

# SENATE BILL No. 528

September 6, 2017, Introduced by Senators HERTEL, JONES, ROCCA and KNEZEK and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled  
"Michigan vehicle code,"  
by amending sections 319 and 907 (MCL 257.319 and 257.907), section 319 as amended by 2016 PA 358 and section 907 as amended by 2015 PA 126.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 319. (1) The secretary of state shall immediately suspend  
2 a person's license as provided in this section on receiving a  
3 record of the person's conviction for a crime described in this  
4 section, whether the conviction is under a law of this state, a  
5 local ordinance substantially corresponding to a law of this state,  
6 a law of another state substantially corresponding to a law of this  
7 state, or, beginning October 31, 2010, a law of the United States  
8 substantially corresponding to a law of this state.

9       (2) The secretary of state shall suspend the person's license

1 for 1 year for any of the following crimes:

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

4 (b) A violation of section 413 of the Michigan penal code,  
5 1931 PA 328, MCL 750.413.

6 (c) A violation of section 1 of former 1931 PA 214, MCL  
7 752.191, or former section 626c.

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

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

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

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

17 (iv) The vehicle was necessary for the commission of the  
18 felony.

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

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

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

25 (a) Failing to stop and disclose identity at the scene of an  
26 accident resulting in injury in violation of section 617a.

27 (b) A violation of section 601b(2), section 601c(1), section

1 653a(3), section 626 before October 31, 2010, or, beginning October  
2 31, 2010, section 626(2).

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

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

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

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

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

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

22 (6) For a violation of section 414 of the Michigan penal code,  
23 1931 PA 328, MCL 750.414, the secretary of state shall suspend the  
24 person's license as follows:

25 (a) If the person has no prior conviction for that offense  
26 within 7 years, for 90 days.

27 (b) If the person has 1 or more prior convictions for that

1 offense within 7 years, for 1 year.

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

6 (a) Subject to subsection ~~(24)~~, **(25)**, if the person has 1  
7 prior conviction for an offense described in section 624a or 624b  
8 of this act or section 33b(1) of former 1933 (Ex Sess) PA 8, for 90  
9 days. The secretary of state may issue the person a restricted  
10 license after the first 30 days of suspension.

11 (b) Subject to subsection ~~(24)~~, **(25)**, if the person has 2 or  
12 more prior convictions for an offense described in this subsection  
13 or section 33b(1) of former 1933 (Ex Sess) PA 8, for 1 year. The  
14 secretary of state may issue the person a restricted license after  
15 the first 60 days of suspension.

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

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

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

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

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

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

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

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

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

1 first 45 days of suspension.

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

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

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

26 (iii) A retest prompted by the device, if not more than 5  
27 minutes after detecting the retest failure the person delivers a

1 breath sample that the ignition interlock device analyzes as having  
2 an alcohol level of less than 0.025 grams per 210 liters of breath.

3 (i) Beginning October 31, 2010, if an individual violates the  
4 conditions of the restricted license issued under subdivision (g)  
5 or operates or attempts to operate a motor vehicle with a blood  
6 alcohol level of 0.025 grams per 210 liters of breath, the  
7 secretary of state shall impose an additional like period of  
8 suspension and restriction as prescribed under subdivision (g).  
9 This subdivision does not require an additional like period of  
10 suspension and restriction for any of the following:

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

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

23 (iii) Any retest prompted by the device, if not more than 5  
24 minutes after detecting the retest failure the person delivers a  
25 breath sample that the ignition interlock device analyzes as having  
26 an alcohol level of less than 0.025 grams per 210 liters of breath.

27 (9) For a violation of section 367c of the Michigan penal

1 code, 1931 PA 328, MCL 750.367c, the secretary of state shall  
2 suspend the person's license as follows:

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

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

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

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

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

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

26 (14) If the secretary of state receives records of more than 1  
27 conviction of a person resulting from the same incident, a



1 suspension shall be imposed only for the violation to which the  
2 longest period of suspension applies under this section.

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

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

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

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

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

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

25 (i) The person's residence.

26 (ii) The person's work location.

27 (iii) An alcohol or drug education or treatment program as

1 ordered by the court.

2 (iv) The court probation department.

