

SENATE BILL No. 486

September 10, 2015, Introduced by Senators HERTEL, BIEDA, SCHUITMAKER, KNEZEK, HOOD and HORN and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 319 and 907 (MCL 257.319 and 257.907), section
319 as amended by 2015 PA 11 and section 907 as amended by 2014 PA
303.

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

1 substantially corresponding to a law of this state.

2 (2) The secretary of state shall suspend the person's license
3 for 1 year for any of the following crimes:

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

6 (b) A violation of section 413 of the Michigan penal code,
7 1931 PA 328, MCL 750.413.

8 (c) A violation of section 1 of former 1931 PA 214, MCL
9 752.191, or former section 626c.

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

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

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

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

19 (iv) The vehicle was necessary for the commission of the
20 felony.

21 (e) A violation of section 602a(2) or (3) of this act or
22 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL
23 750.479a.

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

25 (3) The secretary of state shall suspend the person's license
26 for 90 days for any of the following crimes:

27 (a) Failing to stop and disclose identity at the scene of an

1 accident resulting in injury in violation of section 617a.

2 (b) A violation of section 601b(2), section 601c(1), section
3 653a(3), section 626 before October 31, 2010, or, beginning October
4 31, 2010, section 626(2).

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

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

10 (4) The secretary of state shall suspend the person's license
11 for 30 days for malicious destruction resulting from the operation
12 of a vehicle under section 382(1)(a) of the Michigan penal code,
13 1931 PA 328, MCL 750.382.

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

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

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

24 (6) For a violation of section 414 of the Michigan penal code,
25 1931 PA 328, MCL 750.414, the secretary of state shall suspend the
26 person's license as follows:

27 (a) If the person has no prior conviction for that offense

1 within 7 years, for 90 days.

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

4 (7) For a violation of section 624a or 624b of this act or
5 section 703(1) of the Michigan liquor control code of 1998, 1998 PA
6 58, MCL 436.1703, the secretary of state shall suspend the person's
7 license as follows:

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

12 (b) If the person has 2 or more prior convictions for an
13 offense described in this subsection or section 33b(1) of former
14 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue
15 the person a restricted license after the first 60 days of
16 suspension.

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

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

26 (b) For 90 days for a violation of section 625(3) if the
27 person has no prior convictions within 7 years. However, if the

1 person is convicted of a violation of section 625(3), for operating
2 a vehicle when, due to the consumption of a controlled substance or
3 a combination of alcoholic liquor and a controlled substance, the
4 person's ability to operate the vehicle was visibly impaired, the
5 secretary of state shall suspend the person's license under this
6 subdivision for 180 days. The secretary of state may issue the
7 person a restricted license during all or a specified portion of
8 the suspension.

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

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

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

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

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

1 secretary of state shall not issue a restricted license during the
2 first 45 days of suspension.

3 (h) Beginning October 31, 2010, the department shall order a
4 person convicted of violating section 625(1)(c) not to operate a
5 motor vehicle under a restricted license issued under subdivision
6 (g) unless the vehicle is equipped with an ignition interlock
7 device approved, certified, and installed as required under
8 sections 625k and 625l. The ignition interlock device may be
9 removed after the interlock device provider provides the department
10 with verification that the person has operated the vehicle with no
11 instances of reaching or exceeding a blood alcohol level of 0.025
12 grams per 210 liters of breath. This subdivision does not prohibit
13 the removal of the ignition interlock device for any of the
14 following:

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

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

27 (iii) A retest prompted by the device, if not more than 5

1 minutes after detecting the retest failure the person delivers a
2 breath sample that the ignition interlock device analyzes as having
3 an alcohol level of less than 0.025 grams per 210 liters of breath.

4 (i) Beginning October 31, 2010, if an individual violates the
5 conditions of the restricted license issued under subdivision (g)
6 or operates or attempts to operate a motor vehicle with a blood
7 alcohol level of 0.025 grams per 210 liters of breath, the
8 secretary of state shall impose an additional like period of
9 suspension and restriction as prescribed under subdivision (g).

10 This subdivision does not require an additional like period of
11 suspension and restriction for any of the following:

12 (i) A start-up test failure within the first 2 months after
13 installation of the ignition interlock 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
20 after 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) Any retest prompted by the device, if not more than 5
25 minutes after detecting the retest failure the person delivers a
26 breath sample that the ignition interlock device analyzes as having
27 an alcohol level of less than 0.025 grams per 210 liters of breath.

