

HOUSE BILL No. 5169

September 13, 2005, Introduced by Reps. Nitz, Sheltroun, Vander Veen, Stahl, Hildenbrand, Jones, Baxter and Green and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 319 and 323c (MCL 257.319 and 257.323c), as
amended by 2004 PA 362.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 319. (1) The secretary of state shall immediately suspend
2 a person's license as provided in this section upon receiving a
3 record of the person's conviction for a crime described in this
4 section, whether the conviction is under a law of this state, a
5 local ordinance substantially corresponding to a law of this state,
6 or a law of another state substantially corresponding to a law of
7 this state.

8 (2) The secretary of state shall suspend the person's license

1 for 1 year for any of the following crimes:

2 (a) Fraudulently altering or forging documents pertaining to
3 motor vehicles in violation of section 257.

4 (b) A violation of section 413 of the Michigan penal code,
5 1931 PA 328, MCL 750.413.

6 (c) A violation of section 1 of former 1931 PA 214, MCL
7 752.191, or section 626c.

8 (d) A felony in which a motor vehicle was used. As used in
9 this section, "felony in which a motor vehicle was used" means a
10 felony during the commission of which the person convicted operated
11 a motor vehicle and while operating the vehicle presented real or
12 potential harm to persons or property and 1 or more of the
13 following circumstances existed:

14 (i) The vehicle was used as an instrument of the felony.

15 (ii) The vehicle was used to transport a victim of the felony.

16 (iii) The vehicle was used to flee the scene of the felony.

17 (iv) The vehicle was necessary for the commission of the
18 felony.

19 (e) A violation of section 602a(2) or (3) of this act or
20 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL
21 750.479a.

22 (3) The secretary of state shall suspend the person's license
23 for 90 days for any of the following crimes:

24 (a) Failing to stop and disclose identity at the scene of an
25 accident resulting in injury in violation of section 617a.

26 (b) A violation of section 601b(2), section 601c(1), section
27 626, or section 653a(3).

1 (c) Malicious destruction resulting from the operation of a
2 vehicle under section 382(1)(b), (c), or (d) of the Michigan penal
3 code, 1931 PA 328, MCL 750.382.

4 (d) A violation of section 703(2) of the Michigan liquor
5 control code of 1998, 1998 PA 58, MCL 436.1703.

6 (4) The secretary of state shall suspend the person's license
7 for 30 days for malicious destruction resulting from the operation
8 of a vehicle under section 382(1)(a) of the Michigan penal code,
9 1931 PA 328, MCL 750.382.

10 (5) For perjury or making a false certification to the
11 secretary of state under any law requiring the registration of a
12 motor vehicle or regulating the operation of a vehicle on a
13 highway, or for conduct prohibited under section 324(1) or a local
14 ordinance substantially corresponding to section 324(1), the
15 secretary shall suspend the person's license as follows:

16 (a) If the person has no prior conviction for an offense
17 described in this subsection within 7 years, for 90 days.

18 (b) If the person has 1 or more prior convictions for an
19 offense described in this subsection within 7 years, for 1 year.

20 (6) For a violation of section 414 of the Michigan penal code,
21 1931 PA 328, MCL 750.414, the secretary of state shall suspend the
22 person's license as follows:

23 (a) If the person has no prior conviction for that offense
24 within 7 years, for 90 days.

25 (b) If the person has 1 or more prior convictions for that
26 offense within 7 years, for 1 year.

27 (7) For a violation of section 624a or 624b of this act or

1 section 703(1) of the Michigan liquor control code of 1998, 1998 PA
2 58, MCL 436.1703, the secretary of state shall suspend the person's
3 license as follows:

4 (a) If the person has 1 prior conviction for an offense
5 described in this subsection or section 33b(1) of former 1933 (Ex
6 Sess) PA 8, for 90 days. The secretary of state may issue the
7 person a restricted license after the first 30 days of suspension.

8 (b) If the person has 2 or more prior convictions for an
9 offense described in this subsection or section 33b(1) of former
10 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue
11 the person a restricted license after the first 60 days of
12 suspension.

13 (8) The secretary of state shall suspend the person's license
14 for a violation of section 625 or 625m as follows:

15 (a) For 180 days for a violation of section 625(1) or (8) if
16 the person has no prior convictions within 7 years. The secretary
17 of state may issue the person a restricted license during a
18 specified portion of the suspension, except that the secretary of
19 state shall not issue a restricted license during the first 30 days
20 of suspension.

