

SENATE BILL No. 1066

January 30, 2008, Introduced by Senators PAPPAGEORGE, GILBERT, McMANUS, BROWN, HUNTER, KAHN and THOMAS and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 320a and 743 (MCL 257.320a and 257.743), section 320a as amended by 2004 PA 495 and section 743 as amended by 2006 PA 298, and by adding section 320d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 320a. (1) ~~Until October 1, 2005, within 10 days after~~
 2 ~~the receipt of a properly prepared abstract from this state or~~
 3 ~~another state, or, beginning October 1, 2005, within~~ **WITHIN** 5
 4 days after the receipt of a properly prepared abstract from this
 5 state or another state, the secretary of state shall record the
 6 date of conviction, civil infraction determination, or probate
 7 court disposition, and the number of points for each, based on
 8 the following formula, except as otherwise provided in this

1 section and section 629c:

2 (a) Manslaughter, negligent homicide, or a
3 felony resulting from the operation of a motor
4 vehicle, ORV, or snowmobile.....6 points

5 (b) A violation of section 601b(2) or (3),
6 601c(1) or (2), or 653a(3) or (4).....6 points

7 (c) A violation of section 625(1), (4), (5),
8 (7), or (8), section 81134 or 82127(1) of the
9 natural resources and environmental protection act,
10 1994 PA 451, MCL 324.81134 and 324.82127, or a law or
11 ordinance substantially corresponding to section
12 625(1), (4), (5), (7), or (8) or section 81134
13 or 82127(1) of the natural resources and
14 environmental protection act, 1994 PA 451,
15 MCL 324.81134 and 324.82127.....6 points

16 (d) Failing to stop and disclose identity
17 at the scene of an accident when required by law.....6 points

18 (e) Operating a motor vehicle in violation
19 of section 626.....6 points

20 (f) Fleeing or eluding an officer.....6 points

21 (g) A violation of section 627(9) pertaining
22 to speed in a work zone described in that section
23 by exceeding the lawful maximum by more than
24 15 miles per hour.....5 points

25 (h) A violation of any law other than the
26 law described in subdivision (g) or ordinance
27 pertaining to speed by exceeding the lawful
28 maximum by more than 15 miles per hour.....4 points

29 (i) A violation of section 625(3) or (6),
30 section 81135 or 82127(3) of the natural

1 resources and environmental protection act,
2 1994 PA 451, MCL 324.81135 and 324.82127,
3 or a law or ordinance substantially corresponding
4 to section 625(3) or (6) or section 81135
5 or 82127(3) of the natural resources and
6 environmental protection act, 1994 PA 451,
7 MCL 324.81135 and 324.82127.....4 points

8 (j) A violation of section 626a or a law
9 or ordinance substantially corresponding to
10 section 626a.....4 points

11 (k) A violation of section 653a(2).....4 points

12 (l) A violation of section 627(9) pertaining
13 to speed in a work zone described in that section
14 by exceeding the lawful maximum by more than 10
15 but not more than 15 miles per hour.....4 points

16 (m) A violation of any law other than the
17 law described in subdivision (l) or ordinance
18 pertaining to speed by exceeding the lawful
19 maximum by more than 10 but not more than 15
20 miles per hour or careless driving in violation
21 of section 626b or a law or ordinance substantially
22 corresponding to section 626b.....3 points

23 (n) A violation of section 627(9) pertaining
24 to speed in a work zone described in that section
25 by exceeding the lawful maximum by 10 miles per
26 hour or less.....3 points

27 (o) A violation of any law other than the law
28 described in subdivision (n) or ordinance pertaining
29 to speed by exceeding the lawful maximum
30 by 10 miles per hour or less.....2 points

31 (p) Disobeying a traffic signal or stop sign,

1 or improper passing.....3 points

2 (q) A violation of section 624a, 624b, or a law
3 or ordinance substantially corresponding to
4 section 624a or 624b.....2 points

5 (r) A violation of section 310e(4) or (6) or
6 a law or ordinance substantially corresponding to
7 section 310e(4) or (6).....2 points

8 (s) All other moving violations pertaining to
9 the operation of motor vehicles reported under
10 this section.....2 points

11 (t) A refusal by a person less than 21 years of
12 age to submit to a preliminary breath test required
13 by a peace officer under section 625a.....2 points

14 (2) Points shall not be entered for a violation of section
15 310e(14), 311, 625m, 658, 717, 719, 719a, or 723.

