

HOUSE BILL No. 4756

June 14, 2017, Introduced by Rep. Lucido 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:

1 (a) Not more than 5 days after a conviction, forfeiture of
2 bail, or entry of a civil infraction determination or default
3 judgment upon a charge of or citation for violating or attempting
4 to violate this act or a local ordinance substantially
5 corresponding to this act regulating the operation of vehicles on
6 highways.

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

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

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

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

signature of the person required to prepare the abstract as correct. An abstract or report shall include all of the following:

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

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

(c) The date and nature of the violation.

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

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

(f) Whether bail was forfeited.

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

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

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

(4) The clerk of the court also shall forward an abstract of the court record to the secretary of state upon a person's conviction **OR, FOR THE PURPOSES OF SUBDIVISION (D), A FINDING OR ADMISSION OF RESPONSIBILITY**, involving any of the following:

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

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

(c) Negligent homicide, manslaughter, or murder resulting from

1 the operation of a vehicle.

2 (d) A violation of sections 701(1) and 703 of the Michigan
3 liquor control code of 1998, 1998 PA 58, MCL 436.1701 and 436.1703,
4 or a local ordinance substantially corresponding to those sections.

5 (e) A violation of section 411a(2) of the Michigan penal code,
6 1931 PA 328, MCL 750.411a.

7 (f) A violation of motor carrier safety regulations 49 CFR
8 392.10 or 392.11 as adopted by section 1a of the motor carrier
9 safety act of 1963, 1963 PA 181, MCL 480.11a.

10 (g) A violation of section 57 of the pupil transportation act,
11 1990 PA 187, MCL 257.1857.

12 ~~— (h) A violation of motor carrier safety regulations 49 CFR~~
13 ~~392.10 or 392.11 as adopted by section 31 of the motor bus~~
14 ~~transportation act, 1982 PA 432, MCL 474.131.~~

15 **(H)** ~~(i)~~—An attempt to violate, a conspiracy to violate, or a
16 violation of part 74 of the public health code, 1978 PA 368, MCL
17 333.7401 to 333.7461, or a local ordinance that prohibits conduct
18 prohibited under part 74 of the public health code, 1978 PA 368,
19 MCL 333.7401 to 333.7461, unless the convicted person is sentenced
20 to life imprisonment or a minimum term of imprisonment that exceeds
21 1 year for the offense.

22 **(I)** ~~(j)~~—An attempt to commit an offense described in
23 subdivisions (a) to ~~(h)~~. **(G)**.

24 **(J)** ~~(k)~~—A violation of chapter LXXXIII-A of the Michigan penal
25 code, 1931 PA 328, MCL 750.543a to 750.543z.

26 **(K)** ~~(l)~~—A violation of section 3101, 3102(1), or 3103 of the
27 insurance code of 1956, 1956 PA 218, MCL 500.3101, 500.3102, and

1 500.3103.

2 (l) ~~(m)~~—A violation listed as a disqualifying offense under 49
3 CFR 383.51.

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

15 (6) As used in subsections (7) to (9), "felony in which a
16 motor vehicle was used" means a felony during the commission of
17 which the person operated a motor vehicle and while operating the
18 vehicle presented real or potential harm to persons or property and
19 1 or more of the following circumstances existed:

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

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

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

23 (d) The vehicle was necessary for the commission of the
24 felony.

25 (7) If a person is charged with a felony in which a motor
26 vehicle was used, other than a felony specified in subsection (4)
27 or section 319, the prosecuting attorney shall include the

1 following statement on the complaint and information filed in
2 district or circuit court:

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

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

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

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

27 (10) As used in subsections (11) and (12), "felony in which a

1 commercial motor vehicle was used" means a felony during the
2 commission of which the person operated a commercial motor vehicle
3 and while the person was operating the vehicle 1 or more of the
4 following circumstances existed:

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

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

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

8 (d) The vehicle was necessary for the commission of the
9 felony.

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

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

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

1 forward an abstract of the court record of that conviction to the
2 secretary of state.

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

12 (a) The name and title of the person required to forward
13 abstracts.

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

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

16 (d) The following statement:

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

21 (e) Other information the secretary of state considers
22 necessary.

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

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

27 (15) Except as provided in subsection (16), the secretary of

1 state shall keep all abstracts received under this section at the
2 secretary of state's main office and the abstracts shall be open
3 for public inspection during the office's usual business hours.
4 Each abstract shall be entered upon the master driving record of
5 the person to whom it pertains.

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

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

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

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

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

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

27 (f) A violation of section 328(1) if, before the appearance

1 date on the citation, the person submits proof to the court that
2 the motor vehicle had insurance meeting the requirements of
3 sections 3101 and 3102 of the insurance code of 1956, 1956 PA 218,
4 MCL 500.3101 and 500.3102, at the time the citation was issued.
5 Insurance obtained subsequent to the time of the violation does not
6 make the violation an exception under this subsection.

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

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

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

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

25 (18) The secretary of state shall inform the courts of this
26 state of the nonmoving violations and violations of chapter II that
27 are used by the secretary of state as the basis for the suspension,

1 restriction, revocation, or denial of an operator's or chauffeur's
2 license.

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

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

19 (21) Notwithstanding any other law of this state, a court
20 shall not take under advisement an offense committed by a person
21 while operating a motor vehicle for which this act requires a
22 conviction or civil infraction determination to be reported to the
23 secretary of state. A conviction or civil infraction determination
24 that is the subject of this subsection shall not be masked,
25 delayed, diverted, suspended, or suppressed by a court. Upon a
26 conviction or civil infraction determination, the conviction or
27 civil infraction determination shall immediately be reported to the

1 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.

5 Enacting section 1. This amendatory act takes effect January
6 1, 2018.