

HOUSE BILL No. 5602

April 26, 2016, Introduced by Rep. Lucido and referred to the Committee on Criminal Justice.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 904 and 904a (MCL 257.904 and 257.904a), section 904 as amended by 2015 PA 11 and section 904a as amended by 1985 PA 53.

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. **EXCEPT AS OTHERWISE PROVIDED IN**
8 **THIS SUBSECTION, A POLICE OFFICER WHO STOPS A PERSON AND DETERMINES**

1 THE PERSON IS OPERATING A MOTOR VEHICLE IN VIOLATION OF THIS
2 SUBSECTION SHALL DO ALL OF THE FOLLOWING:

3 (A) CONFISCATE THE MOTOR VEHICLE'S REGISTRATION PLATE AND
4 DESTROY IT.

5 (B) IMPOUND THE MOTOR VEHICLE. THE OWNER OF A MOTOR VEHICLE
6 IMPOUNDED UNDER THIS SUBDIVISION IS LIABLE FOR THE EXPENSES
7 INCURRED IN THE REMOVAL AND STORAGE OF THE MOTOR VEHICLE WHETHER OR
8 NOT IT IS RETURNED TO HIM OR HER. THE MOTOR VEHICLE SHALL BE
9 RETURNED TO THE OWNER ONLY IF THE OWNER PAYS THE EXPENSES OF
10 REMOVAL AND STORAGE. IF THE EXPENSES OF REMOVAL AND STORAGE ARE NOT
11 PAID OR THE VEHICLE IS NOT RETURNED AS DESCRIBED UNDER THIS
12 SUBDIVISION, IT SHALL BE CONSIDERED AN ABANDONED VEHICLE AND
13 DISPOSED OF UNDER SECTION 252A.

14 (C) NOTIFY THE SECRETARY OF STATE THROUGH THE LAW ENFORCEMENT
15 INFORMATION NETWORK IN A FORM PRESCRIBED BY THE SECRETARY OF STATE
16 THAT THE REGISTRATION PLATE WAS CONFISCATED AND DESTROYED, AND THAT
17 THE MOTOR VEHICLE WAS IMPOUNDED.

18 (D) IF THE PERSON OPERATING THE MOTOR VEHICLE IN VIOLATION OF
19 THIS SUBSECTION IS NOT THE OWNER OF THE MOTOR VEHICLE, THE POLICE
20 OFFICER SHALL IMPOUND THE MOTOR VEHICLE UNDER SUBDIVISION (B) BUT
21 SHALL NEITHER CONFISCATE AND DESTROY THE MOTOR VEHICLE'S
22 REGISTRATION PLATE UNDER SUBDIVISION (A) NOR NOTIFY THE SECRETARY
23 OF STATE AS DESCRIBED IN SUBDIVISION (C).

24 (2) A person shall not knowingly permit a motor vehicle owned
25 by the person to be operated upon a highway or other place open to
26 the general public or generally accessible to motor vehicles,
27 including an area designated for the parking of vehicles, within

1 this state by a person whose license or registration certificate is
2 suspended or revoked, whose application for license has been
3 denied, or who has never applied for a license, except as permitted
4 under this act.

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

8 (a) For a first violation, by imprisonment for not more than
9 ~~93 days~~ **1 YEAR** or a fine of not more than \$500.00, or both. Unless
10 the vehicle was stolen or used with the permission of a person who
11 did not knowingly permit an unlicensed driver to operate the
12 vehicle, the registration plates of the vehicle shall be canceled
13 by the secretary of state upon notification by a peace officer.

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

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

27 (5) A person who operates a motor vehicle in violation of

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

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

15 ~~(7) A person shall not knowingly permit a motor vehicle owned~~
16 ~~by the person to be operated upon a highway or other place open to~~
17 ~~the general public or generally accessible to motor vehicles,~~
18 ~~including an area designated for the parking of vehicles, within~~
19 ~~this state, by a person whose license or registration certificate~~
20 ~~is suspended or revoked, whose application for license has been~~
21 ~~denied, or who has never been licensed except as permitted by this~~
22 ~~act.~~ If a person permitted to operate a motor vehicle in violation
23 of ~~this~~ subsection (2) causes the serious impairment of a body
24 function of another person by operation of that motor vehicle, the
25 person knowingly permitting the operation of that motor vehicle is
26 guilty of a felony punishable by imprisonment for not more than 2
27 years, or a fine of not less than \$1,000.00 or more than \$5,000.00,

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

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

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

- 16 (a) A copy of a judgment of conviction.
17 (b) An abstract of conviction.
18 (c) A transcript of a prior trial, plea, or sentencing.
19 (d) A copy of a court register of action.
20 (e) A copy of the defendant's driving record.
21 (f) Information contained in a presentence report.
22 (g) An admission by the defendant.