1 (9) For a violation of section 367c of the Michigan penal
2 code, 1931 PA 328, MCL 750.367c, the secretary of state shall
3 suspend the person's license as follows:

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

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

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

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

17 (12) For a second or subsequent violation of section 701(1) of
18 the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701,
19 by an individual who is not a retail licensee or a retail
20 licensee's clerk, agent, or employee, the secretary of state shall
21 suspend the person's license for 180 days. The secretary of state
22 may issue a person a restricted license during all or a specified
23 portion of the suspension.

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

27 (14) If the secretary of state receives records of more than 1

1 conviction of a person resulting from the same incident, a
2 suspension shall be imposed only for the violation to which the
3 longest period of suspension applies under this section.

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

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

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

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

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

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

26 (i) The person's residence.

27 (ii) The person's work location.

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

3 (iv) The court probation department.

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

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

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

10 (viii) An ignition interlock service provider as required.

11 (19) While driving with a restricted license, the person shall
12 carry proof of his or her destination and the hours of any
13 employment, class, or other reason for traveling and shall display
14 that proof upon a peace officer's request.

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

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

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

1 alcohol content.

2 (ii) Section 625m.

3 (iii) Former section 625b.

4 (b) Negligent homicide, manslaughter, or murder resulting from
5 the operation of a vehicle or an attempt to commit any of those
6 crimes.

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

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

14 (22) If 2 or more convictions described in subsection (20) are
15 convictions for violations arising out of the same transaction,
16 only 1 conviction shall be used to determine whether the person has
17 a prior conviction.

18 **(23) THE SECRETARY OF STATE MAY SUSPEND A PERSON'S LICENSE FOR**
19 **1 YEAR FOR A SECOND OR SUBSEQUENT VIOLATION OF SECTION 682.**

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

24 (2) If a person is determined under sections 741 to 750 to be
25 responsible or responsible "with explanation" for a civil
26 infraction under this act or a local ordinance substantially
27 corresponding to a provision of this act, the judge or district

1 court magistrate may order the person to pay a civil fine of not
2 more than \$100.00 and costs as provided in subsection (4). However,
3 beginning October 31, 2010, if the civil infraction was a moving
4 violation that resulted in an at-fault collision with another
5 vehicle, a person, or any other object, the civil fine ordered
6 under this section shall be increased by \$25.00 but the total civil
7 fine shall not exceed \$100.00. However, for a violation of section
8 602b, the person shall be ordered to pay costs as provided in
9 subsection (4) and a civil fine of \$100.00 for a first offense and
10 \$200.00 for a second or subsequent offense. For a violation of
11 section 674(1)(s) or a local ordinance substantially corresponding
12 to section 674(1)(s), the person shall be ordered to pay costs as
13 provided in subsection (4) and a civil fine of not less than
14 \$100.00 or more than \$250.00. For a violation of section 676c, the
15 person shall be ordered to pay costs as provided in subsection (4)
16 and a civil fine of \$1,000.00. For a violation of section 328, the
17 civil fine ordered under this subsection shall be not more than
18 \$50.00. For a violation of section 710d, the civil fine ordered
19 under this subsection shall not exceed \$10.00, subject to
20 subsection (12). For a violation of section 710e, the civil fine
21 and court costs ordered under this subsection shall be \$25.00. For
22 a violation of section 682 or a local ordinance substantially
23 corresponding to section 682, the person shall be ordered to pay
24 costs as provided in subsection (4) and a civil fine of not less
25 than ~~\$100.00~~ \$250.00 or more than \$500.00 **FOR A FIRST OFFENSE AND A**
26 **CIVIL FINE OF NOT LESS THAN \$500.00 OR MORE THAN \$1,000.00 FOR A**
27 **SECOND OR SUBSEQUENT OFFENSE.** For a violation of section 240, the

1 civil fine ordered under this subsection shall be \$15.00. For a
2 violation of section 252a(1), the civil fine ordered under this
3 subsection shall be \$50.00. For a violation of section 676a(3), the
4 civil fine ordered under this section shall be not more than
5 \$10.00. For a first violation of section 319f(1), the civil fine
6 ordered under this section shall be not less than \$2,500.00 or more
7 than \$2,750.00; for a second or subsequent violation, the civil
8 fine shall be not less than \$5,000.00 or more than \$5,500.00. For a
9 violation of section 319g(1)(a), the civil fine ordered under this
10 section shall be not more than \$10,000.00. For a violation of
11 section 319g(1)(g), the civil fine ordered under this section shall
12 be not less than \$2,750.00 or more than \$25,000.00. Permission may
13 be granted for payment of a civil fine and costs to be made within
14 a specified period of time or in specified installments, but unless
15 permission is included in the order or judgment, the civil fine and
16 costs shall be payable immediately.

