OR WHILE  
9 HAVING A BLOOD ALCOHOL CONTENT OF 0.10 GRAMS OR MORE PER 100 MIL-  
10 LILITERS OF BLOOD, PER 210 LITERS OF BREATH, OR PER 67 MILLILI-  
11 TERS OF URINE IN VIOLATION OF SECTION 625 OR A LOCAL ORDINANCE  
12 SUBSTANTIALLY CORRESPONDING TO SECTION 625.

13           (iv) OPERATING A MOTOR VEHICLE WHILE VISIBLY IMPAIRED BY THE  
14 CONSUMPTION OF AN INTOXICATING LIQUOR OR A CONTROLLED SUBSTANCE,  
15 OR A COMBINATION OF AN INTOXICATING LIQUOR AND A CONTROLLED SUB-  
16 STANCE IN VIOLATION OF SECTION 625 OR A LOCAL ORDINANCE SUBSTAN-  
17 Tially CORRESPONDING TO SECTION 625.

18           (v) RECKLESS DRIVING IN VIOLATION OF SECTION 626.

19           (vi) MANSLAUGHTER IN VIOLATION OF SECTION 321 OF THE  
20 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.321.

21           (vii) NEGLIGENT HOMICIDE IN VIOLATION OF SECTION 324 OF THE  
22 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.324.

23           (12) THE SECRETARY OF STATE SHALL INFORM EACH PERSON WHO  
24 CONTACTS A SECRETARY OF STATE OFFICE PURSUANT TO SECTION 727C OR  
25 743 OF THE PERSON'S ELIGIBILITY FOR A WAIVER OF POINTS AS PRO-  
26 VIDED UNDER THIS SECTION AND SHALL PROVIDE THOSE PERSONS WITH

1 INFORMATION REGARDING THE AVAILABILITY OF DRIVER IMPROVEMENT  
2 INSTRUCTION.

3       Sec. 727c. (1) As used in this act, "citation" means a com-  
4 plaint or notice upon which a police officer shall record an  
5 occurrence involving 1 or more vehicle law violations by the  
6 person cited. Each citation shall be numbered consecutively, be  
7 in a form as determined by the secretary of state, the attorney  
8 general, the state court administrator, and the director of the  
9 department of state police and shall consist of the following  
10 parts:

11       (a) The original which shall be a complaint or notice to  
12 appear by the officer and shall be filed with the court in which  
13 the appearance is to be made.

14       (b) The first copy which shall be retained by the local  
15 traffic enforcement agency.

16       (c) The second copy which shall be delivered to the alleged  
17 violator if the violation is a misdemeanor.

18       (d) The third copy which shall be delivered to the alleged  
19 violator if the violation is a civil infraction.

20       (2) With the prior approval of the state officials enumer-  
21 ated in subsection (1), the citation may be appropriately modi-  
22 fied as to content or number of copies to accommodate law  
23 enforcement and local court procedures and practices. Use of  
24 this citation for other than moving violations is optional.

25       (3) For purposes of this act, a complaint signed by a police  
26 officer shall be treated as made under oath if the violation  
27 alleged in the complaint is either a civil infraction or a

1 misdemeanor or ordinance violation for which the maximum  
2 permissible penalty does not exceed 93 days in jail or a fine, or  
3 both, and occurred or was committed in the signing officer's  
4 presence or under circumstances permitting the officer's issuance  
5 of a citation under section 625a or 728(8), and if the complaint  
6 contains the following statement immediately above the date and  
7 signature of the officer:

8 "I declare under the penalties of perjury that the state-  
9 ments above are true to the best of my information, knowledge,  
10 and belief."

11 (4) A CITATION ISSUED FOR A VIOLATION FOR WHICH POINTS MAY  
12 BE ENTERED SHALL CONTAIN BOTH OF THE FOLLOWING:

13 (A) A STATEMENT THAT POINTS FOR THE VIOLATION MAY BE WAIVED  
14 AS PROVIDED UNDER SECTION 320A.

15 (B) A STATEMENT THAT THE PERSON MAY CONTACT ANY SECRETARY OF  
16 STATE OFFICE TO OBTAIN INFORMATION AS TO WHETHER HE OR SHE IS  
17 ELIGIBLE FOR A WAIVER OF POINTS AS PROVIDED UNDER SECTION 320A  
18 AND TO OBTAIN INFORMATION REGARDING THE AVAILABILITY OF DRIVER  
19 IMPROVEMENT INSTRUCTION.

20 Sec. 743. (1) A citation issued pursuant to section 742  
21 shall contain the name of the state or political subdivision  
22 acting as plaintiff, the name and address of the person to whom  
23 the citation is issued, the civil infraction alleged, the place  
24 where the person shall appear in court, the telephone number of  
25 the court, the time at or by which the appearance shall be made,  
26 and the additional information required by this section.



1           (2) The citation shall inform the defendant to the effect  
2 that he or she, at or by the time specified for appearance, may:

3           (a) Admit responsibility for the civil infraction in person,  
4 by representation, or by mail.

5           (b) Admit responsibility for the civil infraction "with  
6 explanation" in person, by representation, or by mail.

7           (c) Deny responsibility for the civil infraction by doing  
8 either of the following:

9           (i) Appearing in person for an informal hearing before a  
10 district court magistrate, a referee of the recorder's court of  
11 the city of Detroit--traffic and ordinance division, or a judge,  
12 without the opportunity of being represented by an attorney.

13           (ii) Appearing in court for a formal hearing before a judge,  
14 with the opportunity of being represented by an attorney.

15           (3) The citation shall inform the defendant that if the  
16 person desires to admit responsibility "with explanation" other  
17 than by mail or to have an informal hearing or a formal hearing,  
18 the person must apply to the court in person, by mail, or by  
19 telephone, within the time specified for appearance and obtain a  
20 scheduled date and time to appear for a hearing. A hearing date  
21 may be specified on the citation.

22           (4) The citation shall contain a notice in boldface type  
23 that the failure of a person to appear within the time specified  
24 in the citation or at the time scheduled for a hearing or appear-  
25 ance will result in entry of a default judgment against the  
26 person and in the immediate suspension of the person's operator's  
27 or chauffeur's license. Timely application to the court for a

1 hearing or return of the citation with an admission of  
2 responsibility and with full payment of applicable civil fines  
3 and costs constitute a timely appearance.

4 (5) If the citation is issued to a person who is operating a  
5 commercial motor vehicle, the citation shall contain a vehicle  
6 group designation and indorsement description of the vehicle,  
7 which vehicle is operated by the person at the time of the  
8 alleged civil infraction.

9 (6) A CITATION ISSUED FOR A VIOLATION FOR WHICH POINTS MAY  
10 BE ENTERED SHALL CONTAIN BOTH OF THE FOLLOWING:

11 (A) A STATEMENT THAT POINTS FOR THE VIOLATION MAY BE WAIVED  
12 AS PROVIDED UNDER SECTION 320A.

13 (B) A STATEMENT THAT THE PERSON MAY CONTACT ANY SECRETARY OF  
14 STATE OFFICE TO OBTAIN INFORMATION AS TO WHETHER HE OR SHE IS  
15 ELIGIBLE FOR A WAIVER OF POINTS AS PROVIDED UNDER SECTION 320A  
16 AND TO OBTAIN INFORMATION REGARDING THE AVAILABILITY OF DRIVER  
17 IMPROVEMENT INSTRUCTION.