

# SENATE BILL No. 386

June 9, 2015, Introduced by Senator CASPERSON and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled  
"Michigan vehicle code,"  
by amending section 732 (MCL 257.732), as amended by 2015 PA 11.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 732. (1) Each municipal judge and each clerk of a court  
2 of record shall keep a full record of every case in which a person  
3 is charged with or cited for a violation of this act or a local  
4 ordinance substantially corresponding to this act regulating the  
5 operation of vehicles on highways and with those offenses  
6 pertaining to the operation of ORVs or snowmobiles for which points  
7 are assessed under section 320a(1)(c) or (i). Except as provided in  
8 subsection (16), the municipal judge or clerk of the court of  
9 record shall prepare and forward to the secretary of state an  
10 abstract of the court record as follows:

11       (a) Not more than 5 days after a conviction, forfeiture of

1 bail, or entry of a civil infraction determination or default  
2 judgment upon a charge of or citation for violating or attempting  
3 to violate this act or a local ordinance substantially  
4 corresponding to this act regulating the operation of vehicles on  
5 highways.

6 (b) Immediately for each case charging a violation of section  
7 625(1), (3), (4), (5), (6), (7), or (8) or section 625m or a local  
8 ordinance substantially corresponding to section 625(1), (3), (6),  
9 or (8) or section 625m in which the charge is dismissed or the  
10 defendant is acquitted.

11 (c) Immediately for each case charging a violation of section  
12 82127(1) or (3), 81134, or 81135 of the natural resources and  
13 environmental protection act, 1994 PA 451, MCL 324.82127,  
14 324.81134, and 324.81135, or a local ordinance substantially  
15 corresponding to those sections.

16 (2) If a city or village department, bureau, or person is  
17 authorized to accept a payment of money as a settlement for a  
18 violation of a local ordinance substantially corresponding to this  
19 act, the city or village department, bureau, or person shall send a  
20 full report of each case in which a person pays any amount of money  
21 to the city or village department, bureau, or person to the  
22 secretary of state upon a form prescribed by the secretary of  
23 state.

24 (3) The abstract or report required under this section shall  
25 be made upon a form furnished by the secretary of state. An  
26 abstract shall be certified by signature, stamp, or facsimile  
27 signature of the person required to prepare the abstract as

1 correct. An abstract or report shall include all of the following:

2 (a) The name, address, and date of birth of the person charged  
3 or cited.

4 (b) The number of the person's operator's or chauffeur's  
5 license, if any.

6 (c) The date and nature of the violation.

7 (d) The type of vehicle driven at the time of the violation  
8 and, if the vehicle is a commercial motor vehicle, that vehicle's  
9 group designation.

10 (e) The date of the conviction, finding, forfeiture, judgment,  
11 or civil infraction determination.

12 (f) Whether bail was forfeited.

13 (g) Any license restriction, suspension, or denial ordered by  
14 the court as provided by law.

15 (h) The vehicle identification number and registration plate  
16 number of all vehicles that are ordered immobilized or forfeited.

17 (i) Other information considered necessary to the secretary of  
18 state.

19 (4) The clerk of the court also shall forward an abstract of  
20 the court record to the secretary of state upon a person's  
21 conviction involving any of the following:

22 (a) A violation of section 413, 414, or 479a of the Michigan  
23 penal code, 1931 PA 328, MCL 750.413, 750.414, and 750.479a.

24 (b) A violation of section 1 of former 1931 PA 214.

25 (c) Negligent homicide, manslaughter, or murder resulting from  
26 the operation of a vehicle.

27 (d) A violation of sections 701(1) and 703 of the Michigan

1 liquor control code of 1998, 1998 PA 58, MCL 436.1701 and 436.1703,  
2 or a local ordinance substantially corresponding to those sections.

3 (e) A violation of section 411a(2) of the Michigan penal code,  
4 1931 PA 328, MCL 750.411a.

