

**SUBSTITUTE FOR
HOUSE BILL NO. 5791**

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending section 904 (MCL 257.904), as amended by 2015 PA 11.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 904. (1) A person whose operator's or chauffeur's license
2 or registration certificate has been suspended or revoked, whose
3 application for license has been denied, or who has never applied
4 for a license, shall not operate a motor vehicle upon a highway or
5 other place open to the general public or generally accessible to
6 motor vehicles, including an area designated for the parking of
7 motor vehicles, within this state.

8 (2) A person shall not knowingly permit a motor vehicle owned
9 by the person to be operated upon a highway or other place open to
10 the general public or generally accessible to motor vehicles,

1 including an area designated for the parking of vehicles, within
2 this state by a person whose license or registration certificate is
3 suspended or revoked, whose application for license has been
4 denied, or who has never applied for a license, except as permitted
5 under this act.

6 (3) Except as otherwise provided in this section, a person who
7 violates subsection (1) or (2) is guilty of a misdemeanor
8 punishable as follows:

9 (a) For a first violation, by imprisonment for not more than
10 93 days or a fine of not more than \$500.00, or both. Unless the
11 vehicle was stolen or used with the permission of a person who did
12 not knowingly permit an unlicensed driver to operate the vehicle,
13 the registration plates of the vehicle shall be canceled by the
14 secretary of state upon notification by a peace officer.

15 (b) For a violation that occurs after a prior conviction, by
16 imprisonment for not more than 1 year or a fine of not more than
17 \$1,000.00, or both. Unless the vehicle was stolen, the registration
18 plates of the vehicle shall be canceled by the secretary of state
19 upon notification by a peace officer.

20 (4) A person who operates a motor vehicle in violation of
21 subsection (1) and who, by operation of that motor vehicle, causes
22 the death of another person is guilty of a felony punishable by
23 imprisonment for not more than 15 years or a fine of not less than
24 \$2,500.00 or more than \$10,000.00, or both. This subsection does
25 not apply to a person whose operator's or chauffeur's license was
26 suspended because that person failed to answer a citation or comply
27 with an order or judgment under section 321a.

1 (5) A person who operates a motor vehicle in violation of
2 subsection (1) and who, by operation of that motor vehicle, causes
3 the serious impairment of a body function of another person is
4 guilty of a felony punishable by imprisonment for not more than 5
5 years or a fine of not less than \$1,000.00 or more than \$5,000.00,
6 or both. This subsection does not apply to a person whose
7 operator's or chauffeur's license was suspended because that person
8 failed to answer a citation or comply with an order or judgment
9 under section 321a.

10 (6) In addition to being subject to any other penalty provided
11 for in this act, if a person is convicted under subsection (4) or
12 (5), the court may impose the sanction permitted under section
13 625n. If the vehicle is not ordered forfeited under section 625n,
14 the court shall order vehicle immobilization under section 904d in
15 the judgment of sentence.

16 (7) A person shall not knowingly permit a motor vehicle owned
17 by the person to be operated upon a highway or other place open to
18 the general public or generally accessible to motor vehicles,
19 including an area designated for the parking of vehicles, within
20 this state, by a person whose license or registration certificate
21 is suspended or revoked, whose application for license has been
22 denied, or who has never been licensed except as permitted by this
23 act. If a person permitted to operate a motor vehicle in violation
24 of this subsection causes the serious impairment of a body function
25 of another person by operation of that motor vehicle, the person
26 knowingly permitting the operation of that motor vehicle is guilty
27 of a felony punishable by imprisonment for not more than 2 years,

1 or a fine of not less than \$1,000.00 or more than \$5,000.00, or
2 both. If a person permitted to operate a motor vehicle in violation
3 of this subsection causes the death of another person by operation
4 of that motor vehicle, the person knowingly permitting the
5 operation of that motor vehicle is guilty of a felony punishable by
6 imprisonment for not more than 5 years, or a fine of not less than
7 \$1,000.00 or more than \$5,000.00, or both.

8 (8) If the prosecuting attorney intends to seek an enhanced
9 sentence under this section based upon the defendant having 1 or
10 more prior convictions, the prosecuting attorney shall include on
11 the complaint and information, or an amended complaint and
12 information, filed in district court, circuit court, municipal
13 court, or family division of circuit court, a statement listing the
14 defendant's prior convictions.

