

HOUSE BILL No. 5315

October 16, 2007, Introduced by Reps. Hammon, Gonzales, Hammel, Clack and Alma Smith and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 320a (MCL 257.320a), as amended by 2004 PA 495, and by adding section 615a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 320a. (1) Until October 1, 2005, within 10 days after
2 the receipt of a properly prepared abstract from this state or
3 another state, or, beginning October 1, 2005, within 5 days after
4 the receipt of a properly prepared abstract from this state or
5 another state, the secretary of state shall record the date of
6 conviction, civil infraction determination, or probate court

1 disposition, and the number of points for each, based on the
2 following formula, except as otherwise provided in this section
3 and section 629c:

4 (a) Manslaughter, negligent homicide, or a
5 felony resulting from the operation of a motor
6 vehicle, ORV, or snowmobile.....6 points

7 (b) A violation of section 601b(2) or (3),
8 601c(1) or (2), or 653a(3) or (4).....6 points

9 (c) A violation of section 625(1), (4), (5),
10 (7), or (8), section 81134 or 82127(1) of the
11 natural resources and environmental protection act,
12 1994 PA 451, MCL 324.81134 and 324.82127, or a law or
13 ordinance substantially corresponding to section
14 625(1), (4), (5), (7), or (8) or section 81134
15 or 82127(1) of the natural resources and
16 environmental protection act, 1994 PA 451,
17 MCL 324.81134 and 324.82127.....6 points

18 (d) Failing to stop and disclose identity
19 at the scene of an accident when required by law.....6 points

20 (e) Operating a motor vehicle in violation
21 of section 626.....6 points

22 (f) Fleeing or eluding an officer.....6 points

23 (g) A violation of section 627(9) pertaining
24 to speed in a work zone described in that section
25 by exceeding the lawful maximum by more than
26 15 miles per hour.....5 points

27 (h) A violation of any law other than the
28 law described in subdivision (g) or ordinance
29 pertaining to speed by exceeding the lawful

- 1 maximum by more than 15 miles per hour.....4 points
- 2 (i) A violation of section 625(3) or (6),
- 3 section 81135 or 82127(3) of the natural
- 4 resources and environmental protection act,
- 5 1994 PA 451, MCL 324.81135 and 324.82127,
- 6 or a law or ordinance substantially corresponding
- 7 to section 625(3) or (6) or section 81135
- 8 or 82127(3) of the natural resources and
- 9 environmental protection act, 1994 PA 451,
- 10 MCL 324.81135 and 324.82127.....4 points
- 11 (j) A violation of section 626a or a law
- 12 or ordinance substantially corresponding to
- 13 section 626a.....4 points
- 14 (k) A violation of section 653a(2).....4 points
- 15 (l) A violation of section 627(9) pertaining
- 16 to speed in a work zone described in that section
- 17 by exceeding the lawful maximum by more than 10
- 18 but not more than 15 miles per hour.....4 points
- 19 (m) A violation of any law other than the
- 20 law described in subdivision (l) or ordinance
- 21 pertaining to speed by exceeding the lawful
- 22 maximum by more than 10 but not more than 15
- 23 miles per hour or careless driving in violation
- 24 of section 626b or a law or ordinance substantially
- 25 corresponding to section 626b.....3 points
- 26 (n) A violation of section 627(9) pertaining
- 27 to speed in a work zone described in that section
- 28 by exceeding the lawful maximum by 10 miles per
- 29 hour or less.....3 points
- 30 (o) A violation of any law other than the law
- 31 described in subdivision (n) or ordinance pertaining

1 to speed by exceeding the lawful maximum
2 by 10 miles per hour or less.....2 points

3 (p) Disobeying a traffic signal or stop sign,
4 or improper passing.....3 points

5 (q) A violation of section 624a, 624b, or a law
6 or ordinance substantially corresponding to
7 section 624a or 624b.....2 points

8 (r) A violation of section 310e(4) or (6) or
9 a law or ordinance substantially corresponding to
10 section 310e(4) or (6).....2 points

11 (s) All other moving violations pertaining to
12 the operation of motor vehicles reported under
13 this section.....2 points

14 (t) A refusal by a person less than 21 years of
15 age to submit to a preliminary breath test required
16 by a peace officer under section 625a.....2 points

17 (2) Points shall not be entered for a violation of section
18 310e(14), 311, 625m, 658, 717, 719, 719a, or 723.

19 (3) Points shall not be entered for bond forfeitures.

20 (4) Points shall not be entered for overweight loads or for
21 defective equipment.

22 (5) POINTS SHALL NOT BE ENTERED FOR A VIOLATION ENFORCED BY
23 USING AN UNMANNED TRAFFIC MONITORING DEVICE PURSUANT TO SECTION
24 615A.

