

HOUSE BILL No. 4634

March 19, 2009, Introduced by Rep. Johnson and referred to the Committee on Insurance.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 328 and 907 (MCL 257.328 and 257.907), section
328 as amended by 2004 PA 52 and section 907 as amended by 2008 PA
463, and by adding sections 520a and 520b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 328. (1) ~~The~~ **BEFORE OCTOBER 1, 2009, UPON THE REQUEST OF**
2 **A POLICE OFFICER, THE** owner of a motor vehicle who operates or
3 permits the operation of the motor vehicle upon the highways of
4 this state or the operator of the motor vehicle shall produce,
5 pursuant to subsection (2), ~~upon the request of a police officer,~~
6 evidence that the motor vehicle is insured under chapter 31 of the
7 insurance code of 1956, 1956 PA 218, MCL 500.3101 to 500.3179.

BEGINNING ON AND AFTER OCTOBER 1, 2009, THE OWNER OF A MOTOR VEHICLE WHO OPERATES OR PERMITS THE OPERATION OF THE MOTOR VEHICLE UPON THE HIGHWAYS OF THIS STATE AND WHO PERSONALLY, OR THROUGH E-REGISTRATION, THE MAIL, OR AN AGENT, FAILS TO PROVIDE TO AN EMPLOYEE OF THE DEPARTMENT EVIDENCE THAT THE MOTOR VEHICLE IS INSURED AS REQUIRED UNDER CHAPTER 31 OF THE INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.3101 TO 500.3179, IS RESPONSIBLE FOR A CIVIL INFRACTION. Subject to section 907(16), an owner or operator of a motor vehicle who fails to produce evidence of insurance under this subsection when requested to produce that evidence or who fails to have motor vehicle insurance for the vehicle as required under chapter 31 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 to 500.3179, is responsible for a civil infraction.

(2) ~~A-BEFORE OCTOBER 1, 2009, A~~ certificate of insurance, issued by an insurance company, that certifies that the security that meets the requirements of sections 3101 and 3102 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 and 500.3102, is in force shall be accepted as prima facie evidence that insurance is in force for the motor vehicle described in the certificate of insurance until the expiration date shown on the certificate. The certificate, in addition to describing the motor vehicles for which insurance is in effect, shall state the name of each person named on the policy, policy declaration, or a declaration certificate whose operation of the vehicle would cause the liability coverage of that insurance to become void. BEGINNING ON AND AFTER OCTOBER 1, 2009, A POLICE OFFICER OR OTHER AUTHORIZED INDIVIDUAL WHO SEEKS TO VERIFY THAT A MOTOR VEHICLE IS INSURED SHALL ACCESS THE NLETS-

1 AUTHORIZED PAPERLESS INSURANCE VERIFICATION SYSTEM DEVELOPED UNDER
2 SECTION 520A. THE NLETS-AUTHORIZED PAPERLESS INSURANCE VERIFICATION
3 SYSTEM DEVELOPED UNDER SECTION 520A SHALL AUTOMATICALLY PROVIDE AN
4 AUTOMATED VERIFICATION OF EACH QUERY TO INDICATE WHETHER OR NOT
5 MOTOR VEHICLE INSURANCE IS IN EFFECT AT THE TIME THE QUERY IS MADE.

6 (3) If, before the appearance date on the citation, the person
7 submits proof to the court that the motor vehicle had insurance
8 meeting the requirements of ~~sections 3101 and 3102~~ **CHAPTER 31** of
9 the insurance code of 1956, 1956 PA 218, MCL 500.3101 ~~and 500.3102~~
10 **TO 500.3179**, at the time the violation of subsection (1) occurred,
11 all of the following apply:

12 (a) The court shall not assess a fine or costs.

13 (b) The court shall not cause an abstract of the court record
14 to be forwarded to the secretary of state.

15 (c) The court may assess a fee of not more than \$25.00, which
16 shall be paid to the court funding unit.

