

HOUSE BILL No. 4822

May 24, 2005, Introduced by Reps. Hune, Gaffney, Kahn, Hildenbrand, Elsenheimer, LaJoy, Taub, Garfield, Stahl and Mortimer and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 303 and 322 (MCL 257.303 and 257.322), section 303 as amended by 2004 PA 362 and section 322 as amended by 2001 PA 159.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 303. (1) The secretary of state shall not issue a license
2 under this act to any of the following persons:

3 (a) A person, as an operator, who is less than 18 years of
4 age, except as otherwise provided in this act.

5 (b) A person, as a chauffeur, who is less than 18 years of
6 age, except as otherwise provided in this act.

7 (c) A person whose license is suspended, revoked, denied, or

1 canceled in any state. If the suspension, revocation, denial, or
2 cancellation is not from the jurisdiction that issued the last
3 license to the person, the secretary of state may issue a license
4 after the expiration of 5 years from the effective date of the most
5 recent suspension, revocation, denial, or cancellation.

6 (d) A person who in the opinion of the secretary of state is
7 afflicted with or suffering from a physical or mental disability or
8 disease preventing that person from exercising reasonable and
9 ordinary control over a motor vehicle while operating the motor
10 vehicle upon the highways.

11 (e) A person who is unable to understand highway warning or
12 direction signs in the English language.

13 (f) A person who is unable to pass a knowledge, skill, or
14 ability test administered by the secretary of state in connection
15 with the issuance of an original operator's or chauffeur's license,
16 original motorcycle indorsement, or an original or renewal of a
17 vehicle group designation or vehicle indorsement.

18 (g) A person who has been convicted of, has received a
19 juvenile disposition for, or has been determined responsible for 2
20 or more moving violations under a law of this state, a local
21 ordinance substantially corresponding to a law of this state, or a
22 law of another state substantially corresponding to a law of this
23 state within the preceding 3 years, if the violations occurred
24 before issuance of an original license to the person in this or
25 another state.

26 (h) A nonresident including a foreign exchange student.

27 (i) A person who has failed to answer a citation or notice to

1 appear in court or for any matter pending or fails to comply with
2 an order or judgment of the court, including, but not limited to,
3 paying all fines, costs, fees, and assessments, in violation of
4 section 321a, until that person answers the citation or notice to
5 appear in court or for any matter pending or complies with an order
6 or judgment of the court, including, but not limited to, paying all
7 fines, costs, fees, and assessments, as provided under section
8 321a.

9 (j) A person not licensed under this act who has been
10 convicted of, has received a juvenile disposition for, or has been
11 determined responsible for a crime or civil infraction described in
12 section 319, 324, or 904. A person shall be denied a license under
13 this subdivision for the length of time corresponding to the period
14 of the licensing sanction that would have been imposed under
15 section 319, 324, or 904 if the person had been licensed at the
16 time of the violation.

17 (k) A person not licensed under this act who has been
18 convicted of or received a juvenile disposition for committing a
19 crime described in section 319e. A person shall be denied a license
20 under this subdivision for the length of time that corresponds to
21 the period of the licensing sanction that would have been imposed
22 under section 319e if the person had been licensed at the time of
23 the violation.

24 (l) A person not licensed under this act who is determined to
25 have violated section 33b(1) of former 1933 (Ex Sess) PA 8, section
26 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL
27 436.1703, or section 624a or 624b of this act. The person shall be

1 denied a license under this subdivision for a period of time that
2 corresponds to the period of the licensing sanction that would have
3 been imposed under those sections had the person been licensed at
4 the time of the violation.

5 **(M) A PERSON WHO IS IN THE UNITED STATES UNLAWFULLY.**

6 (2) The secretary of state may deny issuance of an operator's
7 license until the age of 17 to a person not licensed under this act
8 who was convicted of or received a juvenile disposition for
9 violating or attempting to violate section 411a(2) of the Michigan
10 penal code, 1931 PA 328, MCL 750.411a, involving a school when he
11 or she was less than 14 years of age. A person not issued a license
12 under this subdivision is not eligible to begin graduated licensing
13 training until he or she attains 16 years of age.