21 (b) For 90 days for a violation of section 625(3) if the
22 person has no prior convictions within 7 years. However, if the
23 person is convicted of a violation of section 625(3), for operating
24 a vehicle when, due to the consumption of a controlled substance or
25 a combination of alcoholic liquor and a controlled substance, the
26 person's ability to operate the vehicle was visibly impaired, the
27 secretary of state shall suspend the person's license under this

1 subdivision for 180 days. The secretary of state may issue the
2 person a restricted license during all or a specified portion of
3 the suspension.

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

8 (d) For 90 days for a violation of section 625(6) if the
9 person has 1 or more prior convictions for that offense within 7
10 years.

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

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

19 (9) For a violation of section 367c of the Michigan penal
20 code, 1931 PA 328, MCL 750.367c, the secretary of state shall
21 suspend the person's license as follows:

22 (a) If the person has no prior conviction for an offense
23 described in this subsection within 7 years, for 6 months.

24 (b) If the person has 1 or more convictions for an offense
25 described in this subsection within 7 years, for 1 year.

26 (10) For a violation of section 315(4), the secretary of state
27 may suspend the person's license for 6 months.

1 (11) For a violation or attempted violation of section 411a(2)
2 of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a
3 school, the secretary of state shall suspend the license of a
4 person 14 years of age or over but less than 21 years of age until
5 3 years after the date of the conviction or juvenile disposition
6 for the violation. The secretary of state may issue the person a
7 restricted license after the first 365 days of suspension.

8 (12) Except as provided in subsection (14), a suspension under
9 this section shall be imposed notwithstanding a court order unless
10 the court order complies with section 323.

11 (13) If the secretary of state receives records of more than 1
12 conviction of a person resulting from the same incident, a
13 suspension shall be imposed only for the violation to which the
14 longest period of suspension applies under this section.

15 (14) The secretary of state may waive a restriction,
16 suspension, or revocation of a person's license imposed under this
17 act if the person submits proof that a court in another state
18 revoked, suspended, or restricted his or her license for a period
19 equal to or greater than the period of a restriction, suspension,
20 or revocation prescribed under this act for the violation and that
21 the revocation, suspension, or restriction was served for the
22 violation, or may grant a restricted license.

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

27 (16) The secretary of state shall not issue a restricted

1 license to a person under subsection (8) that would permit the
2 person to operate a commercial motor vehicle.

3 (17) A restricted license issued under this section shall
4 permit the person to whom it is issued to take any driving skills
5 test required by the secretary of state and to drive under 1 or
6 more of the following circumstances:

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

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

9 (i) The person's residence.

10 (ii) The person's work location.

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

13 (iv) The court probation department.

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

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

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

20 **(viii) A CHURCH, SYNAGOGUE, MOSQUE, OR OTHER HOUSE OF RELIGIOUS**
21 **WORSHIP.**

22 (18) While driving with a restricted license, the person shall
23 carry proof of his or her destination and the hours of any
24 employment, class, or other reason for traveling and shall display
25 that proof upon a peace officer's request.

26 (19) Subject to subsection (21), as used in subsection (8),
27 "prior conviction" means a conviction for any of the following,

1 whether under a law of this state, a local ordinance substantially
2 corresponding to a law of this state, or a law of another state
3 substantially corresponding to a law of this state:

4 (a) Except as provided in subsection (20), a violation or
5 attempted violation of any of the following:

6 (i) Section 625, except a violation of section 625(2), or a
7 violation of any prior enactment of section 625 in which the
8 defendant operated a vehicle while under the influence of
9 intoxicating or alcoholic liquor or a controlled substance, or a
10 combination of intoxicating or alcoholic liquor and a controlled
11 substance, or while visibly impaired, or with an unlawful bodily
12 alcohol content.

13 (ii) Section 625m.

14 (iii) Former section 625b.

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

18 (20) Except for purposes of the suspensions described in
19 subsection (8)(c) and (d), only 1 violation or attempted violation
20 of section 625(6), a local ordinance substantially corresponding to
21 section 625(6), or a law of another state substantially
22 corresponding to section 625(6) may be used as a prior conviction.