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

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

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

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

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

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

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

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

1 (ii) Section 625m.

2 (iii) Former section 625b.

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

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

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

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

17 (23) Any period of suspension or restriction required under  
18 this section is not subject to appeal to the secretary of state.

19 **(24) THE SECRETARY OF STATE MAY SUSPEND A PERSON'S LICENSE FOR**  
20 **1 YEAR FOR A SECOND OR SUBSEQUENT VIOLATION OF SECTION 682.**

21 **(25)** ~~(24)~~For purposes of subsection (7), "prior conviction"  
22 means either a misdemeanor conviction or a civil infraction  
23 determination for a violation of section 703(1) of the liquor  
24 control code of 1998, 1998 PA 58, MCL 436.1703.

25 Sec. 907. (1) A violation of this act, or a local ordinance  
26 substantially corresponding to a provision of this act, that is  
27 designated a civil infraction shall not be considered a lesser

1 included offense of a criminal offense.

2 (2) If a person is determined under sections 741 to 750 to be  
3 responsible or responsible "with explanation" for a civil  
4 infraction under this act or a local ordinance substantially  
5 corresponding to a provision of this act, the judge or district  
6 court magistrate may order the person to pay a civil fine of not  
7 more than \$100.00 and costs as provided in subsection (4). However,  
8 if the civil infraction was a moving violation that resulted in an  
9 at-fault collision with another vehicle, a person, or any other  
10 object, the civil fine ordered under this section shall be  
11 increased by \$25.00 but the total civil fine shall not exceed  
12 \$100.00. However, for a violation of section 602b, the person shall  
13 be ordered to pay costs as provided in subsection (4) and a civil  
14 fine of \$100.00 for a first offense and \$200.00 for a second or  
15 subsequent offense. For a violation of section 674(1)(s) or a local  
16 ordinance substantially corresponding to section 674(1)(s), the  
17 person shall be ordered to pay costs as provided in subsection (4)  
18 and a civil fine of not less than \$100.00 or more than \$250.00. For  
19 a violation of section 676c, the person shall be ordered to pay  
20 costs as provided in subsection (4) and a civil fine of \$1,000.00.  
21 For a violation of section 328, the civil fine ordered under this  
22 subsection shall be not more than \$50.00. For a violation of  
23 section 710d, the civil fine ordered under this subsection shall  
24 not exceed \$10.00, subject to subsection (12). For a violation of  
25 section 710e, the civil fine and court costs ordered under this  
26 subsection shall be \$25.00. For a violation of section 682 or a  
27 local ordinance substantially corresponding to section 682, the

1 person shall be ordered to pay costs as provided in subsection (4)  
2 and a civil fine of not less than ~~\$100.00~~ **\$250.00** or more than  
3 \$500.00 **FOR A FIRST OFFENSE AND A CIVIL FINE OF NOT LESS THAN**  
4 **\$500.00 OR MORE THAN \$1,000.00 FOR A SECOND OR SUBSEQUENT OFFENSE.**

5 For a violation of section 240, the civil fine ordered under this  
6 subsection shall be \$15.00. For a violation of section 252a(1), the  
7 civil fine ordered under this subsection shall be \$50.00. For a  
8 violation of section 676a(3), the civil fine ordered under this  
9 section shall be not more than \$10.00. For a first violation of  
10 section 319f(1), the civil fine ordered under this section shall be  
11 not less than \$2,500.00 or more than \$2,750.00; for a second or  
12 subsequent violation, the civil fine shall be not less than  
13 \$5,000.00 or more than \$5,500.00. For a violation of section  
14 319g(1)(a), the civil fine ordered under this section shall be not  
15 more than \$10,000.00. For a violation of section 319g(1)(g), the  
16 civil fine ordered under this section shall be not less than  
17 \$2,750.00 or more than \$25,000.00. Permission may be granted for  
18 payment of a civil fine and costs to be made within a specified  
19 period of time or in specified installments, but unless permission  
20 is included in the order or judgment, the civil fine and costs  
21 shall be payable immediately.

