

HOUSE BILL No. 5120

October 2, 2003, Introduced by Rep. Van Regenmorter and referred to the Committee on Criminal Justice.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 310d, 319b, 321a, 625, 625b, 727, and 732
(MCL 257.310d, 257.319b, 257.321a, 257.625, 257.625b, 257.727,
and 257.732), sections 310d and 625 as amended by 2003 PA 61,
sections 319b and 732 as amended by 2002 PA 534, section 321a as
amended by 2002 PA 741, section 625b as amended by 1998 PA 357,
and section 727 as amended by 1998 PA 348.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 310d. (1) A license issued under this act to a person
2 not previously licensed in this or in another state shall be
3 designated as probationary for 3 years after the date of
4 issuance. During the first 12 months of probation, the license
5 may be suspended or probationary terms and conditions may be
6 imposed upon failure of the licensee to appear before a

1 magistrate, as provided in this chapter, or upon conviction of
2 the licensee or determination of the licensee's responsibility
3 for a moving violation in this state. The period of suspension
4 or the probationary terms and conditions shall not be for more
5 than 12 months and shall be determined by the secretary of state
6 at an examination of the driver by the secretary of state.

7 (2) Upon completion of the first 12 months of probation, the
8 secretary of state may require a licensee to be reexamined by the
9 secretary of state if the licensee's driving record contains any
10 of the following:

11 (a) A conviction or civil infraction determination for a
12 moving violation that was assessed 4 or more points as provided
13 in section 320a.

14 (b) Three convictions or 3 civil infraction determinations,
15 or a combination of convictions and civil infraction
16 determinations that equals 3, for moving violations.

17 (c) A total of 6 or more points as provided in section 320a.

18 (d) A conviction or civil infraction determination for a
19 moving violation and an accident for which the official police
20 report indicates the licensee had been drinking alcoholic
21 liquor.

22 (e) A conviction or civil infraction determination for a
23 moving violation and an accident for which the official police
24 report indicates a moving violation on the part of the licensee.

25 (f) Three accidents for which the official police report
26 indicates a moving violation on the part of the licensee.

27 (g) A suspension pursuant to section 625f.

1 (3) The probationary period shall be extended beyond 3 years
2 and the secretary of state may reexamine a licensee as provided
3 in subsection (2) if any of the following occur and are recorded
4 on the licensee's driving record during the last 10 months of the
5 probationary period:

6 (a) A moving violation resulting in a conviction or civil
7 infraction determination.

8 (b) An accident for which the official police report
9 indicates a moving violation on the part of the licensee.

10 (c) An accident for which the official police report
11 indicates the licensee had been drinking alcoholic liquor.

12 (d) A license suspension for a reason other than a mental or
13 physical disability.

14 (4) The probationary period shall be extended pursuant to
15 subsection (3) until the licensee completes 10 consecutive months
16 without a moving violation, accident, or suspension enumerated in
17 subsection (3).

18 (5) Upon completion of a reexamination, the secretary of
19 state may suspend or impose probationary terms and conditions on
20 the license of a probationary licensee, except that a
21 reexamination for subsection (2)(d), (e), or (f) shall not result
22 in a license suspension or the imposition of probationary terms
23 or conditions.

24 (6) For 24 months immediately after a licensee's probationary
25 period, the secretary of state may require the licensee to be
26 reexamined by the secretary of state if the licensee's driver
27 record has a total of 9 or more points, as provided in section

1 320a, imposed in a period of 2 years and if the licensee's record
2 contains 1 or more of the following:

3 (a) A conviction for a violation or attempted violation of
4 any of the following:

5 (i) Section 625, except a violation of section 625(2), or a
6 violation of any prior enactment of section 625 in which the
7 defendant operated a vehicle while under the influence of
8 intoxicating or alcoholic liquor or a controlled substance, or a
9 combination of intoxicating or alcoholic liquor and a controlled
10 substance, or while visibly impaired, or with an unlawful bodily
11 alcohol content.

12 (ii) A violation or attempted violation of section 625m.

13 (iii) Former section 625b.

14 (iv) A local ordinance substantially corresponding to a
15 conviction described in this subdivision.

16 (v) A law of another state substantially corresponding to a
17 conviction described in this subdivision.

18 (b) A suspension of the licensee's license pursuant to
19 section 625f.

20 (c) An accident for which the official police report
21 indicates a moving violation on the part of the licensee.

22 (d) An accident for which the official police report
23 indicates the licensee had been drinking alcoholic liquor.

24 (7) Upon completion of a reexamination under subsection (6),
25 the secretary of state may suspend the license of the licensee,
26 except that a reexamination for subsection ~~-(6)(d) or (e)-~~ **(6)(c)**
27 **or (d)** shall not result in a license suspension or restriction.

1 (8) If a licensee fails to appear for a reexamination
2 scheduled by the secretary of state pursuant to this section, the
3 licensee's license may be suspended immediately and remain
4 suspended until the licensee appears for a reexamination by the
5 secretary of state.

6 (9) Notice of a reexamination required under this section
7 shall be given by first-class mail to the last known address of
8 the licensee.

9 (10) For purposes of this section:

10 (a) Upon conviction for a moving violation, the date of the
11 violation shall be used in determining whether the conviction
12 occurred within the probationary period.

13 (b) Upon entry of a civil infraction determination for a
14 moving violation, the date of the violation shall be used in
15 determining whether the civil infraction determination occurred
16 within the probationary period.

17 (c) Information of a reexamination shall not be placed on a
18 driver's record unless the secretary of state suspends a license
19 or imposes probationary terms and conditions.

20 (d) A suspension shall be considered part of a driving record
21 from the date the suspension is imposed until the suspension is
22 terminated.

23 (e) The date of the official police report shall be used in
24 determining whether a licensee was driving a motor vehicle
25 involved in an accident for which the official police report
26 indicates a moving violation on the part of the licensee or
27 indicates the licensee had been drinking alcoholic liquor.

1 Sec. 319b. (1) The secretary of state shall immediately
2 suspend or revoke, as applicable, all vehicle group designations
3 on the operator's or chauffeur's license of a person upon
4 receiving notice of a conviction, bond forfeiture, or civil
5 infraction determination of the person, or notice that a court or
6 administrative tribunal has found the person responsible, for a
7 violation described in this subsection of a law of this state, a
8 local ordinance substantially corresponding to a law of this
9 state, or a law of another state substantially corresponding to a
10 law of this state, or notice that the person has refused to
11 submit to a chemical test of his or her blood, breath, or urine
12 for the purpose of determining the amount of alcohol or presence
13 of a controlled substance or both in the person's blood, breath,
14 or urine while the person was operating a commercial motor
15 vehicle as required by a law or local ordinance of this or
16 another state. The period of suspension or revocation is as
17 follows:

18 (a) Suspension for 60 days if the licensee is convicted of
19 or found responsible for 1 of the following while operating a
20 commercial motor vehicle:

21 (i) Two serious traffic violations arising from separate
22 incidents within 36 months.

23 (ii) A violation of section 667, 668, 669, or 669a.

24 (iii) A violation of motor carrier safety regulations 49
25 C.F.R. 392.10 or 392.11, as adopted by section 1a of the motor
26 carrier safety act of 1963, 1963 PA 181, MCL 480.11a.

27 (iv) A violation of section 57 of the pupil transportation

1 act, 1990 PA 187, MCL 257.1857.