25 (6) ~~(5)~~—If more than 1 conviction, civil infraction
26 determination, or probate court disposition results from the same
27 incident, points shall be entered only for the violation that
28 receives the highest number of points under this section.

1 (7) ~~(6)~~—If a person has accumulated 9 points as provided in
2 this section, the secretary of state may call the person in for
3 an interview as to the person's driving ability and record after
4 due notice as to time and place of the interview. If the person
5 fails to appear as provided in this subsection, the secretary of
6 state shall add 3 points to the person's record.

7 (8) ~~(7)~~—If a person violates a speed restriction established
8 by an executive order issued during a state of energy emergency
9 as provided by 1982 PA 191, MCL 10.81 to 10.89, the secretary of
10 state shall enter points for the violation pursuant to subsection
11 (1).

12 (9) ~~(8)~~—The secretary of state shall enter 6 points upon the
13 record of a person whose license is suspended or denied pursuant
14 to section 625f. However, if a conviction, civil infraction
15 determination, or probate court disposition results from the same
16 incident, additional points for that offense shall not be
17 entered.

18 (10) ~~(9)~~—If a Michigan driver commits a violation in another
19 state that would be a civil infraction if committed in Michigan,
20 and a conviction results solely because of the failure of the
21 Michigan driver to appear in that state to contest the violation,
22 upon receipt of the abstract of conviction by the secretary of
23 state, the violation shall be noted on the driver's record, but
24 no points shall be assessed against his or her driver's license.

25 **SEC. 615A. (1) THE STATE TRANSPORTATION DEPARTMENT IN**
26 **COOPERATION WITH THE DEPARTMENT OF STATE POLICE SHALL SELECT 10**
27 **GEOGRAPHICALLY DIVERSE LOCATIONS WITHIN THIS STATE TO IMPLEMENT A**

1 PILOT PROJECT AUTHORIZING A COUNTY BOARD OF COMMISSIONERS, A
2 BOARD OF COUNTY ROAD COMMISSIONERS, A COUNTY SHERIFF, THE
3 GOVERNING BODY OF A TOWNSHIP, CITY, OR VILLAGE, OR THE DEPARTMENT
4 OF STATE POLICE TO INSTALL AND USE 1 OR MORE UNMANNED TRAFFIC
5 MONITORING DEVICES AT AN INTERSECTION WITH A TRAFFIC CONTROL
6 SIGNAL ON A HIGHWAY OR STREET WITHIN THEIR RESPECTIVE
7 JURISDICTIONS. A LOCATION SELECTED UNDER THIS SUBSECTION SHALL BE
8 A LOCATION WHERE DRIVERS REPEATEDLY FAIL TO COMPLY WITH THE
9 EXISTING TRAFFIC CONTROL SIGNAL AT THE INTERSECTION. A TRAFFIC
10 MONITORING IMPLEMENTATION PLAN SHALL BE ADOPTED BEFORE OPERATING
11 AND USING THE UNMANNED TRAFFIC MONITORING DEVICE.

12 (2) A TRAFFIC MONITORING IMPLEMENTATION PLAN ADOPTED
13 PURSUANT TO SUBSECTION (1) SHALL INCLUDE, BUT NOT BE LIMITED TO,
14 THE FOLLOWING:

15 (A) A PLAN FOR THE DIRECT MANAGEMENT OF ANY UNMANNED TRAFFIC
16 MONITORING DEVICES BY AN APPROPRIATE LAW ENFORCEMENT AGENCY.

17 (B) AN UNMANNED TRAFFIC MONITORING DEVICE DATA COLLECTION
18 PLAN TO PROVIDE FOR THE COLLECTION OF DATA FOR THE PURPOSE OF
19 EVALUATING THE EFFECTIVENESS OF INSTALLED UNMANNED TRAFFIC
20 MONITORING DEVICES.

21 (C) A PUBLIC EDUCATION CAMPAIGN TO ENHANCE PUBLIC AWARENESS
22 OF UNMANNED TRAFFIC MONITORING DEVICES AND ENFORCEMENT
23 ACTIVITIES.

24 (3) IN DEVELOPING A TRAFFIC MONITORING PLAN DESCRIBED IN
25 SUBSECTION (2), THE MONITORING JURISDICTION SHALL SOLICIT
26 RECOMMENDATIONS FROM LAW ENFORCEMENT OFFICERS, PROSECUTORS,
27 JUDGES, TRAFFIC ENGINEERS, AND OTHER INTERESTED PARTIES.