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

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

19 (5) POINTS SHALL NOT BE ENTERED FOR A VIOLATION FOR WHICH
20 THE PERSON SUCCESSFULLY COMPLETED A BASIC DRIVER IMPROVEMENT
21 COURSE AS THAT TERM IS DEFINED IN SECTION 320D AND FOR WHICH THE
22 PERSON PAID A FINE AND ALL COSTS AS ORDERED BY THE COURT.

23 (6) ~~(5)~~—If more than 1 conviction, civil infraction
24 determination, or probate court disposition results from the same
25 incident, points shall be entered only for the violation that
26 receives the highest number of points under this section.

27 (7) ~~(6)~~—If a person has accumulated 9 points as provided in
28 this section, the secretary of state may call the person in for

1 an interview as to the person's driving ability and record after
2 due notice as to time and place of the interview. If the person
3 fails to appear as provided in this subsection, the secretary of
4 state shall add 3 points to the person's record.

5 (8) ~~(7)~~—If a person violates a speed restriction established
6 by an executive order issued during a state of energy emergency
7 as provided by 1982 PA 191, MCL 10.81 to 10.89, the secretary of
8 state shall enter points for the violation pursuant to subsection
9 (1).

10 (9) ~~(8)~~—The secretary of state shall enter 6 points upon the
11 record of a person whose license is suspended or denied pursuant
12 to section 625f. However, if a conviction, civil infraction
13 determination, or probate court disposition results from the same
14 incident, additional points for that offense shall not be
15 entered.

16 (10) ~~(9)~~—If a Michigan driver commits a violation in another
17 state that would be a civil infraction if committed in Michigan,
18 and a conviction results solely because of the failure of the
19 Michigan driver to appear in that state to contest the violation,
20 upon receipt of the abstract of conviction by the secretary of
21 state, the violation shall be noted on the driver's record, but
22 no points shall be assessed against his or her driver's license.

23 **SEC. 320D. (1) EXCEPT AS PROVIDED IN SUBSECTION (3), AN**
24 **INDIVIDUAL WHO IS ISSUED A CITATION FOR A MOVING VIOLATION MAY**
25 **ELECT TO ATTEND A BASIC DRIVER IMPROVEMENT COURSE BY INDICATING**
26 **ON THE CITATION HIS OR HER DESIRE TO ATTEND A BASIC DRIVER**
27 **IMPROVEMENT COURSE AND BY RETURNING THE CITATION TO THE COURT BY**

1 FIRST-CLASS MAIL SENT NOT LATER THAN 7 DAYS AFTER THE CITATION IS
2 ISSUED.

3 (2) IF A CITATION IS RECEIVED BY THE COURT IN COMPLIANCE
4 WITH SUBSECTION (1), THE COURT SHALL DETERMINE WHETHER THE
5 INDIVIDUAL IS ELIGIBLE TO TAKE A BASIC DRIVER IMPROVEMENT COURSE
6 UNDER THIS SECTION AND DO 1 OF THE FOLLOWING:

7 (A) IF THE COURT DETERMINES THAT THE INDIVIDUAL IS NOT
8 ELIGIBLE TO TAKE A BASIC DRIVER IMPROVEMENT COURSE, INFORM THE
9 INDIVIDUAL IN WRITING THAT HE OR SHE IS NOT ELIGIBLE FOR THE
10 COURSE AND PROCEED AS OTHERWISE PROVIDED BY LAW.