2 (v) A violation of motor carrier safety regulations 49
3 C.F.R. 392.10 or 392.11, as adopted by section 31 of the motor
4 bus transportation act, 1982 PA 432, MCL 474.131.

5 (vi) A violation of motor carrier safety regulations 49
6 C.F.R. 392.10 or 392.11 while operating a commercial motor
7 vehicle other than a vehicle covered under subparagraph (iii),
8 (iv), or (v).

9 (b) Suspension for 120 days if the licensee is convicted of
10 or found responsible for 1 of the following arising from separate
11 incidents within 36 months while operating a commercial motor
12 vehicle:

13 (i) Three serious traffic violations.

14 (ii) Any combination of 2 violations described in
15 subdivision (a)(ii).

16 (c) Suspension for 1 year if the licensee is convicted of or
17 found responsible for 1 of the following:

18 (i) A violation of section 625(1), (3), (4), (5), (6), ~~or~~
19 (7), **or (8)**, section 625m, or former section 625(1) or (2), or
20 former section 625b, while operating a commercial motor vehicle.

21 (ii) Leaving the scene of an accident involving a commercial
22 motor vehicle operated by the licensee.

23 (iii) A felony in which a commercial motor vehicle was
24 used.

25 (iv) A refusal of a peace officer's request to submit to a
26 chemical test of his or her blood, breath, or urine to determine
27 the amount of alcohol or presence of a controlled substance or

1 both in his or her blood, breath, or urine while he or she was
2 operating a commercial motor vehicle as required by a law or
3 local ordinance of this state or another state.

4 (v) A 6-point violation as provided in section 320a while
5 operating a commercial motor vehicle.

6 (vi) Any combination of 3 violations described in
7 subdivision (a)(ii) arising from separate incidents within 36
8 months while operating a commercial motor vehicle.

9 (d) Suspension for 3 years if the licensee is convicted of
10 or found responsible for an offense enumerated in subdivision
11 (c)(i) to (v) in which a commercial motor vehicle was used if the
12 vehicle was carrying hazardous material required to have a
13 placard pursuant to 49 C.F.R. parts 100 to 199.

14 (e) Revocation for not less than 10 years and until the
15 person is approved for the issuance of a vehicle group
16 designation if a licensee is convicted of or found responsible
17 for 1 of the following:

18 (i) Any combination of 2 violations arising from 2 or more
19 separate incidents under section 625(1), (3), (4), (5), (6), ~~or~~
20 (7), **or (8)**, section 625m, or former section 625(1) or (2), or
21 former section 625b, while driving a commercial motor vehicle.

22 (ii) Two violations of leaving the scene of an accident
23 involving a commercial motor vehicle operated by the licensee.

24 (iii) Two violations of a felony in which a commercial motor
25 vehicle was used.

26 (iv) Two refusals of a request of a police officer to submit
27 to a chemical test of his or her blood, breath, or urine for the

1 purpose of determining the amount of alcohol or presence of a
2 controlled substance or both in his or her blood while he or she
3 was operating a commercial motor vehicle in this state or another
4 state, which refusals occurred in separate incidents.

5 (v) Two 6-point violations as provided in section 320a while
6 operating a commercial motor vehicle.

7 (vi) Two violations, in any combination, of the offenses
8 enumerated under subparagraph (i), (ii), (iii), (iv), or (v)
9 arising from 2 or more separate incidents.

10 (f) Revocation for life if a licensee is convicted of or
11 found responsible for any of the following:

12 (i) One violation of a felony in which a commercial motor
13 vehicle was used and that involved the manufacture, distribution,
14 or dispensing of a controlled substance or possession with intent
15 to manufacture, distribute, or dispense a controlled substance.

16 (ii) A conviction of any offense described in
17 subdivision (c) or (d) after having been approved for the
18 issuance of a vehicle group designation under subdivision (e).

19 (iii) A conviction of a violation of chapter LXXXIII-A of
20 the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z.

21 (2) The secretary of state shall immediately revoke for life
22 the hazardous material indorsement (H vehicle indorsement) on the
23 operator's or chauffeur's license of a person with a vehicle
24 group designation upon receiving notice from the U.S. department
25 of transportation that the person poses a security risk
26 warranting denial under the uniting and strengthening America by
27 providing appropriate tools required to intercept and obstruct

1 terrorism (USA PATRIOT ACT) act of 2001, Public Law 107-56, 115
2 Stat. 272.

3 (3) The secretary of state shall immediately suspend all
4 vehicle group designations on the operator's or chauffeur's
5 license of a person upon receiving notice of a conviction, bond
6 forfeiture, or civil infraction determination of the person, or
7 notice that a court or administrative tribunal has found the
8 person responsible, for a violation of section 319d(4) or 319f, a
9 local ordinance substantially corresponding to section 319d(4) or
10 319f, or a law or local ordinance of another state, the United
11 States, Canada, Mexico, or a local jurisdiction of either of
12 these countries substantially corresponding to section 319d(4) or
13 319f, while operating a commercial motor vehicle. The period of
14 suspension or revocation is as follows:

15 (a) Suspension for 90 days if the licensee is convicted of
16 or found responsible for a violation of section 319d(4) or 319f
17 while operating a commercial motor vehicle.

18 (b) Suspension for 180 days if the licensee is convicted of
19 or found responsible for a violation of section 319d(4) or 319f
20 while operating a commercial motor vehicle that is either
21 carrying hazardous material required to have a placard pursuant
22 to 49 C.F.R. parts 100 to 199 or designed to carry 16 or more
23 passengers, including the driver.

24 (c) Suspension for 1 year if the licensee is convicted of or
25 found responsible for 2 violations, in any combination, of
26 section 319d(4) or 319f while operating a commercial motor
27 vehicle arising from 2 or more separate incidents during a

1 10-year period.

2 (d) Suspension for 3 years if the licensee is convicted of
3 or found responsible for 3 or more violations, in any
4 combination, of section 319d(4) or 319f while operating a
5 commercial motor vehicle arising from 3 or more separate
6 incidents during a 10-year period.

7 (e) Suspension for 3 years if the licensee is convicted of
8 or found responsible for 2 or more violations, in any
9 combination, of section 319d(4) or 319f while operating a
10 commercial motor vehicle carrying hazardous material required to
11 have a placard pursuant to 49 C.F.R. parts 100 to 199, or
12 designed to carry 16 or more passengers, including the driver,
13 arising from 2 or more separate incidents during a 10-year
14 period.

15 (4) As used in this section:

16 (a) "Felony in which a commercial motor vehicle was used"
17 means a felony during the commission of which the person
18 convicted operated a commercial motor vehicle and while the
19 person was operating the vehicle 1 or more of the following
20 circumstances existed:

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

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

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

25 (iv) The vehicle was necessary for the commission of the
26 felony.

27 (b) "Serious traffic violation" means a traffic violation

1 that occurs in connection with an accident in which a person
2 died, careless driving, excessive speeding as defined in
3 regulations promulgated under chapter 313 of title 49 of the
4 United States Code, 49 U.S.C. 31301 to 31317, improper lane use,
5 following too closely, or any other serious traffic violation as
6 defined in 49 C.F.R. 383.5 or as prescribed under this act.

7 (5) For the purpose of this section only, a bond forfeiture
8 or a determination by a court of original jurisdiction or an
9 authorized administrative tribunal that a person has violated the
10 law is considered a conviction.

