

HOUSE BILL No. 6518

November 7, 2002, Introduced by Reps. Phillips, Thomas, Jansen and O'Neil and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 904 and 904d (MCL 257.904 and 257.904d), section 904 as amended by 2002 PA 534 and section 904d as amended by 2001 PA 159.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

12 (a) For a first violation, by imprisonment for not more than
13 ~~93~~ 180 days or a fine of not more than ~~\$500.00~~ \$1,000.00, or
14 both. Unless the vehicle was stolen or used with the permission
15 of a person who did not knowingly permit an unlicensed driver to
16 operate the vehicle, the registration plates of the vehicle shall
17 be canceled by the secretary of state upon notification by a
18 peace officer.

19 (b) For a violation that occurs after a prior conviction, by
20 imprisonment for not more than 1 year or a fine of not more than
21 ~~\$1,000.00~~ \$2,000.00, or both. Unless the vehicle was stolen,
22 the registration plates of the vehicle shall be canceled by the
23 secretary of state upon notification by a peace officer. IN
24 ADDITION, THE COURT SHALL ORDER THE VEHICLE OPERATED BY THE
25 PERSON CONVICTED TO BE IMMOBILIZED FOR 90 DAYS.

26 (4) A person who operates a motor vehicle in violation of
27 subsection (1) and who, by operation of that motor vehicle,

1 causes the death of another person is guilty of a felony
2 punishable by imprisonment for not more than 15 years or a fine
3 of not less than \$2,500.00 or more than \$10,000.00, or both.
4 This subsection does not apply to a person whose operator's or
5 chauffeur's license was suspended because that person failed to
6 answer a citation or comply with an order or judgment pursuant to
7 section 321a.

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

- 20 (a) Loss of a limb or loss of use of a limb.
21 (b) Loss of a foot, hand, finger, or thumb or loss of use of
22 a foot, hand, finger, or thumb.
23 (c) Loss of an eye or ear or loss of use of an eye or ear.
24 (d) Loss or substantial impairment of a bodily function.
25 (e) Serious visible disfigurement.
26 (f) A comatose state that lasts for more than 3 days.

1 (g) Measurable brain or mental impairment.

2 (h) A skull fracture or other serious bone fracture.

3 (i) Subdural hemorrhage or subdural hematoma.

4 (6) In addition to being subject to any other penalty pro-
5 vided for in this act, if a person is convicted under subsection
6 (4) or (5), the court may impose the sanction permitted under
7 section 625n. If the vehicle is not ordered forfeited under sec-
8 tion 625n, the court shall order vehicle immobilization under
9 section 904d in the judgment of sentence.

10 (7) A person shall not knowingly permit a motor vehicle
11 owned by the person to be operated upon a highway or other place
12 open to the general public or generally accessible to motor vehi-
13 cles, including an area designated for the parking of vehicles,
14 within this state, by a person whose license or registration cer-
15 tificate is suspended or revoked, whose application for license
16 has been denied, or who has never been licensed except as permit-
17 ted by this act. If a person permitted to operate a motor vehi-
18 cle in violation of this subsection causes the serious impairment
19 of a body function of another person by operation of that motor
20 vehicle, the person knowingly permitting the operation of that
21 motor vehicle is guilty of a felony punishable by imprisonment
22 for not more than 2 years, or a fine of not less than \$1,000.00
23 or more than \$5,000.00, or both. If a person permitted to oper-
24 ate a motor vehicle in violation of this subsection causes the
25 death of another person by operation of that motor vehicle, the
26 person knowingly permitting the operation of that motor vehicle
27 is guilty of a felony punishable by imprisonment for not more

1 than 5 years, or a fine of not less than \$1,000.00 or more than
2 \$5,000.00, or both.

3 (8) If the prosecuting attorney intends to seek an enhanced
4 sentence under this section based upon the defendant having 1 or
5 more prior convictions, the prosecuting attorney shall include on
6 the complaint and information, or an amended complaint and infor-
7 mation, filed in district court, circuit court, municipal court,
8 or family division of circuit court, a statement listing the
9 defendant's prior convictions.