1 (4) EACH UNMANNED TRAFFIC MONITORING DEVICE SHALL BE
2 SUFFICIENTLY MARKED OR IDENTIFIED OR A SIGN SHALL BE PLACED AT OR
3 NEAR THE INTERSECTION INDICATING THAT THE INTERSECTION IS
4 MONITORED BY AN UNMANNED TRAFFIC MONITORING DEVICE.

5 (5) BEGINNING 61 DAYS AFTER THE INSTALLATION OF AN UNMANNED
6 TRAFFIC MONITORING DEVICE AT AN INTERSECTION WITH A TRAFFIC
7 CONTROL SIGNAL, A PERSON IS RESPONSIBLE FOR A CIVIL INFRACTION AS
8 PROVIDED IN THIS ACT IF THE PERSON COMMITS A TRAFFIC CONTROL
9 SIGNAL VIOLATION AT THAT INTERSECTION THAT IS DETECTED THROUGH
10 EVIDENCE OBTAINED FROM AN UNMANNED TRAFFIC MONITORING DEVICE.
11 HOWEVER, FOR THE FIRST 30 DAYS AFTER THE INSTALLATION OF AN
12 UNMANNED TRAFFIC MONITORING DEVICE AT AN INTERSECTION WITH A
13 TRAFFIC CONTROL SIGNAL, THE LAW ENFORCEMENT AGENCY RESPONSIBLE
14 FOR THE MANAGEMENT OF THE DEVICE SHALL COLLECT DATA REGARDING ANY
15 VIOLATIONS FOR THE PURPOSE OF ESTABLISHING A BASELINE TO MEASURE
16 THE EFFECTIVENESS OF THE UNMANNED TRAFFIC MONITORING DEVICE.
17 DURING THE SECOND 30 DAYS AFTER THE INSTALLATION OF AN UNMANNED
18 TRAFFIC MONITORING DEVICE AT AN INTERSECTION WITH A TRAFFIC
19 CONTROL SIGNAL, A PERSON OTHERWISE RESPONSIBLE FOR A CIVIL
20 INFRACTION AS DESCRIBED IN THIS SUBSECTION SHALL BE ISSUED A
21 WRITTEN WARNING ONLY. WHILE AN UNMANNED TRAFFIC MONITORING DEVICE
22 IS INSTALLED AT AN INTERSECTION WITH A TRAFFIC CONTROL SIGNAL,
23 THE LAW ENFORCEMENT AGENCY RESPONSIBLE FOR THE MANAGEMENT OF THE
24 DEVICE SHALL CONTINUE TO COLLECT DATA REGARDING ANY TRAFFIC
25 CONTROL SIGNAL VIOLATIONS TO REGULARLY EVALUATE THE EFFECTIVENESS
26 OF THE DEVICE.

27 (6) A SWORN STATEMENT OF A POLICE OFFICER OF THE STATE OR

1 LOCAL AUTHORITY HAVING JURISDICTION OVER THE HIGHWAY OR STREET,
2 BASED UPON INSPECTION OF PHOTOGRAPHS, VIDEOTAPE, OR DIGITAL
3 IMAGES PRODUCED BY AN UNMANNED TRAFFIC MONITORING DEVICE, IS
4 PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED IN THE SWORN
5 STATEMENT. ANY PHOTOGRAPHS, VIDEOTAPE, OR DIGITAL IMAGES PRODUCED
6 BY AN UNMANNED TRAFFIC MONITORING DEVICE EVIDENCING A TRAFFIC
7 CONTROL SIGNAL VIOLATION SHALL BE AVAILABLE FOR INSPECTION IN A
8 PROCEEDING TO ADJUDICATE LIABILITY FOR THE VIOLATION. ANY
9 PHOTOGRAPHS, VIDEOTAPE, OR DIGITAL IMAGES EVIDENCING SUCH A
10 VIOLATION SHALL BE DESTROYED 90 DAYS AFTER FINAL DISPOSITION OF
11 THE CITATION.