5 (f) A violation of motor carrier safety regulations 49 CFR  
6 392.10 or 392.11 as adopted by section 1a of the motor carrier  
7 safety act of 1963, 1963 PA 181, MCL 480.11a.

8 (g) A violation of section 57 of the pupil transportation act,  
9 1990 PA 187, MCL 257.1857.

10 (h) A violation of motor carrier safety regulations 49 CFR  
11 392.10 or 392.11 as adopted by section 31 of the motor bus  
12 transportation act, 1982 PA 432, MCL 474.131.

13 (i) An attempt to violate, a conspiracy to violate, or a  
14 violation of part 74 of the public health code, 1978 PA 368, MCL  
15 333.7401 to 333.7461, or a local ordinance that prohibits conduct  
16 prohibited under part 74 of the public health code, 1978 PA 368,  
17 MCL 333.7401 to 333.7461, unless the convicted person is sentenced  
18 to life imprisonment or a minimum term of imprisonment that exceeds  
19 1 year for the offense.

20 (j) An attempt to commit an offense described in subdivisions  
21 (a) to (h).

22 (k) A violation of chapter LXXXIII-A of the Michigan penal  
23 code, 1931 PA 328, MCL 750.543a to 750.543z.

24 (l) A violation of section 3101, 3102(1), or 3103 of the  
25 insurance code of 1956, 1956 PA 218, MCL 500.3101, 500.3102, and  
26 500.3103.

27 (m) A violation listed as a disqualifying offense under 49 CFR

1 383.51.

2 (5) The clerk of the court shall also forward an abstract of  
3 the court record to the secretary of state if a person has pled  
4 guilty to, or offered a plea of admission in a juvenile proceeding  
5 for, a violation of section 703 of the Michigan liquor control code  
6 of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance  
7 substantially corresponding to that section, and has had further  
8 proceedings deferred under that section. If the person is sentenced  
9 to a term of probation and terms and conditions of probation are  
10 fulfilled and the court discharges the individual and dismisses the  
11 proceedings, the court shall also report the dismissal to the  
12 secretary of state.

13 (6) As used in subsections (7) to (9), "felony in which a  
14 motor vehicle was used" means a felony during the commission of  
15 which the person operated a motor vehicle and while operating the  
16 vehicle presented real or potential harm to persons or property and  
17 1 or more of the following circumstances existed:

18 (a) The vehicle was used as an instrument of the felony.

19 (b) The vehicle was used to transport a victim of the felony.

20 (c) The vehicle was used to flee the scene of the felony.

21 (d) The vehicle was necessary for the commission of the  
22 felony.

23 (7) If a person is charged with a felony in which a motor  
24 vehicle was used, other than a felony specified in subsection (4)  
25 or section 319, the prosecuting attorney shall include the  
26 following statement on the complaint and information filed in  
27 district or circuit court:

1 "You are charged with the commission of a felony in which a  
2 motor vehicle was used. If you are convicted and the judge finds  
3 that the conviction is for a felony in which a motor vehicle was  
4 used, as defined in section 319 of the Michigan vehicle code, 1949  
5 PA 300, MCL 257.319, your driver's license shall be suspended by  
6 the secretary of state."

7 (8) If a juvenile is accused of an act, the nature of which  
8 constitutes a felony in which a motor vehicle was used, other than  
9 a felony specified in subsection (4) or section 319, the  
10 prosecuting attorney or family division of circuit court shall  
11 include the following statement on the petition filed in the court:

12 "You are accused of an act the nature of which constitutes a  
13 felony in which a motor vehicle was used. If the accusation is  
14 found to be true and the judge or referee finds that the nature of  
15 the act constitutes a felony in which a motor vehicle was used, as  
16 defined in section 319 of the Michigan vehicle code, 1949 PA 300,  
17 MCL 257.319, your driver's license shall be suspended by the  
18 secretary of state."