10 (9) A prior conviction under this section shall be estab-
11 lished at or before sentencing by 1 or more of the following:

12 (a) An abstract of conviction.

13 (b) A copy of the defendant's driving record.

14 (c) An admission by the defendant.

15 (10) Upon receiving a record of a person's conviction or
16 civil infraction determination for the unlawful operation of a
17 motor vehicle or a moving violation reportable under section 732
18 while the person's operator's or chauffeur's license is suspended
19 or revoked, the secretary of state immediately shall impose an
20 additional like period of suspension or revocation. This subsec-
21 tion applies only if the violation occurs during a suspension of
22 definite length or if the violation occurs before the person is
23 approved for a license following a revocation.

24 (11) Upon receiving a record of a person's conviction or
25 civil infraction determination for the unlawful operation of a
26 motor vehicle or a moving violation reportable under section 732
27 while the person's operator's or chauffeur's license is

1 indefinitely suspended or whose application for a license has
2 been denied, the secretary of state immediately shall impose a
3 30-day period of suspension or denial.

4 (12) Upon receiving a record of the conviction, bond forfei-
5 ture, or a civil infraction determination of a person for unlaw-
6 ful operation of a motor vehicle requiring a vehicle group desig-
7 nation while the designation is suspended or revoked pursuant to
8 section 319b, or while the person is disqualified from operating
9 a commercial motor vehicle under chapter 313 of title 49 of the
10 United States Code, 49 U.S.C. 31301 to 31317, the secretary of
11 state immediately shall impose an additional like period of sus-
12 pension or revocation. This subsection applies only if the vio-
13 lation occurs during a suspension of definite length or if the
14 violation occurs before the person is approved for a license fol-
15 lowing a revocation.

16 (13) If the secretary of state receives records of more than
17 1 conviction or civil infraction determination resulting from the
18 same incident, all of the convictions or civil infraction deter-
19 minations shall be treated as a single violation for purposes of
20 imposing an additional period of suspension or revocation under
21 subsection (10), (11), or (12).

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

1 (15) This section does not apply to a person who operates a
2 vehicle solely for the purpose of protecting human life or prop-
3 erty if the life or property is endangered and summoning prompt
4 aid is essential.

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

16 (17) If a person has a second or subsequent suspension or
17 revocation under this section within 7 years as indicated on the
18 person's Michigan driving record, the court shall proceed as pro-
19 vided in section 904d.

20 (18) Any period of suspension or revocation required under
21 subsection (10), (11), or (12) does not apply to a person who has
22 only 1 currently effective suspension or denial on his or her
23 Michigan driving record under section 321a and was convicted of
24 or received a civil infraction determination for a violation that
25 occurred during that suspension or denial. This subsection may
26 only be applied once during the person's lifetime.

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

4 Sec. 904d. (1) Vehicle immobilization applies as follows:

5 (a) For a conviction under section 625(1), (3), or (7) or a
6 local ordinance substantially corresponding to section 625(1) or
7 (3) with no prior convictions, the court may order vehicle immo-
8 bilization for not more than 180 days.

9 (b) For a conviction under section 625(4) or (5) with no
10 prior convictions, the court shall order vehicle immobilization
11 for not more than 180 days.

12 (c) For a conviction under section 625(1), (3), (4), (5), or
13 (7) within 7 years after a prior conviction, the court shall
14 order vehicle immobilization for not less than 90 days or more
15 than 180 days.

16 (d) For a conviction under section 625(1), (3), (4), (5), or
17 (7) within 10 years after 2 or more prior convictions, the court
18 shall order vehicle immobilization for not less than 1 year or
19 more than 3 years.

20 (E) FOR A CONVICTION OF SECTION 904(3)(B), THE COURT SHALL
21 ORDER VEHICLE IMMOBILIZATION FOR 90 DAYS.