11 (6) The secretary of state shall suspend or revoke a vehicle
12 group designation under subsection (1) notwithstanding a
13 suspension, restriction, revocation, or denial of an operator's
14 or chauffeur's license or vehicle group designation under another
15 section of this act or a court order issued under another section
16 of this act or a local ordinance substantially corresponding to
17 another section of this act.

18 (7) When determining the applicability of conditions listed
19 in this section, the secretary of state shall only consider
20 violations that occurred after January 1, 1990.

21 Sec. 321a. (1) A person who fails to answer a citation, or
22 a notice to appear in court for a violation reportable to the
23 secretary of state under section 732 or a local ordinance
24 substantially corresponding to a violation of a law of this state
25 reportable to the secretary of state under section 732, or for
26 any matter pending, or who fails to comply with an order or
27 judgment of the court, including, but not limited to, paying all

1 fines, costs, fees, and assessments, is guilty of a misdemeanor
2 punishable by imprisonment for not more than 93 days or a fine of
3 not more than \$100.00, or both. A violation of this subsection
4 or failure to answer a citation or notice to appear for a
5 violation of section 33b(1) of former 1933 (Ex Sess) PA 8,
6 section 703(1) of the Michigan liquor control code of 1998, 1998
7 PA 58, MCL 436.1703, or a local ordinance substantially
8 corresponding to either of those sections shall not be considered
9 a violation for any purpose under section 320a.

10 (2) Except as provided in subsection (3), 28 days or more
11 after a person fails to answer a citation, or a notice to appear
12 in court for a violation reportable to the secretary of state
13 under section 732 or a local ordinance substantially
14 corresponding to a violation of a law of this state reportable to
15 the secretary of state under section 732, or for any matter
16 pending, or fails to comply with an order or judgment of the
17 court, including, but not limited to, paying all fines, costs,
18 fees, and assessments, the court shall give notice by mail at the
19 last known address of the person that if the person fails to
20 appear or fails to comply with the order or judgment within 14
21 days after the notice is issued, the secretary of state shall
22 suspend the person's operator's or chauffeur's license. If the
23 person fails to appear or fails to comply with the order or
24 judgment within the 14-day period, the court shall, within 14
25 days, inform the secretary of state, who shall immediately
26 suspend the license of the person. The secretary of state shall
27 immediately notify the person of the suspension by regular mail

1 at the person's last known address.

2 (3) If the person is charged with, or convicted of, a
3 violation of section 625 or a local ordinance substantially
4 corresponding to section 625(1), (2), (3), ~~or~~ (6), or (8) and
5 the person fails to answer a citation or a notice to appear in
6 court, or for any matter pending, or fails to comply with an
7 order or judgment of the court, including, but not limited to,
8 paying all fines, costs, and crime victim rights assessments, the
9 court shall immediately give notice by first-class mail sent to
10 the person's last known address that if the person fails to
11 appear within 7 days after the notice is issued, or fails to
12 comply with the order or judgment of the court, including, but
13 not limited to, paying all fines, costs, and crime victim rights
14 assessments, within 14 days after the notice is issued, the
15 secretary of state shall suspend the person's operator's or
16 chauffeur's license. If the person fails to appear within the
17 7-day period, or fails to comply with the order or judgment of
18 the court, including, but not limited to, paying all fines,
19 costs, and crime victim rights assessments, within the 14-day
20 period, the court shall immediately inform the secretary of state
21 who shall immediately suspend the person's operator's or
22 chauffeur's license and notify the person of the suspension by
23 first-class mail sent to the person's last known address.

24 (4) If the person is charged with, or convicted of, a
25 violation of section 33b(1) of former 1933 (Ex Sess) PA 8,
26 section 703(1) of the Michigan liquor control code of 1998, 1998
27 PA 58, MCL 436.1703, section 624a, section 624b, or a local

1 ordinance substantially corresponding to those sections and the
2 person fails to answer a citation or a notice to appear in court
3 issued pursuant to section 33b of former 1933 (Ex Sess) PA 8,
4 section 703 of the Michigan liquor control code of 1998, 1998
5 PA 58, MCL 436.1703, section 624a, section 624b, or a local
6 ordinance substantially corresponding to those sections or fails
7 to comply with an order or judgment of the court issued pursuant
8 to section 33b of former 1933 (Ex Sess) PA 8, section 703 of the
9 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703,
10 section 624a, section 624b, or a local ordinance substantially
11 corresponding to those sections including, but not limited to,
12 paying all fines and costs, the court shall immediately give
13 notice by first-class mail sent to the person's last known
14 address that if the person fails to appear within 7 days after
15 the notice is issued, or fails to comply with the order or
16 judgment of the court, including, but not limited to, paying all
17 fines and costs, within 14 days after the notice is issued, the
18 secretary of state shall suspend the person's operator's or
19 chauffeur's license. If the person fails to appear within the
20 7-day period, or fails to comply with the order or judgment of
21 the court, including, but not limited to, paying all fines and
22 costs, within the 14-day period, the court shall immediately
23 inform the secretary of state who shall immediately suspend the
24 person's operator's or chauffeur's license and notify the person
25 of the suspension by first-class mail sent to the person's last
26 known address.

27 (5) A suspension imposed under subsection (2) or (3) remains

1 in effect until both of the following occur:

2 (a) The secretary of state is notified by each court in which
3 the person failed to answer a citation or notice to appear or
4 failed to pay a fine or cost that the person has answered that
5 citation or notice to appear or paid that fine or cost.

6 (b) The person has paid to the court a \$45.00 driver license
7 clearance fee for each failure to answer a citation or failure to
8 pay a fine or cost.

9 (6) The court shall not notify the secretary of state, and
10 the secretary of state shall not suspend the person's license, if
11 the person fails to appear in response to a citation issued for,
12 or fails to comply with an order or judgment involving 1 or more
13 of the following infractions:

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

15 (b) A pedestrian, passenger, or bicycle violation, other than
16 a violation of section 33b(1) or (2) of former 1933 (Ex Sess)
17 PA 8, section 703(1) or (2) of the Michigan liquor control code
18 of 1998, 1998 PA 58, MCL 436.1703, section 624a or 624b, or a
19 local ordinance substantially corresponding to section 33b(1) or
20 (2) of former 1933 (Ex Sess) PA 8, section 703(1) or (2) of the
21 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703,
22 or section 624a or 624b.

23 (7) The court may notify a person who has done either of the
24 following, that if the person does not appear within 10 days
25 after the notice is issued, the court will inform the secretary
26 of state of the person's failure to appear:

27 (a) Failed to answer 2 or more parking violation notices or

1 citations for violating a provision of this act or an ordinance
2 substantially corresponding to a provision of this act pertaining
3 to parking for persons with disabilities.

4 (b) Failed to answer 6 or more parking violation notices or
5 citations regarding illegal parking.

6 (8) The secretary of state, upon being informed of the
7 failure of a person to appear or comply as provided in subsection
8 (7), shall not issue a license to the person or renew a license
9 for the person until both of the following occur:

10 (a) The court informs the secretary of state that the person
11 has resolved all outstanding matters regarding the notices or
12 citations.

13 (b) The person has paid to the court a \$45.00 driver license
14 clearance fee. If the court determines that the person is
15 responsible for only 1 parking violation under subsection (7)(a)
16 or less than 6 parking violations under subsection (7)(b) for
17 which the person's license was not issued or renewed under this
18 subsection, the court may waive payment of the fee.