17 (4) If an owner or operator of a motor vehicle is determined
18 to be responsible for a violation of subsection (1), the court in
19 which the civil infraction determination is entered may require the
20 person to surrender his or her operator's or chauffeur's license
21 unless proof that the vehicle has insurance meeting the
22 requirements of ~~sections 3101 and 3102~~ **CHAPTER 31** of the insurance
23 code of 1956, 1956 PA 218, MCL 500.3101 ~~and 500.3102~~ **TO 500.3179**,
24 is submitted to the court. If the court requires the license to be
25 surrendered, the court shall order the secretary of state to
26 suspend the person's license. The court shall immediately destroy
27 the license and shall forward to the secretary of state an abstract

1 of the court record as required by section 732. Upon receipt of the
2 abstract, the secretary of state shall suspend the person's license
3 beginning with the date on which a person is determined to be
4 responsible for the civil infraction for a period of 30 days or
5 until proof of insurance meeting the requirements of ~~sections 3101~~
6 ~~and 3102~~ **CHAPTER 31** of the insurance code of 1956, 1956 PA 218, MCL
7 500.3101 ~~and 500.3102~~ **TO 500.3179**, is submitted to the secretary of
8 state, whichever occurs later. A person who submits proof of
9 insurance **OR FOR WHOM PROOF OF INSURANCE IS AUTOMATICALLY PROVIDED**
10 **BY THE NLETS-AUTHORIZED PAPERLESS INSURANCE VERIFICATION SYSTEM**
11 **DEVELOPED UNDER SECTION 520A** to the secretary of state under this
12 subsection shall pay a service fee of \$25.00 to the secretary of
13 state. The person shall not be required to be examined as set forth
14 in section 320c and shall not be required to pay a replacement
15 license fee.

16 (5) If an owner or operator of a motor vehicle is determined
17 to be responsible for a violation of subsection (1), the court in
18 which the civil infraction determination is entered shall notify
19 the secretary of state of the vehicle registration number and the
20 year and make of the motor vehicle being operated at the time of
21 the violation. This notification shall be made on the abstract or
22 on a form approved by the supreme court administrator. Upon
23 receipt, the secretary of state shall immediately enter this
24 information in the records of the department. The secretary of
25 state shall not renew, transfer, or replace the registration plate
26 of the vehicle involved in the violation or allow the purchase of a
27 new registration plate for the vehicle involved in the violation

1 until the owner meets the requirements of section 227a or unless
2 the vehicle involved in the violation is transferred or sold to a
3 person other than the owner's spouse, mother, father, sister,
4 brother, or child.

5 (6) An owner or operator of a motor vehicle who knowingly
6 produces false evidence under this section is guilty of a
7 misdemeanor, punishable by imprisonment for not more than 1 year,
8 or a fine of not more than \$1,000.00, or both.

9 (7) Points shall not be entered on a driver's record pursuant
10 ~~to~~ **UNDER** section 320a for a violation of this section.

11 (8) This section ~~does not apply~~ **APPLIES** to the owner or
12 operator of a motor vehicle that is registered in a ~~THIS~~ state **AND**
13 **ALSO A STATE** other than this state or a foreign country or province
14 **AS THOSE VEHICLES ARE SUBJECT TO THE LAWS OF THIS STATE.**

15 (9) **AS USED IN THIS SECTION, "E-REGISTRATION" MEANS**
16 **REGISTRATION THROUGH ELECTRONIC MEANS.**

17 **SEC. 520A. (1) AS USED IN THIS SECTION:**

18 (A) **"NLETS" MEANS THE NATIONAL LAW ENFORCEMENT**
19 **TELECOMMUNICATIONS SYSTEM OR OTHER SYSTEM CAPABLE OF PROVIDING**
20 **PAPERLESS VERIFICATION OF INSURANCE COVERAGE AS DESCRIBED IN THIS**
21 **SECTION.**

22 (B) **"UNPARSED DATA" MEANS DATA THAT ARE NOT ELECTRONICALLY**
23 **SORTED BY JURISDICTION.**

24 (2) **BEFORE OCTOBER 1, 2009, THE DEPARTMENT OF STATE POLICE**
25 **SHALL ESTABLISH AND IMPLEMENT AND MAINTAIN AN NLETS-AUTHORIZED**
26 **PAPERLESS VERIFICATION SYSTEM FOR MOTOR VEHICLE INSURANCE COVERAGE.**
27 **THE PAPERLESS VERIFICATION SYSTEM SHALL BE DESIGNED WITH THE GOAL**

1 OF IDENTIFYING MOTOR VEHICLES THAT ARE BEING OPERATED ON HIGHWAYS
2 IN THIS STATE WITHOUT THE REQUIRED INSURANCE COVERAGE AND SHALL
3 HAVE ALL OF THE FOLLOWING CHARACTERISTICS:

4 (A) PROVIDE QUICK, ACCURATE, AND CURRENT ACCESS TO MOTOR
5 VEHICLE INSURANCE COVERAGE INFORMATION TO PERSONS AND AGENCIES
6 CHARGED WITH ENFORCEMENT OF MOTOR VEHICLE INSURANCE REQUIREMENTS,
7 INCLUDING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING PROCESSES:

8 (i) THE DAILY GATHERING OF UNPARSED DATA CONCERNING MOTOR
9 VEHICLE INSURANCE COVERAGE BY INSURANCE COMPANIES PROVIDING MOTOR
10 VEHICLE INSURANCE COVERAGE IN THIS STATE.

