

SENATE BILL No. 330

April 26, 2017, Introduced by Senator O'BRIEN and referred to the Committee on Judiciary.

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

1 by the person to be operated upon a highway or other place open to
2 the general public or generally accessible to motor vehicles,
3 including an area designated for the parking of vehicles, within
4 this state by a person whose license or registration certificate is
5 suspended or revoked, whose application for license has been
6 denied, or who has never applied for a license, except as permitted
7 under this act.

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

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

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

22 (4) A person who operates a motor vehicle in violation of
23 subsection (1) **OR A PERSON WHOSE OPERATOR'S OR CHAUFFEUR'S LICENSE**
24 **OR REGISTRATION CERTIFICATE HAS BEEN SUSPENDED OR REVOKED BY**
25 **ANOTHER STATE WHO OPERATES A MOTOR VEHICLE DURING THE PERIOD OF**
26 **SUSPENSION OR REVOCATION** and who, by operation of that motor
27 vehicle, causes the death of another person is guilty of a felony

1 punishable by imprisonment for not more than 15 years or a fine of
2 not less than \$2,500.00 or more than \$10,000.00, or both. This
3 subsection does not apply to a person whose operator's or
4 chauffeur's license was suspended because that person failed to
5 answer a citation or comply with an order or judgment under section
6 321a.

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

16 (6) In addition to being subject to any other penalty provided
17 for in this act, if a person is convicted under subsection (4) or
18 (5), the court may impose the sanction permitted under section
19 625n. If the vehicle is not ordered forfeited under section 625n,
20 the court shall order vehicle immobilization under section 904d in
21 the judgment of sentence.

22 (7) A person shall not knowingly permit a motor vehicle owned
23 by the person to be operated upon a highway or other place open to
24 the general public or generally accessible to motor vehicles,
25 including an area designated for the parking of vehicles, within
26 this state, by a person whose license or registration certificate
27 is suspended or revoked, whose application for license has been

1 denied, or who has never been licensed except as permitted by this
2 act. If a person permitted to operate a motor vehicle in violation
3 of this subsection causes the serious impairment of a body function
4 of another person by operation of that motor vehicle, the person
5 knowingly permitting the operation of that motor vehicle is guilty
6 of a felony punishable by imprisonment for not more than 2 years,
7 or a fine of not less than \$1,000.00 or more than \$5,000.00, or
8 both. If a person permitted to operate a motor vehicle in violation
9 of this subsection causes the death of another person by operation
10 of that motor vehicle, the person knowingly permitting the
11 operation of that motor vehicle is guilty of a felony punishable by
12 imprisonment for not more than 5 years, or a fine of not less than
13 \$1,000.00 or more than \$5,000.00, or both.

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

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

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

24 (b) An abstract of conviction.

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

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

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

1 (f) Information contained in a presentence report.

2 (g) An admission by the defendant.

3 (10) Upon receiving a record of a person's conviction or civil
4 infraction determination for the unlawful operation of a motor
5 vehicle or a moving violation reportable under section 732 while
6 the person's operator's or chauffeur's license is suspended or
7 revoked, the secretary of state immediately shall impose an
8 additional like period of suspension or revocation. This subsection
9 applies only if the violation occurs during a suspension of
10 definite length or if the violation occurs before the person is
11 approved for a license following a revocation.

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

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

1 violation occurs during a suspension of definite length or if the
2 violation occurs before the person is approved for a license
3 following a revocation.

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

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

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

20 (16) A person whose vehicle group designation is suspended or
21 revoked and who has been notified as provided in section 212 of
22 that suspension or revocation, or whose application for a vehicle
23 group designation has been denied as provided in this act, or who
24 has never applied for a vehicle group designation and who operates
25 a commercial motor vehicle within this state, except as permitted
26 under this act, while any of those conditions exist is guilty of a
27 misdemeanor punishable, except as otherwise provided in this

1 section, by imprisonment for not less than 3 days or more than 93
2 days or a fine of not more than \$100.00, or both.

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

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

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

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