19 (9) Not less than 28 days after a person fails to appear in
20 response to a citation issued for, or fails to comply with an
21 order or judgment involving, a state civil infraction described
22 in chapter 88 of the revised judicature act of 1961, 1961 PA 236,
23 MCL 600.8801 to 600.8835, the court shall give notice by ordinary
24 mail, addressed to the person's last known address, that if the
25 person fails to appear or fails to comply with the order or
26 judgment described in this subsection within 14 days after the
27 notice is issued, the court will give to the secretary of state

1 notice of that failure. Upon receiving notice of that failure,
2 the secretary of state shall not issue or renew an operator's or
3 chauffeur's license for the person until both of the following
4 occur:

5 (a) The court informs the secretary of state that the person
6 has resolved all outstanding matters regarding each notice or
7 citation.

8 (b) The person has paid to the court a \$45.00 driver license
9 clearance fee. If the court determines that the person is not
10 responsible for any violation for which the person's license was
11 not issued or renewed under this subsection, the court shall
12 waive the fee.

13 (10) For the purposes of subsections (5)(a), (8)(a), and
14 (9)(a), the court shall give to the person a copy of the
15 information being transmitted to the secretary of state. Upon
16 showing that copy, the person shall not be arrested or issued a
17 citation for driving on a suspended license, on an expired
18 license, or without a license on the basis of any matter resolved
19 under subsection (5)(a), (8)(a), or (9)(a), even if the
20 information being sent to the secretary of state has not yet been
21 received or recorded by the department.

22 (11) For each fee received under subsection (5)(b), (8)(b),
23 or (9)(b), the court shall transmit the following amounts on a
24 monthly basis:

25 (a) Fifteen dollars to the secretary of state. The funds
26 received by the secretary of state under this subdivision shall
27 be deposited in the state general fund and shall be used to

1 defray the expenses of the secretary of state in processing the
2 suspension and reinstatement of driver licenses under this
3 section.

4 (b) Fifteen dollars to 1 of the following, as applicable:

5 (i) If the matter is before the circuit court, to the
6 treasurer of the county for deposit in the general fund.

7 (ii) If the matter is before the district court, to the
8 treasurer of the district funding unit for that court, for
9 deposit in the general fund. As used in this section, "district
10 funding unit" means that term as defined in section 8104 of the
11 revised judicature act of 1961, 1961 PA 236, MCL 600.8104.

12 (iii) If the matter is before a municipal court, to the
13 treasurer of the city in which the municipal court is located,
14 for deposit in the general fund.

15 (c) Fifteen dollars to the juror compensation reimbursement
16 fund created in section 151d of the revised judicature act of
17 1961, 1961 PA 236, MCL 600.151d.

18 (12) Section 819 does not apply to a reinstatement fee
19 collected for an operator's or chauffeur's license that is not
20 issued or renewed under section 8827 of the revised judicature
21 act of 1961, 1961 PA 236, MCL 600.8827.

22 Sec. 625. (1) A person, whether licensed or not, shall not
23 operate a vehicle upon a highway or other place open to the
24 general public or generally accessible to motor vehicles,
25 including an area designated for the parking of vehicles, within
26 this state if the person is operating while intoxicated. As used
27 in this section, "operating while intoxicated" means either of

1 the following applies:

2 (a) The person is under the influence of alcoholic liquor, a
3 controlled substance, or a combination of alcoholic liquor and a
4 controlled substance.

5 (b) The person has an alcohol content of 0.08 grams or more
6 per 100 milliliters of blood, per 210 liters of breath, or per 67
7 milliliters of urine, or, beginning October 1, 2013, the person
8 has an alcohol content of 0.10 grams or more per 100 milliliters
9 of blood, per 210 liters of breath, or per 67 milliliters of
10 urine.

11 (2) The owner of a vehicle or a person in charge or in
12 control of a vehicle shall not authorize or knowingly permit the
13 vehicle to be operated upon a highway or other place open to the
14 general public or generally accessible to motor vehicles,
15 including an area designated for the parking of motor vehicles,
16 within this state by a person if any of the following apply:

17 (a) The person is under the influence of alcoholic liquor, a
18 controlled substance, or a combination of alcoholic liquor and a
19 controlled substance.

20 (b) The person has an alcohol content of 0.08 grams or more
21 per 100 milliliters of blood, per 210 liters of breath, or per 67
22 milliliters of urine or, beginning October 1, 2013, the person
23 has an alcohol content of 0.10 grams or more per 100 milliliters
24 of blood, per 210 liters of breath, or per 67 milliliters of
25 urine.

26 (c) The person's ability to operate the motor vehicle is
27 visibly impaired due to the consumption of alcoholic liquor, a

1 controlled substance, or a combination of alcoholic liquor and a
2 controlled substance.

3 (3) A person, whether licensed or not, shall not operate a
4 vehicle upon a highway or other place open to the general public
5 or generally accessible to motor vehicles, including an area
6 designated for the parking of vehicles, within this state when,
7 due to the consumption of alcoholic liquor, a controlled
8 substance, or a combination of alcoholic liquor and a controlled
9 substance, the person's ability to operate the vehicle is visibly
10 impaired. If a person is charged with violating subsection (1),
11 a finding of guilty under this subsection may be rendered.

12 (4) A person, whether licensed or not, who operates a motor
13 vehicle in violation of subsection (1), (3), or (8) and by the
14 operation of that motor vehicle causes the death of another
15 person is guilty of a crime as follows:

16 (a) Except as provided in subdivision (b), the person is
17 guilty of a felony punishable by imprisonment for not more than
18 15 years or a fine of not less than \$2,500.00 or more than
19 \$10,000.00, or both. The judgment of sentence may impose the
20 sanction permitted under section 625n. If the vehicle is not
21 ordered forfeited under section 625n, the court shall order
22 vehicle immobilization under section 904d in the judgment of
23 sentence.

24 (b) If, at the time of the violation, the person is operating
25 a motor vehicle in a manner proscribed under section 653a and
26 causes the death of a police officer, firefighter, or other
27 emergency response personnel, the person is guilty of a felony

1 punishable by imprisonment for not more than 20 years or a fine
2 of not less than \$2,500.00 or more than \$10,000.00, or both.
3 This subdivision applies regardless of whether the person is
4 charged with the violation of section 653a. The judgment of
5 sentence may impose the sanction permitted under section 625n.
6 If the vehicle is not ordered forfeited under section 625n, the
7 court shall order vehicle immobilization under section 904d in
8 the judgment of sentence.

9 (5) A person, whether licensed or not, who operates a motor
10 vehicle in violation of subsection (1), (3), or (8) and by the
11 operation of that motor vehicle causes a serious impairment of a
12 body function of another person is guilty of a felony punishable
13 by imprisonment for not more than 5 years or a fine of not less
14 than \$1,000.00 or more than \$5,000.00, or both. The judgment of
15 sentence may impose the sanction permitted under section 625n.
16 If the vehicle is not ordered forfeited under section 625n, the
17 court shall order vehicle immobilization under section 904d in
18 the judgment of sentence.