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

24 (4) If a civil fine is ordered under subsection (2) or (3),
25 the judge or district court magistrate shall summarily tax and
26 determine the costs of the action, which are not limited to the
27 costs taxable in ordinary civil actions, and may include all

1 expenses, direct and indirect, to which the plaintiff has been put
2 in connection with the civil infraction, up to the entry of
3 judgment. Costs shall not be ordered in excess of \$100.00. A civil
4 fine ordered under subsection (2) or (3) shall not be waived unless
5 costs ordered under this subsection are waived. Except as otherwise
6 provided by law, costs are payable to the general fund of the
7 plaintiff.

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

13 (6) A district court magistrate shall impose the sanctions
14 permitted under subsections (2), (3), and (5) only to the extent
15 expressly authorized by the chief judge or only judge of the
16 district court district.

17 (7) Each district of the district court and each municipal
18 court may establish a schedule of civil fines, costs, and
19 assessments to be imposed for civil infractions that occur within
20 the respective district or city. If a schedule is established, it
21 shall be prominently posted and readily available for public
22 inspection. A schedule need not include all violations that are
23 designated by law or ordinance as civil infractions. A schedule may
24 exclude cases on the basis of a defendant's prior record of civil
25 infractions or traffic offenses, or a combination of civil
26 infractions and traffic offenses.

27 (8) The state court administrator shall annually publish and

1 distribute to each district and court a recommended range of civil
2 fines and costs for first-time civil infractions. This
3 recommendation is not binding upon the courts having jurisdiction
4 over civil infractions but is intended to act as a normative guide
5 for judges and district court magistrates and a basis for public
6 evaluation of disparities in the imposition of civil fines and
7 costs throughout the state.

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

14 (10) A default in the payment of a civil fine or costs ordered
15 under subsection (2), (3), or (4) or a justice system assessment
16 ordered under subsection (13), or an installment of the fine,
17 costs, or assessment, may be collected by a means authorized for
18 the enforcement of a judgment under chapter 40 of the revised
19 judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or
20 under chapter 60 of the revised judicature act of 1961, 1961 PA
21 236, MCL 600.6001 to 600.6098.

22 (11) If a person fails to comply with an order or judgment
23 issued under this section within the time prescribed by the court,
24 the driver's license of that person shall be suspended under
25 section 321a until full compliance with that order or judgment
26 occurs. In addition to this suspension, the court may also proceed
27 under section 908.

1 (12) The court may waive any civil fine, cost, or assessment
2 against a person who received a civil infraction citation for a
3 violation of section 710d if the person, before the appearance date
4 on the citation, supplies the court with evidence of acquisition,
5 purchase, or rental of a child seating system meeting the
6 requirements of section 710d.

7 (13) In addition to any civil fines or costs ordered to be
8 paid under this section, the judge or district court magistrate
9 shall order the defendant to pay a justice system assessment of
10 \$40.00 for each civil infraction determination, except for a
11 parking violation or a violation for which the total fine and costs
12 imposed are \$10.00 or less. Upon payment of the assessment, the
13 clerk of the court shall transmit the assessment collected to the
14 state treasury to be deposited into the justice system fund created
15 in section 181 of the revised judicature act of 1961, 1961 PA 236,
16 MCL 600.181. An assessment levied under this subsection is not a
17 civil fine for purposes of section 909.

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

24 (15) If a person has received a citation for a violation of
25 section 328(1) for failing to produce a certificate of insurance
26 under section 328(2), the court may waive the fee described in
27 section 328(3)(c) and shall waive any fine, costs, and any other

1 fee or assessment otherwise authorized under this act upon receipt
2 of verification by the court that the person, before the appearance
3 date on the citation, produced valid proof of insurance that was in
4 effect at the time the violation of section 328(1) occurred.
5 Insurance obtained subsequent to the time of the violation does not
6 make the person eligible for a waiver under this subsection.

7 (16) As used in this section, "moving violation" means an act
8 or omission prohibited under this act or a local ordinance
9 substantially corresponding to this act that involves the operation
10 of a motor vehicle and for which a fine may be assessed.

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