

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5199**

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending section 319 (MCL 257.319), as amended by 2010 PA 155.

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 a law of another state substantially corresponding to a law of this
7 state, or, beginning October 31, 2010, a law of the United States
8 substantially corresponding to a law of this state.
- 9 (2) The secretary of state shall suspend the person's license
10 for 1 year for any of the following crimes:

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

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

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

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

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

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

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

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

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

21 (f) Beginning October 31, 2010, a violation of section 601d.

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 653a(3), section 626 before October 31, 2010, or, beginning October

1 31, 2010, section 626(2).

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

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

7 (4) The secretary of state shall suspend the person's license
8 for 30 days for malicious destruction resulting from the operation
9 of a vehicle under section 382(1)(a) of the Michigan penal code,
10 1931 PA 328, MCL 750.382.

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

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

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

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

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

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

1 (7) For a violation of section 624a or 624b of this act or
2 section 703(1) of the Michigan liquor control code of 1998, 1998 PA
3 58, MCL 436.1703, the secretary of state shall suspend the person's
4 license as follows:

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

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

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

16 (a) For 180 days for a violation of section 625(1) or (8)
17 before October 31, 2010 or, beginning October 31, 2010, section
18 625(1)(a) or (b) or (8) if the person has no prior convictions
19 within 7 years. The secretary of state may issue the person a
20 restricted license during a specified portion of the suspension,
21 except that the secretary of state shall not issue a restricted
22 license during the first 30 days of suspension.

23 (b) For 90 days for a violation of section 625(3) if the
24 person has no prior convictions within 7 years. However, if the
25 person is convicted of a violation of section 625(3), for operating
26 a vehicle when, due to the consumption of a controlled substance or
27 a combination of alcoholic liquor and a controlled substance, the

1 person's ability to operate the vehicle was visibly impaired, the
2 secretary of state shall suspend the person's license under this
3 subdivision for 180 days. The secretary of state may issue the
4 person a restricted license during all or a specified portion of
5 the suspension.

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

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

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

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

21 (g) Beginning October 31, 2010, for 1 year for a violation of
22 section 625(1)(c) if the person has no prior convictions within 7
23 years or not more than 2 convictions within 10 years. The secretary
24 of state may issue the person a restricted license, except that the
25 secretary of state shall not issue a restricted license during the
26 first 45 days of suspension.

27 (h) Beginning October 31, 2010, the department shall order a

1 person convicted of violating section 625(1)(c) not to operate a
2 motor vehicle under a restricted license issued under subdivision
3 (g) unless the vehicle is equipped with an ignition interlock
4 device approved, certified, and installed as required under
5 sections 625k and 625l. The ignition interlock device may be removed
6 after the interlock device provider provides the department with
7 verification that the person has operated the vehicle with no
8 instances of reaching or exceeding a blood alcohol level of 0.025
9 grams per 210 liters of breath. This subdivision does not prohibit
10 the removal of the ignition interlock device for any of the
11 following:

12 (i) A start-up test failure that occurs within the first 2
13 months after installation of the device. As used in this
14 subdivision, "start-up test failure" means that the ignition
15 interlock device has prevented the motor vehicle from being
16 started. Multiple unsuccessful attempts at 1 time to start the
17 vehicle shall be treated as 1 start-up test failure only under this
18 subparagraph.

19 (ii) A start-up test failure occurring more than 2 months after
20 installation of the device, if not more than 15 minutes after
21 detecting the start-up test failure the person delivers a breath
22 sample that the ignition interlock device analyzes as having an
23 alcohol level of less than 0.025 grams per 210 liters of breath.

24 (iii) A retest prompted by the device, if not more than 5
25 minutes after detecting the start-up test failure the person
26 delivers a breath sample that the ignition interlock device
27 analyzes as having an alcohol level of less than 0.025 grams per

1 210 liters of breath.

2 (i) Beginning October 31, 2010, if an individual violates the
3 conditions of the restricted license issued under subdivision (g)
4 or operates or attempts to operate a motor vehicle with a blood
5 alcohol level of 0.025 grams per 210 liters of breath, the
6 secretary of state shall impose an additional like period of
7 suspension and restriction as prescribed under subdivision (g).
8 This subdivision does not require an additional like period of
9 suspension and restriction for any of the following:

10 (i) A start-up test failure within the first 2 months after
11 installation of the ignition interlock device. As used in this
12 subdivision, "start-up test failure" means that the ignition
13 interlock device has prevented the motor vehicle from being
14 started. Multiple unsuccessful attempts at 1 time to start the
15 vehicle shall be treated as 1 start-up test failure only under this
16 subparagraph.