19 (6) A person who is less than 21 years of age, whether
20 licensed or not, shall not operate a vehicle upon a highway or
21 other place open to the general public or generally accessible to
22 motor vehicles, including an area designated for the parking of
23 vehicles, within this state if the person has any bodily alcohol
24 content. As used in this subsection, "any bodily alcohol
25 content" means either of the following:

26 (a) An alcohol content of ~~not less than~~ 0.02 grams or more
27 but less than 0.08 grams per 100 milliliters of blood, per 210

1 liters of breath, or per 67 milliliters of urine, or, beginning
2 October 1, 2013, the person has an alcohol content of ~~not less~~
3 ~~than~~ 0.02 grams or more but less than 0.10 grams per 100
4 milliliters of blood, per 210 liters of breath, or per 67
5 milliliters of urine.

6 (b) Any presence of alcohol within a person's body resulting
7 from the consumption of alcoholic liquor, other than consumption
8 of alcoholic liquor as a part of a generally recognized religious
9 service or ceremony.

10 (7) A person, whether licensed or not, is subject to the
11 following requirements:

12 (a) He or she shall not operate a vehicle in violation of
13 subsection (1), (3), (4), (5), or (8) while another person who is
14 less than 16 years of age is occupying the vehicle. A person who
15 violates this subdivision is guilty of a crime punishable as
16 follows:

17 (i) Except as provided in subparagraph (ii), a person who
18 violates this subdivision is guilty of a misdemeanor and shall be
19 sentenced to pay a fine of not less than \$200.00 or more than
20 \$1,000.00 and to 1 or more of the following:

21 (A) Imprisonment for not less than 5 days or more than 1
22 year. Not less than 48 hours of this imprisonment shall be
23 served consecutively. This term of imprisonment shall not be
24 suspended.

25 (B) Community service for not less than 30 days or more than
26 90 days.

27 (ii) If the violation occurs within 7 years of a prior

1 conviction or within 10 years of 2 or more prior convictions, a
2 person who violates this subdivision is guilty of a felony and
3 shall be sentenced to pay a fine of not less than \$500.00 or more
4 than \$5,000.00 and to either of the following:

5 (A) Imprisonment under the jurisdiction of the department of
6 corrections for not less than 1 year or more than 5 years.

7 (B) Probation with imprisonment in the county jail for not
8 less than 30 days or more than 1 year and community service for
9 not less than 60 days or more than 180 days. Not less than 48
10 hours of this imprisonment shall be served consecutively. This
11 term of imprisonment shall not be suspended.

12 (b) He or she shall not operate a vehicle in violation of
13 subsection (6) while another person who is less than 16 years of
14 age is occupying the vehicle. A person who violates this
15 subdivision is guilty of a misdemeanor punishable as follows:

16 (i) Except as provided in subparagraph (ii), a person who
17 violates this subdivision may be sentenced to 1 or more of the
18 following:

19 (A) Community service for not more than 60 days.

20 (B) A fine of not more than \$500.00.

21 (C) Imprisonment for not more than 93 days.

22 (ii) If the violation occurs within 7 years of a prior
23 conviction or within 10 years of 2 or more prior convictions, a
24 person who violates this subdivision shall be sentenced to pay a
25 fine of not less than \$200.00 or more than \$1,000.00 and to 1 or
26 more of the following:

27 (A) Imprisonment for not less than 5 days or more than 1

1 year. Not less than 48 hours of this imprisonment shall be
2 served consecutively. This term of imprisonment shall not be
3 suspended.

4 (B) Community service for not less than 30 days or more than
5 90 days.

6 (c) In the judgment of sentence under subdivision (a)(i) or
7 (b)(i), the court may, unless the vehicle is ordered forfeited
8 under section 625n, order vehicle immobilization as provided in
9 section 904d. In the judgment of sentence under subdivision
10 (a)(ii) or (b)(ii), the court shall, unless the vehicle is
11 ordered forfeited under section 625n, order vehicle
12 immobilization as provided in section 904d.

13 (d) This subsection does not prohibit a person from being
14 charged with, convicted of, or punished for a violation of
15 subsection (4) or (5) that is committed by the person while
16 violating this subsection. However, points shall not be assessed
17 under section 320a for both a violation of subsection (4) or (5)
18 and a violation of this subsection for conduct arising out of the
19 same transaction.

20 (8) A person, whether licensed or not, shall not operate a
21 vehicle upon a highway or other place open to the general public
22 or generally accessible to motor vehicles, including an area
23 designated for the parking of vehicles, within this state if the
24 person has in his or her body any amount of a controlled
25 substance listed in schedule 1 under section 7212 of the public
26 health code, 1978 PA 368, MCL 333.7212, or a rule promulgated
27 under that section, or of a controlled substance described in

1 section 7214(a)(iv) of the public health code, 1978 PA 368, MCL
2 333.7214.

3 (9) If a person is convicted of violating subsection (1) or
4 (8), all of the following apply:

5 (a) Except as otherwise provided in subdivisions (b) and (c),
6 the person is guilty of a misdemeanor punishable by 1 or more of
7 the following:

8 (i) Community service for not more than 360 hours.

9 (ii) Imprisonment for not more than 93 days.

10 (iii) A fine of not less than \$100.00 or more than \$500.00.

11 (b) If the violation occurs within 7 years of a prior
12 conviction, the person shall be sentenced to pay a fine of not
13 less than \$200.00 or more than \$1,000.00 and 1 or more of the
14 following:

15 (i) Imprisonment for not less than 5 days or more than 1
16 year. Not less than 48 hours of the term of imprisonment imposed
17 under this subparagraph shall be served consecutively.

18 (ii) Community service for not less than 30 days or more than
19 90 days.

20 (c) If the violation occurs within 10 years of 2 or more
21 prior convictions, the person is guilty of a felony and shall be
22 sentenced to pay a fine of not less than \$500.00 or more than
23 \$5,000.00 and to either of the following:

24 (i) Imprisonment under the jurisdiction of the department of
25 corrections for not less than 1 year or more than 5 years.

26 (ii) Probation with imprisonment in the county jail for not
27 less than 30 days or more than 1 year and community service for

1 not less than 60 days or more than 180 days. Not less than 48
2 hours of the imprisonment imposed under this subparagraph shall
3 be served consecutively.

4 (d) A term of imprisonment imposed under subdivision (b) or
5 (c) shall not be suspended.

6 (e) In the judgment of sentence under subdivision (a), the
7 court may order vehicle immobilization as provided in
8 section 904d. In the judgment of sentence under subdivision (b)
9 or (c), the court shall, unless the vehicle is ordered forfeited
10 under section 625n, order vehicle immobilization as provided in
11 section 904d.

12 (f) In the judgment of sentence under subdivision (b) or (c),
13 the court may impose the sanction permitted under section 625n.

14 (10) A person who is convicted of violating subsection (2) is
15 guilty of a crime as follows:

16 (a) Except as provided in subdivisions (b) and (c), a
17 misdemeanor punishable by imprisonment for not more than 93 days
18 or a fine of not less than \$100.00 or more than \$500.00, or
19 both.

20 (b) If the person operating the motor vehicle violated
21 subsection (4), a felony punishable by imprisonment for not more
22 than 5 years or a fine of not less than \$1,500.00 or more than
23 \$10,000.00, or both.

24 (c) If the person operating the motor vehicle violated
25 subsection (5), a felony punishable by imprisonment for not more
26 than 2 years or a fine of not less than \$1,000.00 or more than
27 \$5,000.00, or both.

1 (11) If a person is convicted of violating subsection (3),
2 all of the following apply:

3 (a) Except as otherwise provided in subdivisions (b) and (c),
4 the person is guilty of a misdemeanor punishable by 1 or more of
5 the following:

6 (i) Community service for not more than 360 hours.