11 (ii) THE DAILY TRANSMITTAL OF DATA CONCERNING MOTOR VEHICLE
12 INSURANCE COVERAGE FROM COMPANIES DESCRIBED IN SUBPARAGRAPH (i) TO
13 NLETS IN THE MANNER DETERMINED BY THE DEPARTMENT OF STATE POLICE
14 AND IN A MANNER THAT IS COMMONLY AND CURRENTLY ACCOMMODATED BY
15 INSURERS FOR OTHER JURISDICTIONS, SUCH DATA TO BE ELECTRONICALLY
16 TRANSMITTED TO SERVERS IDENTIFIED BY NLETS.

17 (iii) THE DEPARTMENT OF STATE POLICE'S METHOD OF CONFIRMING
18 TRANSMITTAL OF DATA ELEMENTS REQUIRED TO CONFIRM ACTIVE INSURANCE
19 STATUS FOR REGISTRATION FROM THE DATA ELEMENTS DESCRIBED IN
20 SUBPARAGRAPH (ii) TO THE DEPARTMENT OF STATE.

21 (B) PROTECT THE PRIVACY OF MOTOR VEHICLE OWNERS BY ENSURING
22 THAT NAMES OR ADDRESSES CANNOT BE MAINTAINED OR USED TO OBTAIN
23 ACCESS TO INSURANCE STATUS, EXCEPT AS OTHERWISE REQUIRED TO COMPLY
24 WITH SECTION 328 AND THIS SECTION.

25 (C) PROTECT THE SECURITY AND INTEGRITY OF INFORMATION GATHERED
26 AND TRANSMITTED BY INSURERS UNDER SUBDIVISION (A) BY MEETING ALL
27 SECURITY STANDARDS OF BOTH THE STATE AND NLETS.

1 (D) ALLOW THE DIRECTOR OF THE DEPARTMENT OF STATE POLICE TO
2 AUTOMATICALLY CREATE AND MAIL A CITATION FOR A VIOLATION OF SECTION
3 328 TO THE OWNER OF A MOTOR VEHICLE IN OTHER STATES, FOREIGN
4 COUNTRIES, OR FOREIGN PROVINCES BY MEANS OF THE NLETS CONNECTION TO
5 NATIONAL LAW ENFORCEMENT DATA.

6 (3) THE SECRETARY OF STATE SHALL PROVIDE TO NLETS ALL EXISTING
7 DATA SUBMITTED TO THE SECRETARY OF STATE UNDER SECTION 3103A(2) OF
8 THE INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.3103A, IN AN
9 ELECTRONIC FORM AS SPECIFIED BY NLETS NOT MORE THAN 30 DAYS AFTER
10 NLETS NOTIFIES THE SECRETARY OF STATE THROUGH THE DEPARTMENT OF
11 STATE POLICE THAT IT IS PREPARED TO RECEIVE THAT DATA AND BEFORE
12 OCTOBER 1, 2009.

13 (4) BEFORE ENTERING INTO A CONTRACT WITH A PAPERLESS
14 VERIFICATION SYSTEM PROVIDER TO IMPLEMENT THIS SECTION, THE
15 DEPARTMENT OF STATE POLICE SHALL ISSUE A REQUEST FOR PROPOSALS.

16 SEC. 520B. (1) THE INSURANCE VERIFICATION FUND IS CREATED
17 WITHIN THE STATE TREASURY.

18 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM
19 ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER SHALL
20 DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL CREDIT
21 TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.

22 (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL
23 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

24 (4) THE DEPARTMENT OF STATE POLICE SHALL BE THE ADMINISTRATOR
25 OF THE FUND FOR AUDITING PURPOSES.

26 (5) THE DEPARTMENT OF STATE POLICE SHALL EXPEND MONEY FROM THE
27 FUND, UPON APPROPRIATION, ONLY TO ESTABLISH, IMPLEMENT, AND

1 **MAINTAIN THE NLETS-AUTHORIZED PAPERLESS VERIFICATION SYSTEM**
2 **DESCRIBED IN SECTION 520A.**

3 Sec. 907. (1) A violation of this act, or a local ordinance
4 substantially corresponding to a provision of this act, that is
5 designated a civil infraction shall not be considered a lesser
6 included offense of a criminal offense.