19 (9) If the court determines as part of the sentence or  
20 disposition that the felony for which the person was convicted or  
21 adjudicated and with respect to which notice was given under  
22 subsection (7) or (8) is a felony in which a motor vehicle was  
23 used, the clerk of the court shall forward an abstract of the court  
24 record of that conviction to the secretary of state.

25 (10) As used in subsections (11) and (12), "felony in which a  
26 commercial motor vehicle was used" means a felony during the  
27 commission of which the person operated a commercial motor vehicle

1 and while the person was operating the vehicle 1 or more of the  
2 following circumstances existed:

3 (a) The vehicle was used as an instrument of the felony.

4 (b) The vehicle was used to transport a victim of the felony.

5 (c) The vehicle was used to flee the scene of the felony.

6 (d) The vehicle was necessary for the commission of the  
7 felony.

8 (11) If a person is charged with a felony in which a  
9 commercial motor vehicle was used and for which a vehicle group  
10 designation on a license is subject to suspension or revocation  
11 under section 319b(1)(c)(iii), 319b(1)(d), 319b(1)(e)(iii), or  
12 319b(1)(f)(i), the prosecuting attorney shall include the following  
13 statement on the complaint and information filed in district or  
14 circuit court:

15 "You are charged with the commission of a felony in which a  
16 commercial motor vehicle was used. If you are convicted and the  
17 judge finds that the conviction is for a felony in which a  
18 commercial motor vehicle was used, as defined in section 319b of  
19 the Michigan vehicle code, 1949 PA 300, MCL 257.319b, all vehicle  
20 group designations on your driver's license shall be suspended or  
21 revoked by the secretary of state."

22 (12) If the judge determines as part of the sentence that the  
23 felony for which the defendant was convicted and with respect to  
24 which notice was given under subsection (11) is a felony in which a  
25 commercial motor vehicle was used, the clerk of the court shall  
26 forward an abstract of the court record of that conviction to the  
27 secretary of state.

1           (13) Every person required to forward abstracts to the  
2 secretary of state under this section shall certify for the period  
3 from January 1 through June 30 and for the period from July 1  
4 through December 31 that all abstracts required to be forwarded  
5 during the period have been forwarded. The certification shall be  
6 filed with the secretary of state not later than 28 days after the  
7 end of the period covered by the certification. The certification  
8 shall be made upon a form furnished by the secretary of state and  
9 shall include all of the following:

10           (a) The name and title of the person required to forward  
11 abstracts.

12           (b) The court for which the certification is filed.

13           (c) The time period covered by the certification.

14           (d) The following statement:

15           "I certify that all abstracts required by section 732 of the  
16 Michigan vehicle code, MCL 257.732; MSA 9.2432, for the period  
17 \_\_\_\_\_ through \_\_\_\_\_ have been forwarded to the  
18 secretary of state."

19           (e) Other information the secretary of state considers  
20 necessary.

21           (f) The signature of the person required to forward abstracts.

22           (14) The failure, refusal, or neglect of a person to comply  
23 with this section constitutes misconduct in office and is grounds  
24 for removal from office.

25           (15) Except as provided in subsection (16), the secretary of  
26 state shall keep all abstracts received under this section at the  
27 secretary of state's main office and the abstracts shall be open

1 for public inspection during the office's usual business hours.  
2 Each abstract shall be entered upon the master driving record of  
3 the person to whom it pertains.

4 (16) Except for controlled substance offenses described in  
5 subsection (4), the court shall not submit, and the secretary of  
6 state shall discard and not enter on the master driving record, an  
7 abstract for a conviction or civil infraction determination for any  
8 of the following violations:

9 (a) The parking or standing of a vehicle.

10 (b) A nonmoving violation that is not the basis for the  
11 secretary of state's suspension, revocation, or denial of an  
12 operator's or chauffeur's license.

13 (c) A violation of chapter II that is not the basis for the  
14 secretary of state's suspension, revocation, or denial of an  
15 operator's or chauffeur's license.