12 (7) IN THE PROSECUTION OF AN OFFENSE BASED ON EVIDENCE
13 PRODUCED BY AN UNMANNED TRAFFIC MONITORING DEVICE, PRIMA FACIE
14 EVIDENCE THAT THE VEHICLE DESCRIBED IN THE CITATION WAS OPERATED
15 IN VIOLATION OF THIS TRAFFIC CONTROL SIGNAL LAW, TOGETHER WITH
16 PROOF THAT THE DEFENDANT OR DEFENDANTS WERE AT THE TIME OF THE
17 VIOLATION THE REGISTERED OWNER OR OWNERS OF THE VEHICLE,
18 CONSTITUTES A REBUTTABLE PRESUMPTION THAT THE REGISTERED OWNER OR
19 OWNERS OF THE VEHICLE WERE THE PERSON OR PERSONS RESPONSIBLE FOR
20 THE VIOLATION. THE PRESUMPTION MAY BE REBUTTED IF THE REGISTERED
21 OWNER OF THE VEHICLE FILES AN AFFIDAVIT BY REGULAR MAIL WITH THE
22 CLERK OF THE COURT DECLARING THAT HE OR SHE WAS NOT THE OPERATOR
23 OF THE VEHICLE AT THE TIME OF THE ALLEGED VIOLATION OR TESTIFIES
24 IN OPEN COURT UNDER OATH THAT HE OR SHE WAS NOT THE OPERATOR OF
25 THE VEHICLE AT THE TIME OF THE ALLEGED VIOLATION. THE PRESUMPTION
26 ALSO MAY BE REBUTTED IF A CERTIFIED COPY OF A POLICE REPORT
27 SHOWING THAT THE VEHICLE WAS REPORTED TO THE POLICE AS STOLEN

1 BEFORE THE TIME OF THE ALLEGED VIOLATION IS PRESENTED TO THE
2 COURT BEFORE THE RETURN DATE ESTABLISHED ON THE CITATION. FOR
3 PURPOSES OF THIS SUBSECTION, THE OWNER OF A LEASED OR RENTAL
4 VEHICLE SHALL PROVIDE THE NAME AND ADDRESS OF THE PERSON TO WHOM
5 THE VEHICLE WAS LEASED OR RENTED AT THE TIME OF THE VIOLATION.

6 (8) NOTWITHSTANDING SECTION 742, A CITATION FOR A VIOLATION
7 DESCRIBED IN THIS SECTION MAY BE EXECUTED BY MAILING BY FIRST-
8 CLASS MAIL A COPY TO THE ADDRESS OF THE OWNER OR OWNERS OF THE
9 VEHICLE AS SHOWN ON THE RECORDS OF THE SECRETARY OF STATE. IF THE
10 SUMMONED PERSON FAILS TO APPEAR ON THE DATE OF RETURN SET OUT IN
11 THE CITATION PREVIOUSLY MAILED BY FIRST-CLASS MAIL PURSUANT TO
12 THIS SUBSECTION, A COPY SHALL BE SENT BY CERTIFIED MAIL--RETURN
13 RECEIPT REQUESTED. IF THE SUMMONED PERSON OR PERSONS FAIL TO
14 APPEAR ON EITHER OF THE DATES OF RETURN SET OUT IN THE CITATION
15 MAILED AS PRESCRIBED IN THIS SUBSECTION, THE CITATION SHALL BE
16 EXECUTED IN THE MANNER PROVIDED BY LAW FOR PERSONAL SERVICE.
17 PROCEEDINGS FOR CONTEMPT OR ARREST OF A PERSON OR PERSONS
18 SUMMONED BY MAILING SHALL BE INSTITUTED FOR FAILURE TO APPEAR ON
19 THE RETURN DATE OF THE CITATION IF A SWORN COMPLAINT IS FILED
20 WITH THE COURT FOR THAT PURPOSE AS REQUIRED FOR OTHER CIVIL
21 INFRACTIONS UNDER SECTION 744.

22 (9) POINTS SHALL NOT BE ASSESSED FOR A VIOLATION OF THIS ACT
23 PROSECUTED AS DESCRIBED IN THIS SECTION.

24 (10) AS USED IN THIS SECTION:

25 (A) "MONITORING JURISDICTION" MEANS A LOCAL AUTHORITY HAVING
26 JURISDICTION OVER A HIGHWAY OR STREET THAT HAS APPROVED A TRAFFIC
27 MONITORING IMPLEMENTATION PLAN UNDER SUBSECTION (1).

1 (B) "UNMANNED TRAFFIC MONITORING DEVICE" MEANS A
2 PHOTOGRAPHIC, VIDEO, OR ELECTRONIC DIGITAL CAMERA AND VEHICLE
3 SENSORS INSTALLED TO WORK IN CONJUNCTION WITH AN OFFICIAL TRAFFIC
4 CONTROL DEVICE TO AUTOMATICALLY PRODUCE PHOTOGRAPHS, VIDEO, OR
5 DIGITAL IMAGES OF EACH VEHICLE COMMITTING A TRAFFIC CONTROL
6 SIGNAL VIOLATION AT AN INTERSECTION WITH A TRAFFIC CONTROL
7 SIGNAL.

8 (11) THIS SECTION IS REPEALED EFFECTIVE JULY 1, 2015.

9 Enacting section 1. This amendatory act takes effect July 1,
10 2008.