7 (ii) Imprisonment for not more than 93 days.

8 (iii) A fine of not more than \$300.00.

9 (b) If the violation occurs within 7 years of 1 prior
10 conviction, the person shall be sentenced to pay a fine of not
11 less than \$200.00 or more than \$1,000.00, and 1 or more of the
12 following:

13 (i) Imprisonment for not less than 5 days or more than 1
14 year. Not less than 48 hours of the term of imprisonment imposed
15 under this subparagraph shall be served consecutively.

16 (ii) Community service for not less than 30 days or more than
17 90 days.

18 (c) If the violation occurs within 10 years of 2 or more
19 prior convictions, the person is guilty of a felony and shall be
20 sentenced to pay a fine of not less than \$500.00 or more than
21 \$5,000.00 and either of the following:

22 (i) Imprisonment under the jurisdiction of the department of
23 corrections for not less than 1 year or more than 5 years.

24 (ii) Probation with imprisonment in the county jail for not
25 less than 30 days or more than 1 year and community service for
26 not less than 60 days or more than 180 days. Not less than 48
27 hours of the imprisonment imposed under this subparagraph shall

1 be served consecutively.

2 (d) A term of imprisonment imposed under subdivision (b) or
3 (c) shall not be suspended.

4 (e) In the judgment of sentence under subdivision (a), the
5 court may order vehicle immobilization as provided in
6 section 904d. In the judgment of sentence under subdivision (b)
7 or (c), the court shall, unless the vehicle is ordered forfeited
8 under section 625n, order vehicle immobilization as provided in
9 section 904d.

10 (f) In the judgment of sentence under subdivision (b) or (c),
11 the court may impose the sanction permitted under section 625n.

12 (12) If a person is convicted of violating subsection (6),
13 all of the following apply:

14 (a) Except as otherwise provided in subdivision (b), the
15 person is guilty of a misdemeanor punishable by 1 or both of the
16 following:

17 (i) Community service for not more than 360 hours.

18 (ii) A fine of not more than \$250.00.

19 (b) If the violation occurs within 7 years of 1 or more prior
20 convictions, the person may be sentenced to 1 or more of the
21 following:

22 (i) Community service for not more than 60 days.

23 (ii) A fine of not more than \$500.00.

24 (iii) Imprisonment for not more than 93 days.

25 (13) In addition to imposing the sanctions prescribed under
26 this section, the court may order the person to pay the costs of
27 the prosecution under the code of criminal procedure, 1927

1 PA 175, MCL 760.1 to 777.69.

2 (14) A person sentenced to perform community service under
3 this section shall not receive compensation and shall reimburse
4 the state or appropriate local unit of government for the cost of
5 supervision incurred by the state or local unit of government as
6 a result of the person's activities in that service.

7 (15) If the prosecuting attorney intends to seek an enhanced
8 sentence under this section or a sanction under section 625n
9 based upon the defendant having 1 or more prior convictions, the
10 prosecuting attorney shall include on the complaint and
11 information, or an amended complaint and information, filed in
12 district court, circuit court, municipal court, or family
13 division of circuit court, a statement listing the defendant's
14 prior convictions.

15 (16) If a person is charged with a violation of subsection
16 (1), (3), (4), (5), (7), or (8) or section 625m, the court shall
17 not permit the defendant to enter a plea of guilty or nolo
18 contendere to a charge of violating subsection (6) in exchange
19 for dismissal of the original charge. This subsection does not
20 prohibit the court from dismissing the charge upon the
21 prosecuting attorney's motion.

22 (17) A prior conviction shall be established at sentencing by
23 1 or more of the following:

24 (a) An abstract of conviction.

25 (b) A copy of the defendant's driving record.

26 (c) An admission by the defendant.

27 (18) Except as otherwise provided in subsection (20), if a

1 person is charged with operating a vehicle while under the
2 influence of a controlled substance or a combination of alcoholic
3 liquor and a controlled substance in violation of subsection (1)
4 or a local ordinance substantially corresponding to
5 subsection (1), the court shall require the jury to return a
6 special verdict in the form of a written finding or, if the court
7 convicts the person without a jury or accepts a plea of guilty or
8 nolo contendere, the court shall make a finding as to whether the
9 person was under the influence of a controlled substance or a
10 combination of alcoholic liquor and a controlled substance at the
11 time of the violation.

12 (19) Except as otherwise provided in subsection (20), if a
13 person is charged with operating a vehicle while his or her
14 ability to operate the vehicle was visibly impaired due to his or
15 her consumption of a controlled substance or a combination of
16 alcoholic liquor and a controlled substance in violation of
17 subsection (3) or a local ordinance substantially corresponding
18 to subsection (3), the court shall require the jury to return a
19 special verdict in the form of a written finding or, if the court
20 convicts the person without a jury or accepts a plea of guilty or
21 nolo contendere, the court shall make a finding as to whether,
22 due to the consumption of a controlled substance or a combination
23 of alcoholic liquor and a controlled substance, the person's
24 ability to operate a motor vehicle was visibly impaired at the
25 time of the violation.

26 (20) A special verdict described in subsections (18) and (19)
27 is not required if a jury is instructed to make a finding solely

1 as to either of the following:

2 (a) Whether the defendant was under the influence of a
3 controlled substance or a combination of alcoholic liquor and a
4 controlled substance at the time of the violation.

5 (b) Whether the defendant was visibly impaired due to his or
6 her consumption of a controlled substance or a combination of
7 alcoholic liquor and a controlled substance at the time of the
8 violation.

9 (21) If a jury or court finds under subsection (18), (19), or
10 (20) that the defendant operated a motor vehicle under the
11 influence of or while impaired due to the consumption of a
12 controlled substance or a combination of a controlled substance
13 and an alcoholic liquor, the court shall do both of the
14 following:

15 (a) Report the finding to the secretary of state.

16 (b) On a form or forms prescribed by the state court
17 administrator, forward to the department of state police a record
18 that specifies the penalties imposed by the court, including any
19 term of imprisonment, and any sanction imposed under section 625n
20 or 904d.

21 (22) Except as otherwise provided by law, a record described
22 in subsection (21)(b) is a public record and the department of
23 state police shall retain the information contained on that
24 record for not less than 7 years.

25 (23) In a prosecution for a violation of subsection (6), the
26 defendant bears the burden of proving that the consumption of
27 alcoholic liquor was a part of a generally recognized religious

1 service or ceremony by a preponderance of the evidence.

2 (24) The court may order as a condition of probation that a
3 person convicted of violating subsection (1) or (8), or a local
4 ordinance substantially corresponding to subsection (1) or (8),
5 shall not operate a motor vehicle unless that vehicle is equipped
6 with an ignition interlock device approved, certified, and
7 installed as required under sections 625k and 625l.

8 (25) Subject to subsection (27), as used in this section,
9 "prior conviction" means a conviction for any of the following,
10 whether under a law of this state, a local ordinance
11 substantially corresponding to a law of this state, or a law of
12 another state substantially corresponding to a law of this
13 state:

14 (a) Except as provided in subsection (26), a violation or
15 attempted violation of any of the following:

16 (i) This section, except a violation of section 625(2), or a
17 violation of any prior enactment of this section in which the
18 defendant operated a vehicle while under the influence of
19 intoxicating or alcoholic liquor or a controlled substance, or a
20 combination of intoxicating or alcoholic liquor and a controlled
21 substance, or while visibly impaired, or with an unlawful bodily
22 alcohol content.