22 (2) For a conviction or civil infraction determination
23 resulting from a violation that occurred during a period of sus-
24 pension, revocation, or denial, the following apply:

25 (a) Except as provided in subdivision (b), for 1 prior sus-
26 pension, revocation, or denial under section 904(10), (11), or
27 (12) or former section 904(2) or (4) within the past 7 years, the

1 court may order vehicle immobilization for not more than 180
2 days.

3 (b) Except as provided in subdivisions (c) and (d), if the
4 person is convicted under section 904(4) or (5), the court shall
5 order vehicle immobilization for not more than 180 days.

6 (c) For any combination of 2 or 3 prior suspensions, revoca-
7 tions, or denials under section 904(10), (11), or (12) or former
8 section 904(2) or (4) within the past 7 years, the court shall
9 order vehicle immobilization for not less than 90 days or more
10 than 180 days.

11 (d) For any combination of 4 or more prior suspensions,
12 revocations, or denials under section 904(10), (11), or (12) or
13 former section 904(2) or (4) within the past 7 years, the court
14 shall order vehicle immobilization for not less than 1 year or
15 more than 3 years.

16 (3) The defendant shall provide to the court the vehicle
17 identification number and registration plate number of the vehi-
18 cle involved in the violation.

19 (4) The court may order vehicle immobilization under this
20 section under either of the following circumstances:

21 (a) The defendant is the owner, co-owner, lessee, or
22 co-lessee of the vehicle operated during the violation.

23 (b) The owner, co-owner, lessee, or co-lessee knowingly per-
24 mitted the vehicle to be operated in violation of section 625(2)
25 or section 904(2) regardless of whether a conviction resulted.

26 (5) An order required to be issued under this section shall
27 not be suspended.

1 (6) If a defendant is ordered imprisoned for the violation
2 for which immobilization is ordered, the period of immobilization
3 shall begin at the end of the period of imprisonment.

4 (7) This section does not apply to any of the following:

5 (a) A suspension, revocation, or denial based on a violation
6 of the support and parenting time enforcement act, 1982 PA 295,
7 MCL 552.601 to 552.650.

8 (b) A vehicle that is registered in another state or that is
9 a rental vehicle.

10 (c) A vehicle owned by the federal government, this state,
11 or a local unit of government of this state.

12 (d) A vehicle not subject to registration under
13 section 216.

14 (e) Any of the following:

15 (i) A violation of chapter II.

16 (ii) A violation of chapter V.

17 (iii) A violation for failure to change address.

18 (iv) A parking violation.

19 (v) A bad check violation.

20 (vi) An equipment violation.

21 (vii) A pedestrian, passenger, or bicycle violation, other
22 than a violation of section 703(1) or (2) of the Michigan liquor
23 control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordi-
24 nance substantially corresponding to section 703(1) or (2) of the
25 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703,
26 or section 624a or 624b or a local ordinance substantially
27 corresponding to section 624a or 624b.

1 (viii) A violation of a local ordinance substantially
2 corresponding to a violation described in subparagraphs (i) to
3 (vii).

4 (8) As used in this section:

5 (a) Subject to subsection (9), "prior conviction" means a
6 conviction for any of the following, whether under a law of this
7 state, a local ordinance substantially corresponding to a law of
8 this state, or a law of another state substantially corresponding
9 to a law of this state:

10 (i) Except as otherwise provided in this subparagraph, a
11 violation or attempted violation of section 625(1), (3), (4),
12 (5), (6), or (7), section 625m, former section 625(1) or (2), or
13 former section 625b. However, only 1 violation or attempted vio-
14 lation of section 625(6), a local ordinance substantially corre-
15 sponding to section 625(6), or a law of another state substan-
16 tially corresponding to section 625(6) may be used as a prior
17 conviction.

18 (ii) Negligent homicide, manslaughter, or murder resulting
19 from the operation of a vehicle or an attempt to commit any of
20 those crimes.

21 (b) "Vehicle immobilization" means requiring the motor vehi-
22 cle involved in the violation immobilized in a manner provided in
23 section 904e.

24 (9) If 2 or more convictions described in subsection (8)(a)
25 are convictions for violations arising out of the same incident,
26 only 1 conviction shall be used to determine whether the person
27 has a prior conviction.