11 (B) IF THE COURT DETERMINES THAT THE INDIVIDUAL IS ELIGIBLE
12 TO TAKE A BASIC DRIVER IMPROVEMENT COURSE, DO BOTH OF THE
13 FOLLOWING:

14 (i) SET A DATE FOR A HEARING ON THE CITATION THAT IS NOT
15 EARLIER THAN 30 DAYS AFTER THE CITATION IS RECEIVED BY THE COURT.

16 (ii) SEND NOTICE TO THE INDIVIDUAL TO WHOM THE CITATION WAS
17 ISSUED STATING THAT HE OR SHE HAS BEEN APPROVED FOR THE BASIC
18 DRIVER IMPROVEMENT COURSE AND INFORMING THE INDIVIDUAL OF THE
19 HEARING DATE SET UNDER SUBPARAGRAPH (i).

20 (3) IF THE INDIVIDUAL, BEFORE THE DATE SET FOR THE HEARING,
21 PRESENTS A CERTIFICATE TO THE COURT INDICATING THAT HE OR SHE
22 SATISFACTORILY COMPLETED A BASIC DRIVER IMPROVEMENT COURSE IN A
23 FORM AS APPROVED BY THE SECRETARY OF STATE, THE COURT SHALL DO
24 BOTH OF THE FOLLOWING:

25 (A) ORDER THE INDIVIDUAL TO PAY THE FINE AND ANY COSTS FOR
26 THE VIOLATION.

27 (B) UPON PAYMENT OF THE FINE AND COSTS AS ORDERED BY THE

1 COURT, ENTER AN ORDER STATING THAT THE INDIVIDUAL HAS COMPLIED
2 WITH THIS SECTION AND DISMISS THE CITATION.

3 (4) IF THE INDIVIDUAL, BEFORE THE DATE SET FOR THE HEARING,
4 FAILS TO PRESENT A CERTIFICATE TO THE COURT INDICATING THAT HE OR
5 SHE SATISFACTORILY COMPLETED A BASIC DRIVER IMPROVEMENT COURSE IN
6 A FORM AS APPROVED BY THE SECRETARY OF STATE OR IF THE INDIVIDUAL
7 FAILS TO PAY THE FINE AND COSTS AS ORDERED BY THE COURT UNDER
8 SUBSECTION (3), THE COURT SHALL ENTER AN ORDER OF RESPONSIBILITY
9 FOR THE VIOLATION AND PROCEED AS OTHERWISE PROVIDED BY LAW.

10 (5) THE COURT SHALL PROMPTLY NOTIFY THE SECRETARY OF STATE
11 OF AN ADJUDICATION ENTERED UNDER SUBSECTION (3) OR (4).

12 (6) AN INDIVIDUAL IS NOT ELIGIBLE TO TAKE A BASIC DRIVER
13 IMPROVEMENT COURSE UNDER THIS SECTION IF ANY OF THE FOLLOWING
14 APPLY:

15 (A) THE VIOLATION OCCURRED WHILE THE INDIVIDUAL WAS
16 OPERATING A COMMERCIAL VEHICLE.

17 (B) THE VIOLATION IS A CRIMINAL OFFENSE.

18 (C) THE INDIVIDUAL ATTENDED A BASIC DRIVER IMPROVEMENT
19 COURSE WITHIN 1 YEAR BEFORE THE CITATION WAS ISSUED.

20 (D) THE INDIVIDUAL ATTENDED 5 OR MORE BASIC DRIVER
21 IMPROVEMENT COURSES UNDER THIS SECTION.