16 (d) A pedestrian, passenger, or bicycle violation, other than  
17 a violation of section 703(1) or (2) of the Michigan liquor control  
18 code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance  
19 substantially corresponding to section 703(1) or (2) of the  
20 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or  
21 section 624a or 624b or a local ordinance substantially  
22 corresponding to section 624a or 624b.

23 (e) A violation of section 710e or a local ordinance  
24 substantially corresponding to section 710e.

25 (f) A violation of section 328(1) if, before the appearance  
26 date on the citation, the person submits proof to the court that  
27 the motor vehicle had insurance meeting the requirements of

1 sections 3101 and 3102 of the insurance code of 1956, 1956 PA 218,  
2 MCL 500.3101 and 500.3102, at the time the citation was issued.  
3 Insurance obtained subsequent to the time of the violation does not  
4 make the violation an exception under this subsection.

5 (g) A violation described in section 319b(10)(b)(vii) if,  
6 before the court appearance date or date fines are to be paid, the  
7 person submits proof to the court that he or she held a valid  
8 commercial driver license on the date the citation was issued.

9 (h) A violation of section 311 if the person was driving a  
10 noncommercial vehicle and, before the court appearance date or the  
11 date fines are to be paid, the person submits proof to the court  
12 that he or she held a valid driver license on the date the citation  
13 was issued.

14 (i) A violation of section 602b(1) or 602c.

15 (17) Except as otherwise provided in this subsection, the  
16 secretary of state shall discard and not enter on the master  
17 driving record an abstract for a bond forfeiture that occurred  
18 outside this state. The secretary of state shall enter on the  
19 master driving record an abstract for a conviction as defined in  
20 section 8a(b) that occurred outside this state in connection with  
21 the operation of a commercial motor vehicle or for a conviction of  
22 a person licensed as a commercial motor vehicle driver.

23 (18) The secretary of state shall inform the courts of this  
24 state of the nonmoving violations and violations of chapter II that  
25 are used by the secretary of state as the basis for the suspension,  
26 restriction, revocation, or denial of an operator's or chauffeur's  
27 license.

1           (19) If a conviction or civil infraction determination is  
2 reversed upon appeal, the person whose conviction or determination  
3 has been reversed may serve on the secretary of state a certified  
4 copy of the order of reversal. The secretary of state shall enter  
5 the order in the proper book or index in connection with the record  
6 of the conviction or civil infraction determination.

7           (20) The secretary of state may permit a city or village  
8 department, bureau, person, or court to modify the requirement as  
9 to the time and manner of reporting a conviction, civil infraction  
10 determination, or settlement to the secretary of state if the  
11 modification will increase the economy and efficiency of collecting  
12 and utilizing the records. If the permitted abstract of court  
13 record reporting a conviction, civil infraction determination, or  
14 settlement originates as a part of the written notice to appear,  
15 authorized in section 728(1) or 742(1), the form of the written  
16 notice and report shall be as prescribed by the secretary of state.

17           (21) Notwithstanding any other law of this state, a court  
18 shall not take under advisement an offense committed by a person  
19 while operating a **COMMERCIAL** motor vehicle **OR BY A PERSON LICENSED**  
20 **TO DRIVE A COMMERCIAL MOTOR VEHICLE WHILE OPERATING A NONCOMMERCIAL**  
21 **MOTOR VEHICLE AT THE TIME OF THE OFFENSE**, for which this act  
22 requires a conviction or civil infraction determination to be  
23 reported to the secretary of state. A conviction or civil  
24 infraction determination that is the subject of this subsection  
25 shall not be masked, delayed, diverted, suspended, or suppressed by  
26 a court. Upon a conviction or civil infraction determination, the  
27 conviction or civil infraction determination shall immediately be

1 reported to the secretary of state in accordance with this section.

2 (22) Except as provided in this act and notwithstanding any  
3 other provision of law, a court shall not order expunction of any  
4 violation reportable to the secretary of state under this section.