22 (3) Except as provided in this subsection, if a person is  
23 determined to be responsible or responsible "with explanation" for  
24 a civil infraction under this act or a local ordinance  
25 substantially corresponding to a provision of this act while  
26 driving a commercial motor vehicle, he or she shall be ordered to  
27 pay costs as provided in subsection (4) and a civil fine of not

1 more than \$250.00.

2 (4) If a civil fine is ordered under subsection (2) or (3),  
3 the judge or district court magistrate shall summarily tax and  
4 determine the costs of the action, which are not limited to the  
5 costs taxable in ordinary civil actions, and may include all  
6 expenses, direct and indirect, to which the plaintiff has been put  
7 in connection with the civil infraction, up to the entry of  
8 judgment. Costs shall not be ordered in excess of \$100.00. A civil  
9 fine ordered under subsection (2) or (3) shall not be waived unless  
10 costs ordered under this subsection are waived. Except as otherwise  
11 provided by law, costs are payable to the general fund of the  
12 plaintiff.

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

18 (6) A district court magistrate shall impose the sanctions  
19 permitted under subsections (2), (3), and (5) only to the extent  
20 expressly authorized by the chief judge or only judge of the  
21 district court district.

22 (7) Each district of the district court and each municipal  
23 court may establish a schedule of civil fines, costs, and  
24 assessments to be imposed for civil infractions that occur within  
25 the respective district or city. If a schedule is established, it  
26 shall be prominently posted and readily available for public  
27 inspection. A schedule need not include all violations that are

1 designated by law or ordinance as civil infractions. A schedule may  
2 exclude cases on the basis of a defendant's prior record of civil  
3 infractions or traffic offenses, or a combination of civil  
4 infractions and traffic offenses.

5 (8) The state court administrator shall annually publish and  
6 distribute to each district and court a recommended range of civil  
7 fines and costs for first-time civil infractions. This  
8 recommendation is not binding upon the courts having jurisdiction  
9 over civil infractions but is intended to act as a normative guide  
10 for judges and district court magistrates and a basis for public  
11 evaluation of disparities in the imposition of civil fines and  
12 costs throughout the state.

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

19 (10) A default in the payment of a civil fine or costs ordered  
20 under subsection (2), (3), or (4) or a justice system assessment  
21 ordered under subsection (13), or an installment of the fine,  
22 costs, or assessment, may be collected by a means authorized for  
23 the enforcement of a judgment under chapter 40 of the revised  
24 judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or  
25 under chapter 60 of the revised judicature act of 1961, 1961 PA  
26 236, MCL 600.6001 to 600.6098.

27 (11) If a person fails to comply with an order or judgment

1 issued under this section within the time prescribed by the court,  
2 the driver's license of that person shall be suspended under  
3 section 321a until full compliance with that order or judgment  
4 occurs. In addition to this suspension, the court may also proceed  
5 under section 908.

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

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

23 (14) If a person has received a citation for a violation of  
24 section 223, the court shall waive any civil fine, costs, and  
25 assessment, upon receipt of certification by a law enforcement  
26 agency that the person, before the appearance date on the citation,  
27 produced a valid registration certificate that was valid on the



1 date the violation of section 223 occurred.

2 (15) If a person has received a citation for a violation of  
3 section 328(1) for failing to produce a certificate of insurance  
4 under section 328(2), the court may waive the fee described in  
5 section 328(3)(c) and shall waive any fine, costs, and any other  
6 fee or assessment otherwise authorized under this act upon receipt  
7 of verification by the court that the person, before the appearance  
8 date on the citation, produced valid proof of insurance that was in  
9 effect at the time the violation of section 328(1) occurred.

10 Insurance obtained subsequent to the time of the violation does not  
11 make the person eligible for a waiver under this subsection.

12 (16) If a person is determined to be responsible or  
13 responsible "with explanation" for a civil infraction under this  
14 act or a local ordinance substantially corresponding to a provision  
15 of this act and the civil infraction arises out of the ownership or  
16 operation of a commercial quadricycle, he or she shall be ordered  
17 to pay costs as provided in subsection (4) and a civil fine of not  
18 more than \$500.00.

19 (17) As used in this section, "moving violation" means an act  
20 or omission prohibited under this act or a local ordinance  
21 substantially corresponding to this act that involves the operation  
22 of a motor vehicle and for which a fine may be assessed.

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