23 (ii) Section 625m.

24 (iii) Former section 625b.

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

1 (26) Except for purposes of the enhancement described in
2 subsection (12)(b), only 1 violation or attempted violation of
3 subsection (6), a local ordinance substantially corresponding to
4 subsection (6), or a law of another state substantially
5 corresponding to subsection (6) may be used as a prior
6 conviction.

7 (27) If 2 or more convictions described in subsection (25)
8 are convictions for violations arising out of the same
9 transaction, only 1 conviction shall be used to determine whether
10 the person has a prior conviction.

11 Sec. 625b. (1) A person arrested for a misdemeanor
12 violation of section 625(1), (3), (6), ~~or~~ (7), **or (8)** or
13 section 625m or a local ordinance substantially corresponding to
14 section 625(1), (3), ~~or~~ (6), **or (8)** or section 625m shall be
15 arraigned on the citation, complaint, or warrant not more than 14
16 days after the arrest for the violation or, if an arrest warrant
17 is issued or reissued, not more than 14 days after the issued or
18 reissued arrest warrant is served, whichever is later. The court
19 shall not dismiss a case or impose any other sanction for a
20 failure to comply with this time limit. The time limit does not
21 apply to a violation of section 625(1), ~~or~~ (3), **or (8)** or
22 section 625m punishable as a felony or a violation of
23 section 625(1), (3), (6), ~~or~~ (7), **or (8)** or section 625m joined
24 with a felony charge.

25 (2) The court shall schedule a pretrial conference between
26 the prosecuting attorney, the defendant, and the defendant's
27 attorney in each case in which the defendant is charged with a

1 misdemeanor violation of section 625(1), (3), (6), ~~or~~ (7), **or**
2 **(8)** or section 625m or a local ordinance substantially
3 corresponding to section 625(1), (3), ~~or~~ (6), **or (8)** or
4 section 625m. The pretrial conference shall be held not more
5 than 35 days after the person's arrest for the violation or, if
6 an arrest warrant is issued or reissued, not more than 35 days
7 after the issued or reissued arrest warrant is served, whichever
8 is later. If the court has only 1 judge who sits in more than 1
9 location in that district, the pretrial conference shall be held
10 not more than 42 days after the person's arrest for the violation
11 or, if an arrest warrant is issued or reissued, not more than 42
12 days after the date the issued or reissued arrest warrant is
13 served, whichever is later. The court shall not dismiss a case
14 or impose any other sanction for a failure to comply with the
15 applicable time limit. The 35- and 42-day time limits do not
16 apply to a violation of section 625(1), ~~or~~ (3), **or (8)** or
17 section 625m punishable as a felony or a violation of
18 section 625(1), (3), (6), ~~or~~ (7), **or (8)** or section 625m joined
19 with a felony charge. The court shall order the defendant to
20 attend the pretrial conference and may accept a plea by the
21 defendant at the conclusion of the pretrial conference. The
22 court may adjourn the pretrial conference upon the motion of a
23 party for good cause shown. Not more than 1 adjournment shall be
24 granted to a party, and the length of an adjournment shall not
25 exceed 14 days.

26 (3) Except for delay attributable to the unavailability of
27 the defendant, a witness, or material evidence or due to an

1 interlocutory appeal or exceptional circumstances, but not a
2 delay caused by docket congestion, the court shall finally
3 adjudicate, by a plea of guilty or nolo contendere, entry of a
4 verdict, or other final disposition, a case in which the
5 defendant is charged with a misdemeanor violation of
6 section 625(1), (3), (6), ~~or~~ (7), **or (8)** or section 625m or a
7 local ordinance substantially corresponding to section 625(1),
8 (3), ~~or~~ (6), **or (8)** or section 625m, within 77 days after the
9 person is arrested for the violation or, if an arrest warrant is
10 issued or reissued, not more than 77 days after the date the
11 issued or reissued arrest warrant is served, whichever is later.
12 The court shall not dismiss a case or impose any other sanction
13 for a failure to comply with this time limit. The 77-day time
14 limit does not apply to a violation of section 625(1), ~~or~~ (3),
15 **or (8)** or section 625m punishable as a felony or a violation of
16 section 625(1), (3), (6), ~~or~~ (7), **or (8)** or section 625m joined
17 with a felony charge.

18 (4) Before accepting a plea of guilty or nolo contendere
19 under section 625 or a local ordinance substantially
20 corresponding to section 625(1), (2), (3), ~~or~~ (6), **or (8)**, the
21 court shall advise the accused of the maximum possible term of
22 imprisonment and the maximum possible fine that may be imposed
23 for the violation and shall advise the defendant that the maximum
24 possible license sanctions that may be imposed will be based upon
25 the master driving record maintained by the secretary of state
26 under section 204a.

27 (5) Before imposing sentence for a violation of section

1 625(1), (3), (4), (5), (6), ~~or~~ (7), **or (8)** or a local ordinance
2 substantially corresponding to section 625(1), (3), ~~or~~ (6), **or**
3 **(8)**, the court shall order the person to undergo screening and
4 assessment by a person or agency designated by the office of
5 substance abuse services to determine whether the person is
6 likely to benefit from rehabilitative services, including alcohol
7 or drug education and alcohol or drug treatment programs. Except
8 as otherwise provided in this subsection, the court may order the
9 person to participate in and successfully complete 1 or more
10 appropriate rehabilitative programs as part of the sentence. If
11 the person has 1 or more prior convictions, the court shall order
12 the person to participate in and successfully complete 1 or more
13 appropriate rehabilitative programs as part of the sentence. The
14 person shall pay for the costs of the screening, assessment, and
15 rehabilitative services.

16 (6) If the judgment and sentence are appealed to circuit
17 court, the court may ex parte order the secretary of state to
18 stay the suspension, revocation, or restricted license issued by
19 the secretary of state pending the outcome of the appeal.

20 Sec. 727. If a person is arrested without a warrant in any
21 of the following cases, the arrested person shall, without
22 unreasonable delay, be arraigned by the magistrate who is nearest
23 or most accessible within the judicial district as provided in
24 section 13 of chapter IV of the code of criminal procedure, 1927
25 PA 175, MCL 764.13, or, if a minor, taken before the family
26 division of circuit court within the county in which the offense
27 charged is alleged to have been committed:

1 (a) The person is arrested upon a charge of negligent
2 homicide.

3 (b) The person is arrested under section 625(1), (3), (4),
4 (5), (6), ~~or~~ (7), **or (8)**, or an ordinance substantially
5 corresponding to section 625(1), (3), ~~or~~ (6), **or (8)**.

6 (c) A person is arrested under section 626 or an ordinance
7 substantially corresponding to that section. If under the
8 existing circumstances it does not appear that releasing the
9 person pending the issuance of a warrant will constitute a public
10 menace, the arresting officer may proceed as provided by
11 section 728.

12 (d) A person arrested does not have in his or her immediate
13 possession a valid operator's or chauffeur's license or the
14 receipt described in section 311a. If the arresting officer
15 otherwise satisfactorily determines the identity of the person
16 and the practicability of subsequent apprehension if the person
17 fails to voluntarily appear before a designated magistrate or the
18 family division of circuit court as directed, the officer may
19 release the person from custody with instructions to appear in
20 court, given in the form of a citation as prescribed by
21 section 728.