23 (21) If 2 or more convictions described in subsection (19) are
24 convictions for violations arising out of the same transaction,
25 only 1 conviction shall be used to determine whether the person has
26 a prior conviction.

27 Sec. 323c. (1) A person denied a license to operate a motor

1 vehicle or whose license for that purpose has been suspended by the
 2 secretary of state under section 625f has a right to a review of
 3 the matter in circuit court as provided in sections 323 and 323a.

4 (2) Except as provided in this section, the court may order
 5 the secretary of state to issue to the person a restricted license
 6 permitting the person to drive only ~~to~~ **UNDER THE FOLLOWING**
 7 **CIRCUMSTANCES:**

8 (A) **TO** and from the person's residence and work location. ~~;~~
 9 ~~in~~

10 (B) **IN** the course of the person's employment or occupation. ~~;~~
 11 ~~to~~

12 (C) **TO** and from an alcohol or drug education program or
 13 treatment program as ordered by a court. ~~;~~ ~~to~~

14 (D) **TO** and from the person's residence and the court probation
 15 department. ~~;~~ ~~or~~

16 (E) **TO AND FROM** a court-ordered community service program. ~~;~~
 17 ~~or both;~~ ~~to~~

18 (F) **TO** and from the person's residence and an educational
 19 institution at which the person is enrolled as a student. ~~;~~ ~~or~~
 20 ~~pursuant to a combination of these restrictions.~~

21 (3) **THE RESTRICTED LICENSE SHALL PERMIT THE DRIVER TO ATTEND A**
 22 **CHURCH, SYNAGOGUE, MOSQUE, OR OTHER HOUSE OF RELIGIOUS WORSHIP.**

23 The restricted license shall permit the driver to take any driving
 24 skills test required by the secretary of state.

25 (4) If the denial, suspension, or revocation of a person's
 26 license or vehicle group designation under section 625f occurred in
 27 connection with the operation of a commercial motor vehicle, the

1 court shall not order the secretary of state to issue a restricted
 2 license that would permit the person to operate a commercial motor
 3 vehicle. The court shall not order the secretary of state to issue
 4 a restricted operator's or chauffeur's license that would permit a
 5 person to operate a commercial motor vehicle hauling hazardous
 6 material. The court shall not order the secretary of state to issue
 7 a restricted license unless the person states under oath and the
 8 court finds that the person is unable to take public transportation
 9 to and from his or her work location, place of alcohol or drug
 10 education or treatment, ~~or~~ educational institution, **OR CHURCH,**
 11 **SYNAGOGUE, MOSQUE, OR OTHER HOUSE OF RELIGIOUS WORSHIP,** and does
 12 not have a family member or other person able to provide
 13 transportation. The court order and license shall indicate the
 14 person's work location and the approved route or routes and
 15 permitted times of travel. ~~For purposes of this section, "work~~
 16 ~~location" includes, as applicable, either or both of the following:~~
 17 ~~—— (a) The specific place or places of employment.~~
 18 ~~—— (b) The territory or territories regularly visited by the~~
 19 ~~person in pursuance of the person's occupation.~~

20 (5) ~~(2)~~ If the person's license has been suspended ~~pursuant~~
 21 ~~to~~ **UNDER** section 625f within the immediately preceding 7-year
 22 period, **THE COURT SHALL NOT ORDER** a restricted license ~~shall not~~
 23 **TO** be issued **UNDER THIS SECTION.**

24 (6) ~~(3)~~ Notwithstanding any other provision of this section,
 25 the court shall not **ORDER THE SECRETARY OF STATE TO** issue a
 26 restricted license to a person who has accumulated over 24 points,
 27 as provided in section 320a, within the 2-year period preceding the

1 date of the suspension of his or her license.

2 (7) ~~-(4)-~~ Notwithstanding any other provision of this act, the
3 court shall not issue a restricted license to a person to operate a
4 commercial motor vehicle when a vehicle group designation is
5 required to operate that vehicle.

6 (8) AS USED IN THIS SECTION, "WORK LOCATION" INCLUDES, AS
7 APPLICABLE, EITHER OR BOTH OF THE FOLLOWING:

8 (A) THE SPECIFIC PLACE OR PLACES OF EMPLOYMENT.

9 (B) THE TERRITORY OR TERRITORIES REGULARLY VISITED BY THE
10 PERSON IN PURSUANCE OF THE PERSON'S OCCUPATION.