14 (3) The secretary of state may deny issuance of an operator's
15 license to a person less than 21 years of age not licensed under
16 this act who was convicted of or has received a juvenile
17 disposition for violating or attempting to violate section 411a(2)
18 of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a
19 school when he or she was 14 years of age or older, until 3 years
20 after the date of the conviction or juvenile disposition. A person
21 not issued a license under this subdivision is not eligible to
22 begin graduated licensing training or otherwise obtain an original
23 operator's or chauffeur's license until 3 years after the date of
24 the conviction or juvenile disposition.

25 (4) The secretary of state shall deny issuance of a vehicle
26 group designation to a person if the person has been disqualified
27 by the United States secretary of transportation from operating a

1 commercial motor vehicle.

2 (5) Upon receiving the appropriate records of conviction, the
3 secretary of state shall revoke the operator's or chauffeur's
4 license of a person and deny issuance of an operator's or
5 chauffeur's license to a person having any of the following,
6 whether under a law of this state, a local ordinance substantially
7 corresponding to a law of this state, or a law of another state
8 substantially corresponding to a law of this state:

9 (a) Any combination of 2 convictions within 7 years for
10 reckless driving in violation of section 626.

11 (b) Any combination of 2 or more convictions within 7 years
12 for any of the following:

13 (i) A felony in which a motor vehicle was used.

14 (ii) A violation or attempted violation of section 601b(2) or
15 (3), section 601c(1) or (2), section 602a(4) or (5), section 617,
16 section 653a(3) or (4), or section 904(4) or (5).

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

20 (iv) A violation or attempted violation of section 479a(4) or
21 (5) of the Michigan penal code, 1931 PA 328, MCL 750.479a.

22 (c) Any combination of 2 convictions within 7 years for any of
23 the following or a combination of 1 conviction for a violation or
24 attempted violation of section 625(6) and 1 conviction for any of
25 the following within 7 years:

26 (i) A violation or attempted violation of section 625, except a
27 violation of section 625(2), or a violation of any prior enactment

1 of section 625 in which the defendant operated a vehicle while
2 under the influence of intoxicating or alcoholic liquor or a
3 controlled substance, or a combination of intoxicating or alcoholic
4 liquor and a controlled substance, or while visibly impaired, or
5 with an unlawful bodily alcohol content.

6 (ii) A violation or attempted violation of section 625m.

7 (iii) Former section 625b.

8 (d) One conviction for a violation or attempted violation of
9 section 315(5), section 601b(3), section 601c(2), section 602a(4)
10 or (5), section 617, section 625(4) or (5), section 653a(4), or
11 section 904(4) or (5).

12 (e) One conviction of negligent homicide, manslaughter, or
13 murder resulting from the operation of a vehicle or an attempt to
14 commit any of those crimes.

15 (f) One conviction for a violation or attempted violation of
16 section 479a(4) or (5) of the Michigan penal code, 1931 PA 328, MCL
17 750.479a.

18 (g) Any combination of 3 convictions within 10 years for any
19 of the following or 1 conviction for a violation or attempted
20 violation of section 625(6) and any combination of 2 convictions
21 for any of the following within 10 years, if any of the convictions
22 resulted from an arrest on or after January 1, 1992:

23 (i) A violation or attempted violation of section 625, except a
24 violation of section 625(2), or a violation of any prior enactment
25 of section 625 in which the defendant operated a vehicle while
26 under the influence of intoxicating or alcoholic liquor or a
27 controlled substance, or a combination of intoxicating or alcoholic

1 liquor and a controlled substance, or while visibly impaired, or
2 with an unlawful bodily alcohol content.

3 (ii) A violation or attempted violation of section 625m.

4 (iii) Former section 625b.

5 (6) The secretary of state shall revoke a license under
6 subsection (5) notwithstanding a court order unless the court order
7 complies with section 323.

8 (7) The secretary of state shall not issue a license under
9 this act to a person whose license has been revoked under this act
10 or revoked and denied under subsection (5) until all of the
11 following occur, as applicable:

12 (a) The later of the following:

13 (i) The expiration of not less than 1 year after the license
14 was revoked or denied.