15 (9) A prior conviction under this section shall be established
16 at or before sentencing by 1 or more of the following:

17 (a) A copy of a judgment of conviction.

18 (b) An abstract of conviction.

19 (c) A transcript of a prior trial, plea, or sentencing.

20 (d) A copy of a court register of action.

21 (e) A copy of the defendant's driving record.

22 (f) Information contained in a presentence report.

23 (g) An admission by the defendant.

24 (10) Upon receiving a record of a person's conviction or civil
25 infraction determination for the unlawful operation of a motor
26 vehicle or a moving violation reportable under section 732 while
27 the person's operator's or chauffeur's license is suspended or

1 revoked, the secretary of state immediately shall impose an
2 additional like period of suspension or revocation. This subsection
3 applies only if the violation occurs during a suspension of
4 definite length or if the violation occurs before the person is
5 approved for a license following a revocation.

6 (11) ~~Upon~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,**
7 **UPON** receiving a record of a person's conviction or civil
8 infraction determination for the unlawful operation of a motor
9 vehicle or a moving violation reportable under section 732 while
10 the person's operator's or chauffeur's license is indefinitely
11 suspended or whose application for a license has been denied, the
12 secretary of state immediately shall impose a 30-day period of
13 suspension or denial. **THIS SUBSECTION DOES NOT APPLY IF THE**
14 **UNLAWFUL OPERATION OF A MOTOR VEHICLE OR MOVING VIOLATION UNDER**
15 **SECTION 732 OCCURRED WHILE THE PERSON'S OPERATOR'S OR CHAUFFEUR'S**
16 **LICENSE WAS SUSPENDED UNDER SECTION 321A, 511, OR 732A.**

17 (12) Upon receiving a record of the conviction, bond
18 forfeiture, or a civil infraction determination of a person for
19 unlawful operation of a motor vehicle requiring a vehicle group
20 designation while the designation is suspended or revoked under
21 section 319b, or while the person is disqualified from operating a
22 commercial motor vehicle by the United States Secretary of
23 Transportation or under 49 USC 31301 to 31317, the secretary of
24 state immediately shall impose an additional like period of
25 suspension or revocation. This subsection applies only if the
26 violation occurs during a suspension of definite length or if the
27 violation occurs before the person is approved for a license

1 following a revocation.

2 (13) If the secretary of state receives records of more than 1
3 conviction or civil infraction determination resulting from the
4 same incident, all of the convictions or civil infraction
5 determinations shall be treated as a single violation for purposes
6 of imposing an additional period of suspension or revocation under
7 subsection (10), (11), or (12).

8 (14) Before a person is arraigned before a district court
9 magistrate or judge on a charge of violating this section, the
10 arresting officer shall obtain the person's driving record from the
11 secretary of state and shall furnish the record to the court. The
12 driving record of the person may be obtained from the secretary of
13 state's computer information network.

14 (15) This section does not apply to a person who operates a
15 vehicle solely for the purpose of protecting human life or property
16 if the life or property is endangered and summoning prompt aid is
17 essential.

18 (16) A person whose vehicle group designation is suspended or
19 revoked and who has been notified as provided in section 212 of
20 that suspension or revocation, or whose application for a vehicle
21 group designation has been denied as provided in this act, or who
22 has never applied for a vehicle group designation and who operates
23 a commercial motor vehicle within this state, except as permitted
24 under this act, while any of those conditions exist is guilty of a
25 misdemeanor punishable, except as otherwise provided in this
26 section, by imprisonment for not less than 3 days or more than 93
27 days or a fine of not more than \$100.00, or both.

1 (17) If a person has a second or subsequent suspension or
2 revocation under this section within 7 years as indicated on the
3 person's Michigan driving record, the court shall proceed as
4 provided in section 904d.

5 (18) Any period of suspension or revocation required under
6 subsection (10) ~~, (11),~~ or (12) does not apply to a person who has
7 only 1 currently effective suspension or denial on his or her
8 Michigan driving record under section 321a and was convicted of or
9 received a civil infraction determination for a violation that
10 occurred during that suspension or denial. This subsection may only
11 be applied once during the person's lifetime.

12 (19) For purposes of this section, a person who never applied
13 for a license includes a person who applied for a license, was
14 denied, and never applied again.

15 Enacting section 1. This amendatory act takes effect January
16 1, 2018.