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

1 additional like period of suspension or revocation. This subsection
2 applies only if the violation occurs during a suspension of
3 definite length or if the violation occurs before the person is
4 approved for a license following a revocation.

5 (11) Upon receiving a record of a person's conviction or civil
6 infraction determination for the unlawful operation of a motor
7 vehicle or a moving violation reportable under section 732 while
8 the person's operator's or chauffeur's license is indefinitely
9 suspended or whose application for a license has been denied, the
10 secretary of state immediately shall impose a 30-day period of
11 suspension or denial.

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

24 (13) If the secretary of state receives records of more than 1
25 conviction or civil infraction determination resulting from the
26 same incident, all of the convictions or civil infraction
27 determinations shall be treated as a single violation for purposes

1 of imposing an additional period of suspension or revocation under
2 subsection (10), (11), or (12).

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

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

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

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

27 (18) Any period of suspension or revocation required under

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

7 (19) For purposes of this section, a person who never applied
 8 for a license includes a person who applied for a license, was
 9 denied, and never applied again.

10 Sec. 904a. (1) Any person, not exempt from **THE** license
 11 **REQUIREMENTS** under this act, who ~~shall operate~~ **OPERATES** a motor
 12 vehicle upon the highways of this state, and who **UPON THE REQUEST**
 13 **OF A POLICE OFFICER** is unable to ~~show~~ **PRODUCE EVIDENCE** that he or
 14 she has been issued a license to operate a motor vehicle by any
 15 state or foreign country valid within the **PRECEDING** 3 years
 16 ~~preceding is guilty of a misdemeanor, and upon conviction shall be~~
 17 ~~punished~~ **PUNISHABLE AS FOLLOWS:**

18 (A) **FOR A FIRST VIOLATION**, by imprisonment for not more than
 19 ~~90 days,~~ **1 YEAR** or by a fine of not ~~less than \$50.00 nor more than~~
 20 ~~\$100.00,~~ **\$500.00**, or both. ~~Any person convicted of a second offense~~
 21 ~~under this section shall be punished~~

22 (B) **FOR A SECOND OR SUBSEQUENT VIOLATION**, by imprisonment for
 23 ~~not less than 2 nor more than 90 days,~~ **1 YEAR** or by a fine of
 24 ~~\$100.00,~~ **NOT MORE THAN \$1,000.00**, or both.

25 (2) **EXCEPT AS PROVIDED IN THIS SUBSECTION, A POLICE OFFICER**
 26 **WHO STOPS A PERSON AND DETERMINES THE PERSON IS OPERATING A MOTOR**
 27 **VEHICLE IN VIOLATION OF SUBSECTION (1) SHALL DO ALL OF THE**

1 FOLLOWING:

2 (A) CONFISCATE THE MOTOR VEHICLE'S REGISTRATION PLATE AND
3 DESTROY IT.

4 (B) IMPOUND THE MOTOR VEHICLE.

5 (C) NOTIFY THE SECRETARY OF STATE THROUGH THE LAW ENFORCEMENT
6 INFORMATION NETWORK IN A FORM PRESCRIBED BY THE SECRETARY OF STATE
7 THAT THE REGISTRATION PLATE WAS CONFISCATED AND DESTROYED, AND THAT
8 THE MOTOR VEHICLE WAS IMPOUNDED.

9 (D) IF THE PERSON OPERATING A MOTOR VEHICLE IN VIOLATION OF
10 SUBSECTION (1) IS NOT THE OWNER OF THE MOTOR VEHICLE, THE POLICE
11 OFFICER SHALL IMPOUND THE MOTOR VEHICLE UNDER SUBDIVISION (B) BUT
12 SHALL NEITHER CONFISCATE AND DESTROY THE VEHICLE'S REGISTRATION
13 PLATE UNDER SUBDIVISION (A) NOR NOTIFY THE SECRETARY OF STATE AS
14 DESCRIBED IN SUBDIVISION (C).

15 (3) THE OWNER OF A MOTOR VEHICLE IMPOUNDED UNDER SUBSECTION
16 (2)(B) IS LIABLE FOR THE EXPENSES INCURRED IN THE REMOVAL AND
17 STORAGE OF THE MOTOR VEHICLE WHETHER OR NOT IT IS RETURNED TO HIM
18 OR HER. THE MOTOR VEHICLE SHALL BE RETURNED TO THE OWNER ONLY IF
19 THE OWNER PAYS THE EXPENSES OF REMOVAL AND STORAGE. IF THE EXPENSES
20 OF REMOVAL AND STORAGE ARE NOT PAID OR THE VEHICLE IS NOT RETURNED
21 AS DESCRIBED UNDER THIS SUBSECTION, IT SHALL BE CONSIDERED AN
22 ABANDONED VEHICLE AND DISPOSED OF UNDER SECTION 252A.

23 Enacting section 1. This amendatory act takes effect 90 days
24 after the date it is enacted into law.