22 Sec. 732. (1) Each municipal judge and each clerk of a
23 court of record shall keep a full record of every case in which a
24 person is charged with or cited for a violation of this act or a
25 local ordinance substantially corresponding to this act
26 regulating the operation of vehicles on highways and with those
27 offenses pertaining to the operation of ORVs or snowmobiles for

1 which points are assessed under section 320a(1)(c) or ~~—(h)—~~ **(i)**.

2 Except as provided in subsection (15), the municipal judge or
3 clerk of the court of record shall prepare and forward to the
4 secretary of state an abstract of the court record as follows:

5 (a) Within 14 days after a conviction, forfeiture of bail, or
6 entry of a civil infraction determination or default judgment
7 upon a charge of or citation for violating or attempting to
8 violate this act or a local ordinance substantially corresponding
9 to this act regulating the operation of vehicles on highways.

10 (b) Immediately for each case charging a violation of
11 section 625(1), (3), (4), (5), (6), ~~—or—~~ **(7), or (8)** or section
12 625m or a local ordinance substantially corresponding to
13 section 625(1), (3), ~~—or—~~ **(6), or (8)** or section 625m in which
14 the charge is dismissed or the defendant is acquitted.

15 (c) Immediately for each case charging a violation of section
16 82127(1) or (3), 81134, or 81135 of the natural resources and
17 environmental protection act, 1994 PA 451, MCL 324.82127,
18 324.81134, and 324.81135, or a local ordinance substantially
19 corresponding to those sections.

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

1 (3) The abstract or report required under this section shall
2 be made upon a form furnished by the secretary of state. An
3 abstract shall be certified by signature, stamp, or facsimile
4 signature of the person required to prepare the abstract as
5 correct. An abstract or report shall include all of the
6 following:

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

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

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

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

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

17 (f) Whether bail was forfeited.

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

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

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

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

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

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

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

6 (d) A violation of section 703 of the Michigan liquor control
7 code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance
8 substantially corresponding to that section.

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

11 (f) A violation of motor carrier safety regulations, 49
12 C.F.R. 392.10 or 392.11, as adopted by section 1a of the motor
13 carrier safety act of 1963, 1963 PA 181, MCL 480.11a.

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

16 (h) A violation of motor carrier safety regulations, 49
17 C.F.R. 392.10 or 392.11, as adopted by section 31 of the motor
18 bus transportation act, 1982 PA 432, MCL 474.131.

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

26 (j) An attempt to commit an offense described in subdivisions
27 (a) to (h).

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

3 (5) As used in subsections (6) to (8), "felony in which a
4 motor vehicle was used" means a felony during the commission of
5 which the person operated a motor vehicle and while operating the
6 vehicle presented real or potential harm to persons or property
7 and 1 or more of the following circumstances existed:

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

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

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

12 (d) The vehicle was necessary for the commission of the
13 felony.

14 (6) If a person is charged with a felony in which a motor
15 vehicle was used, other than a felony specified in subsection (4)
16 or section 319, the prosecuting attorney shall include the
17 following statement on the complaint and information filed in
18 district or circuit court:

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

25 (7) If a juvenile is accused of an act, the nature of which
26 constitutes a felony in which a motor vehicle was used, other
27 than a felony specified in subsection (4) or section 319, the

1 prosecuting attorney or family division of circuit court shall
2 include the following statement on the petition filed in the
3 court:

4 "You are accused of an act the nature of which constitutes a
5 felony in which a motor vehicle was used. If the accusation is
6 found to be true and the judge or referee finds that the nature
7 of the act constitutes a felony in which a motor vehicle was
8 used, as defined in section 319 of the Michigan vehicle code,
9 1949 PA 300, MCL 257.319, your driver's license shall be
10 suspended by the secretary of state.".

11 (8) If the court determines as part of the sentence or
12 disposition that the felony for which the person was convicted or
13 adjudicated and with respect to which notice was given under
14 subsection (6) or (7) is a felony in which a motor vehicle was
15 used, the clerk of the court shall forward an abstract of the
16 court record of that conviction to the secretary of state.

17 (9) As used in subsections (10) and (11), "felony in which a
18 commercial motor vehicle was used" means a felony during the
19 commission of which the person operated a commercial motor
20 vehicle and while the person was operating the vehicle 1 or more
21 of the following circumstances existed:

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

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

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

26 (d) The vehicle was necessary for the commission of the
27 felony.

1 (10) If a person is charged with a felony in which a
2 commercial motor vehicle was used and for which a vehicle group
3 designation on a license is subject to suspension or revocation
4 under section 319b(1)(c)(iii), 319b(1)(d), 319b(1)(e)(iii), or
5 319b(1)(f)(i), the prosecuting attorney shall include the
6 following statement on the complaint and information filed in
7 district or circuit court:

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

15 (11) If the judge determines as part of the sentence that the
16 felony for which the defendant was convicted and with respect to
17 which notice was given under subsection (10) is a felony in which
18 a commercial motor vehicle was used, the clerk of the court shall
19 forward an abstract of the court record of that conviction to the
20 secretary of state.

21 (12) Every person required to forward abstracts to the
22 secretary of state under this section shall certify for the
23 period from January 1 through June 30 and for the period from
24 July 1 through December 31 that all abstracts required to be
25 forwarded during the period have been forwarded. The
26 certification shall be filed with the secretary of state not
27 later than 28 days after the end of the period covered by the

1 certification. The certification shall be made upon a form
2 furnished by the secretary of state and shall include all of the
3 following:

4 (a) The name and title of the person required to forward
5 abstracts.

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

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

8 (d) The following statement:

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

13 (e) Other information the secretary of state considers
14 necessary.

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

17 (13) The failure, refusal, or neglect of a person to comply
18 with this section constitutes misconduct in office and is grounds
19 for removal from office.

20 (14) Except as provided in subsection (15), the secretary of
21 state shall keep all abstracts received under this section at the
22 secretary of state's main office and the abstracts shall be open
23 for public inspection during the office's usual business hours.
24 Each abstract shall be entered upon the master driving record of
25 the person to whom it pertains.

26 (15) Except for controlled substance offenses described in
27 subsection (4), the court shall not submit, and the secretary of

1 state shall discard and not enter on the master driving record,
2 an abstract for a conviction or civil infraction determination
3 for any of the following violations:

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

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

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

11 (d) A pedestrian, passenger, or bicycle violation, other than
12 a violation of section 703(1) or (2) of the Michigan liquor
13 control code of 1998, 1998 PA 58, MCL 436.1703, or a local
14 ordinance substantially corresponding to section 703(1) or (2) of
15 the Michigan liquor control code of 1998, 1998 PA 58,
16 MCL 436.1703, or section 624a or 624b or a local ordinance
17 substantially corresponding to section 624a or 624b.

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

20 (16) The secretary of state shall discard and not enter on
21 the master driving record an abstract for a bond forfeiture that
22 occurred outside this state. However, the secretary of state
23 shall retain and enter on the master driving record an abstract
24 of an out-of-state bond forfeiture for an offense that occurred
25 in connection with the operation of a commercial motor vehicle.

26 (17) The secretary of state shall inform the courts of this
27 state of the nonmoving violations and violations of chapter II

1 that are used by the secretary of state as the basis for the
2 suspension, restriction, revocation, or denial of an operator's
3 or chauffeur's license.

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

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

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