7 (2) If a person is determined pursuant to sections 741 to 750
8 to be responsible or responsible "with explanation" for a civil
9 infraction under this act or a local ordinance substantially
10 corresponding to a provision of this act, the judge or district
11 court magistrate may order the person to pay a civil fine of not
12 more than \$100.00 and costs as provided in subsection (4). However,
13 **BEGINNING ON AND AFTER OCTOBER 31, 2010**, if the civil infraction
14 was a moving violation that resulted in an at-fault collision with
15 another vehicle, a person, or any other object, the civil fine
16 ordered under this section shall be increased by \$25.00 but the
17 total civil fine shall not exceed \$100.00. However, for a violation
18 of section 674(1)(s) or a local ordinance substantially
19 corresponding to section 674(1)(s), the person shall be ordered to
20 pay costs as provided in subsection (4) and a civil fine of not
21 less than \$100.00 or more than \$250.00. For a violation of section
22 328, the civil fine ordered under this subsection shall be not more
23 than \$50.00. For a violation of section 710d, the civil fine
24 ordered under this subsection shall not exceed \$10.00. For a
25 violation of section 710e, the civil fine and court costs ordered
26 under this subsection shall be \$25.00. For a violation of section
27 682 or a local ordinance substantially corresponding to section

1 682, the person shall be ordered to pay costs as provided in
2 subsection (4) and a civil fine of not less than \$100.00 or more
3 than \$500.00. For a violation of section 240, the civil fine
4 ordered under this subsection shall be \$15.00. For a violation of
5 section 252a(1), the civil fine ordered under this subsection shall
6 be \$50.00. For a violation of section 676a(3), the civil fine
7 ordered under this section shall be not more than \$10.00. For a
8 violation of section 319f(1), the civil fine ordered under this
9 section shall be not less than \$1,100.00 or more than \$2,750.00.
10 For a violation of section 319g(1)(a), the civil fine ordered under
11 this section shall be not more than \$10,000.00. For a violation of
12 section ~~319g(1)(b)~~ **319G(1)(G)**, the civil fine ordered under this
13 section shall be not less than \$2,750.00 or more than \$11,000.00.
14 Permission may be granted for payment of a civil fine and costs to
15 be made within a specified period of time or in specified
16 installments, but unless permission is included in the order or
17 judgment, the civil fine and costs shall be payable immediately.

18 (3) Except as provided in this subsection, if a person is
19 determined to be responsible or responsible "with explanation" for
20 a civil infraction under this act or a local ordinance
21 substantially corresponding to a provision of this act while
22 driving a commercial motor vehicle, he or she shall be ordered to
23 pay costs as provided in subsection (4) and a civil fine of not
24 more than \$250.00. ~~If a person is determined to be responsible or~~
25 ~~responsible "with explanation" for a civil infraction under section~~
26 ~~319g or a local ordinance substantially corresponding to section~~
27 ~~319g, that person shall be ordered to pay costs as provided in~~

1 ~~subsection (4) and a civil fine of not more than \$10,000.00.~~

2 (4) If a civil fine is ordered under subsection (2) or (3),
3 the judge or district court magistrate shall summarily tax and
4 determine the costs of the action, which are not limited to the
5 costs taxable in ordinary civil actions, and may include all
6 expenses, direct and indirect, to which the plaintiff has been put
7 in connection with the civil infraction, up to the entry of
8 judgment. Costs shall not be ordered in excess of \$100.00. A civil
9 fine ordered under subsection (2) or (3) shall not be waived unless
10 costs ordered under this subsection are waived. Except as otherwise
11 provided by law, costs are payable to the general fund of the
12 plaintiff.

13 (5) In addition to a civil fine and costs ordered under
14 subsection (2) or (3) and subsection (4) and the justice system
15 assessment ordered under subsection (14), the judge or district
16 court magistrate may order the person to attend and complete a
17 program of treatment, education, or rehabilitation.

18 (6) A district court magistrate shall impose the sanctions
19 permitted under subsections (2), (3), and (5) only to the extent
20 expressly authorized by the chief judge or only judge of the
21 district court district.

22 (7) Each district of the district court and each municipal
23 court may establish a schedule of civil fines, costs, and
24 assessments to be imposed for civil infractions that occur within
25 the respective district or city. If a schedule is established, it
26 shall be prominently posted and readily available for public
27 inspection. A schedule need not include all violations that are

1 designated by law or ordinance as civil infractions. A schedule may
2 exclude cases on the basis of a defendant's prior record of civil
3 infractions or traffic offenses, or a combination of civil
4 infractions and traffic offenses.