15 (ii) The expiration of not less than 5 years after the date of
16 a subsequent revocation or denial occurring within 7 years after
17 the date of any prior revocation or denial.

18 (b) For a denial under subsection (5)(a), (b), (c), and (g),
19 the person rebuts by clear and convincing evidence the presumption
20 resulting from the prima facie evidence that he or she is a
21 habitual offender. The convictions that resulted in the revocation
22 and denial constitute prima facie evidence that he or she is a
23 habitual offender.

24 (c) The person meets the requirements of the department.

25 (8) Multiple convictions or civil infraction determinations
26 resulting from the same incident shall be treated as a single
27 violation for purposes of denial or revocation of a license under

1 this section.

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

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

8 (b) The vehicle was used to transport a victim of the 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 Sec. 322. (1) The secretary of state shall appoint a hearing
13 officer to hear appeals from persons aggrieved by a final
14 determination of the secretary of state denying an application for
15 an operator's or chauffeur's license, suspending, restricting, or
16 revoking an operator's or chauffeur's license, or other license
17 action.

18 (2) The appeal shall be in writing and filed with the
19 secretary of state within 14 days after the final determination.
20 Upon notice of the appeal, the hearing officer shall require
21 production of all documents filed in the matter, together with a
22 transcript of any testimony taken.

23 (3) In a hearing or matter properly before the hearing
24 officer, he or she may do any of the following:

25 (a) Issue subpoenas to compel attendance of witnesses.

26 (b) Issue process to compel attendance.

27 (c) Punish for contempt any witness failing to appear or

1 testify in the same manner as provided by the rules and practice in
2 the circuit court.

3 (d) Swear witnesses, administer oaths, and exemplify records
4 in any matter before the officer.

5 (e) Take additional testimony he or she considers appropriate.

6 (4) A verbatim record shall be made of the hearing.

7 (5) After a hearing, the hearing officer may affirm, modify,
8 or set aside a final determination of the secretary of state
9 denying an application for an operator's or chauffeur's license,
10 suspending, restricting, or revoking an operator's or chauffeur's
11 license, or any other license action. The hearing officer shall
12 include his or her findings of fact and conclusions of law in the
13 record.

14 (6) Except as provided in subsection (7), if a person whose
15 license has been denied or revoked under section ~~303(2)(e)~~
16 **303(5)(C)**, (d), or (g) applies for a license or reinstatement of a
17 license after the time period specified in section ~~303(4)~~ **303(7)**
18 has elapsed, the hearing officer may issue a restricted license to
19 that person, setting restrictions upon operating a vehicle as the
20 hearing officer determines are appropriate. If the hearing officer
21 issues a restricted license following a hearing held after October
22 1, 1999, he or she shall do both of the following:

23 (a) Require installation of a functioning ignition interlock
24 device that meets or exceeds the model specifications of the
25 national highway traffic safety administration set forth in 57
26 ~~F.R. p. FR 11772, April 7, 1992,~~ **(1992)** on each motor vehicle
27 the person owns or intends to operate, the costs of which shall be

1 borne by the person whose license is restricted.

2 (b) Condition issuance of a restricted license upon
3 verification by the secretary of state that an ignition interlock
4 device has been installed.

5 (7) The hearing officer shall not issue a restricted license
6 under subsection (6) that would permit the person to operate a
7 commercial motor vehicle that hauls hazardous material.

8 (8) If the hearing officer issues a restricted license to a
9 person who intends to operate a vehicle owned by his or her
10 employer, the secretary of state shall notify the employer of the
11 employee's license restriction that requires the installation of an
12 ignition interlock device. An employer who receives notice under
13 this subsection is not required to install an ignition interlock
14 device on the employer-owned vehicle. This subsection does not
15 apply to a vehicle that is operated by a self-employed individual
16 who uses the vehicle for both business and personal use.

17 (9) If the hearing officer issues a restricted license
18 requiring an ignition interlock device, the initial period for
19 requiring the device shall be 1 year. After that time, the hearing
20 officer may continue the ignition interlock device requirement for
21 any length of time.