17 (ii) A start-up test failure occurring more than 2 months after
18 installation of the device, if not more than 15 minutes after
19 detecting the start-up test failure the person delivers a breath
20 sample that the ignition interlock device analyzes as having an
21 alcohol level of less than 0.025 grams per 210 liters of breath.

22 (iii) Any retest prompted by the device, if not more than 5
23 minutes after detecting the start-up test failure the person
24 delivers a breath sample that the ignition interlock device
25 analyzes as having an alcohol level of less than 0.025 grams per
26 210 liters of breath.

27 (9) For a violation of section 367c of the Michigan penal

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code, 1931 PA 328, MCL 750.367c, the secretary of state shall suspend the person's license as follows:

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

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

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

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

(12) FOR A SECOND OR SUBSEQUENT VIOLATION OF SECTION 701(1) OF THE MICHIGAN LIQUOR CONTROL CODE OF 1998, 1998 PA 58, MCL 436.1701, BY AN INDIVIDUAL WHO IS NOT A RETAIL LICENSEE OR A RETAIL LICENSEE'S CLERK, AGENT, OR EMPLOYEE, THE SECRETARY OF STATE SHALL SUSPEND THE PERSON'S LICENSE FOR 180 DAYS. <<THE SECRETARY OF STATE MAY ISSUE A PERSON A RESTRICTED LICENSE DURING ALL OR A SPECIFIED PORTION OF THE SUSPENSION.>>

(13) ~~(12)~~ Except as provided in subsection ~~(14)~~ (15), a suspension under this section shall be imposed notwithstanding a court order unless the court order complies with section 323.

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

1 (15) ~~(14)~~—The secretary of state may waive a restriction,
2 suspension, or revocation of a person's license imposed under this
3 act if the person submits proof that a court in another state
4 revoked, suspended, or restricted his or her license for a period
5 equal to or greater than the period of a restriction, suspension,
6 or revocation prescribed under this act for the violation and that
7 the revocation, suspension, or restriction was served for the
8 violation, or may grant a restricted license.

9 (16) ~~(15)~~—The secretary of state shall not issue a restricted
10 license to a person whose license is suspended under this section
11 unless a restricted license is authorized under this section and
12 the person is otherwise eligible for a license.

13 (17) ~~(16)~~—The secretary of state shall not issue a restricted
14 license to a person under subsection (8) that would permit the
15 person to operate a commercial motor vehicle.

16 (18) ~~(17)~~—Except as provided in subsection ~~(16)~~—(17), a
17 restricted license issued under this section shall permit the
18 person to whom it is issued to take any driving skills test
19 required by the secretary of state and to operate a vehicle under 1
20 or more of the following circumstances:

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

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

23 (i) The person's residence.

24 (ii) The person's work location.

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

27 (iv) The court probation department.

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

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

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

7 (19) ~~(18)~~ While driving with a restricted license, the person
8 shall carry proof of his or her destination and the hours of any
9 employment, class, or other reason for traveling and shall display
10 that proof upon a peace officer's request.

11 (20) ~~(19)~~ Subject to subsection ~~(21)~~ (22), as used in
12 subsection (8), "prior conviction" means a conviction for any of
13 the following, whether under a law of this state, a local ordinance
14 substantially corresponding to a law of this state, or a law of
15 another state substantially corresponding to a law of this state:

16 (a) Except as provided in subsection ~~(20)~~ (21), a violation or
17 attempted violation of any of the following:

18 (i) Section 625, except a violation of section 625(2), or a
19 violation of any prior enactment of section 625 in which the
20 defendant operated a vehicle while under the influence of
21 intoxicating or alcoholic liquor or a controlled substance, or a
22 combination of intoxicating or alcoholic liquor and a controlled
23 substance, or while visibly impaired, or with an unlawful bodily
24 alcohol content.

25 (ii) Section 625m.

26 (iii) Former section 625b.

27 (b) Negligent homicide, manslaughter, or murder resulting from

1 the operation of a vehicle or an attempt to commit any of those
2 crimes.

3 (c) Beginning October 31, 2010, a violation of section 601d or
4 section 626(3) or (4).

5 (21) ~~(20)~~—Except for purposes of the suspensions described in
6 subsection (8)(c) and (d), only 1 violation or attempted violation
7 of section 625(6), a local ordinance substantially corresponding to
8 section 625(6), or a law of another state substantially
9 corresponding to section 625(6) may be used as a prior conviction.

10 (22) ~~(21)~~—If 2 or more convictions described in subsection
11 ~~(19)~~ (20) are convictions for violations arising out of the same
12 transaction, only 1 conviction shall be used to determine whether
13 the person has a prior conviction.

14 Enacting section 1. This amendatory act takes effect June 30,
15 2011.

16 Enacting section 2. This amendatory act does not take effect
17 unless House Bill No. 5198 of the 95th Legislature is enacted into
18 law.