5 (8) The state court administrator shall annually publish and
6 distribute to each district and court a recommended range of civil
7 fines and costs for first-time civil infractions. This
8 recommendation is not binding upon the courts having jurisdiction
9 over civil infractions but is intended to act as a normative guide
10 for judges and district court magistrates and a basis for public
11 evaluation of disparities in the imposition of civil fines and
12 costs throughout the state.

13 (9) If a person has received a civil infraction citation for
14 defective safety equipment on a vehicle under section 683, the
15 court shall waive a civil fine, costs, and assessments upon receipt
16 of certification by a law enforcement agency that repair of the
17 defective equipment was made before the appearance date on the
18 citation.

19 (10) A default in the payment of a civil fine or costs ordered
20 under subsection (2), (3), or (4) or a justice system assessment
21 ordered under subsection (14), or an installment of the fine,
22 costs, or assessment, may be collected by a means authorized for
23 the enforcement of a judgment under chapter 40 of the revised
24 judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or
25 under chapter 60 of the revised judicature act of 1961, 1961 PA
26 236, MCL 600.6001 to 600.6098.

27 (11) If a person fails to comply with an order or judgment

1 issued pursuant to this section within the time prescribed by the
2 court, the driver's license of that person shall be suspended
3 pursuant to section 321a until full compliance with that order or
4 judgment occurs. In addition to this suspension, the court may also
5 proceed under section 908.

6 (12) The court shall waive any civil fine, cost, or assessment
7 against a person who received a civil infraction citation for a
8 violation of section 710d if the person, before the appearance date
9 on the citation, supplies the court with evidence of acquisition,
10 purchase, or rental of a child seating system meeting the
11 requirements of section 710d.

12 (13) Until October 1, 2003, in addition to any civil fines and
13 costs ordered to be paid under this section, the judge or district
14 court magistrate shall levy an assessment of \$5.00 for each civil
15 infraction determination, except for a parking violation or a
16 violation for which the total fine and costs imposed are \$10.00 or
17 less. An assessment paid before October 1, 2003 shall be
18 transmitted by the clerk of the court to the state treasurer to be
19 deposited into the Michigan justice training fund. An assessment
20 ordered before October 1, 2003 but collected on or after October 1,
21 2003 shall be transmitted by the clerk of the court to the state
22 treasurer for deposit in the justice system fund created in section
23 181 of the revised judicature act of 1961, 1961 PA 236, MCL
24 600.181. An assessment levied under this subsection is not a civil
25 fine for purposes of section 909.

26 (14) Effective October 1, 2003, in addition to any civil fines
27 or costs ordered to be paid under this section, the judge or

1 district court magistrate shall order the defendant to pay a
2 justice system assessment of \$40.00 for each civil infraction
3 determination, except for a parking violation or a violation for
4 which the total fine and costs imposed are \$10.00 or less. Upon
5 payment of the assessment, the clerk of the court shall transmit
6 the assessment collected to the state treasury to be deposited into
7 the justice system fund created in section 181 of the revised
8 judicature act of 1961, 1961 PA 236, MCL 600.181. An assessment
9 levied under this subsection is not a civil fine for purposes of
10 section 909.

11 (15) If a person has received a citation for a violation of
12 section 223, the court shall waive any civil fine, costs, and
13 assessment, upon receipt of certification by a law enforcement
14 agency that the person, before the appearance date on the citation,
15 produced a valid registration certificate that was valid on the
16 date the violation of section 223 occurred.

17 (16) If a person has received a citation for a violation of
18 section 328(1) for failing to produce **OR, BEGINNING ON AND AFTER**
19 **OCTOBER 1, 2009, TO PROVIDE** a certificate of insurance pursuant to
20 section 328(2), the court may waive the fee described in section
21 328(3)(c) and shall waive any fine, costs, and any other fee or
22 assessment otherwise authorized under this act upon receipt of
23 verification by the court that the person, before the appearance
24 date on the citation, produced **OR PROVIDED** valid proof of insurance
25 that was in effect at the time the violation of section 328(1)
26 occurred. Insurance obtained subsequent to the time of the
27 violation does not make the person eligible for a waiver under this

1 subsection.

2 (17) As used in this section, "moving violation" means an act
3 or omission prohibited under this act or a local ordinance
4 substantially corresponding to this act that involves the operation
5 of a motor vehicle and for which a fine may be assessed.

6 Enacting section 1. This amendatory act does not take effect
7 unless Senate Bill No.____ or House Bill No. 4633(request no.
8 01320'09) of the 95th Legislature is enacted into law.