22 (7) THE SECRETARY OF STATE SHALL MAINTAIN A COMPUTERIZED
23 DATABASE OF INDIVIDUALS WHO HAVE ATTENDED A BASIC DRIVER
24 IMPROVEMENT COURSE UNDER THIS SECTION. THE DATABASE SHALL ONLY BE
25 USED FOR DETERMINING ELIGIBILITY UNDER SUBSECTION (2). THE
26 SECRETARY OF STATE SHALL MAKE THE INFORMATION CONTAINED IN THE
27 DATABASE AVAILABLE TO THE COURT FOR PURPOSES OF DETERMINING

1 ELIGIBILITY UNDER SUBSECTION (2).

2 (8) AN INDIVIDUAL SHALL NOT BE CHARGED A FEE OF NOT MORE
3 THAN \$100.00 TO PARTICIPATE IN A BASIC DRIVER IMPROVEMENT COURSE
4 AND, IF APPLICABLE, TO OBTAIN A CERTIFICATE IN A FORM AS APPROVED
5 BY THE SECRETARY OF STATE DEMONSTRATING THAT HE OR SHE
6 SUCCESSFULLY COMPLETED THE COURSE.

7 (9) AS USED IN THIS SECTION, "BASIC DRIVER IMPROVEMENT
8 COURSE" MEANS A COURSE OF STUDY THAT CONTAINS THE CURRICULUM SET
9 FORTH IN THE DEFENSIVE DRIVING COURSE INSTRUCTOR MANUAL, EIGHTH
10 EDITION, PUBLISHED BY THE NATIONAL SAFETY COUNCIL AND SUCH OTHER
11 INFORMATION AS IS APPROVED BY THE SECRETARY OF STATE AND THAT IS
12 OFFERED OVER THE INTERNET OR THROUGH CLASSROOM INSTRUCTION.

13 Sec. 743. (1) A citation issued ~~pursuant to~~ UNDER section
14 742 shall contain the name of the state or political subdivision
15 acting as plaintiff, the name and address of the person to whom
16 the citation is issued, the civil infraction alleged, the place
17 where the person shall appear in court, the telephone number of
18 the court, the time at or by which the appearance shall be made,
19 and the additional information required by this section.

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

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

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

26 (c) Deny responsibility for the civil infraction by doing
27 either of the following:

1 (i) Appearing in person for an informal hearing before a
2 district court magistrate or a judge without the opportunity of
3 being represented by an attorney.

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

6 **(D) NEITHER ADMIT NOR DENY RESPONSIBILITY FOR THE CIVIL**
7 **INFRACTION BY NOTIFYING THE COURT THAT HE OR SHE INTENDS TO**
8 **COMPLETE A BASIC DRIVER SAFETY IMPROVEMENT COURSE UNDER SECTION**
9 **320D BEFORE A HEARING IS HELD ON THE VIOLATION. THE CITATION**
10 **SHALL INFORM THE INDIVIDUAL OF BOTH OF THE FOLLOWING:**

11 **(i) IF HE OR SHE SUCCESSFULLY COMPLETES THE COURSE BEFORE THE**
12 **HEARING, THE CITATION WILL BE DISMISSED AND NO POINTS WILL BE**
13 **ENTERED FOR THE VIOLATION, BUT HE OR SHE WILL BE RESPONSIBLE FOR**
14 **ANY FINE OR COSTS IMPOSED.**

15 **(ii) IF HE OR SHE FAILS TO SUCCESSFULLY COMPLETE THE COURSE**
16 **BEFORE THE DATE SET FOR A HEARING OR TO PAY THE FINE AND COSTS AS**
17 **ORDERED BY THE COURT, THE COURT WILL ENTER AN ORDER ADJUDICATING**
18 **HIM OR HER AS RESPONSIBLE FOR THE VIOLATION AND PROCEED AS**
19 **OTHERWISE PROVIDED BY LAW.**

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

27 (4) The citation shall contain a notice in boldface type

1 that the failure of a person to appear within the time specified
2 in the citation or at the time scheduled for a hearing or
3 appearance will result in entry of a default judgment against the
4 person and in the immediate suspension of the person's operator's
5 or chauffeur's license. Timely application to the court for a
6 hearing or return of the citation with an admission of
7 responsibility and with full payment of applicable civil fines
8 and costs constitute a timely appearance.

9 (5) If the citation is issued to a person who is operating a
10 commercial motor vehicle, the citation shall contain a vehicle
11 group designation and indorsement description of the vehicle,
12 which vehicle is operated by the person at the time of the
13 alleged civil infraction.