

SENATE BILL NO. 472

August 29, 2019, Introduced by Senators HERTEL, WOJNO, MACDONALD, POLEHANKI, BULLOCK, MCCANN, GEISS, ALEXANDER, MOSS and VANDERWALL and referred to the Committee on Transportation and Infrastructure.

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

1 section, whether the conviction is under a law of this state, a
2 local ordinance substantially corresponding to a law of this state,
3 a law of another state substantially corresponding to a law of this
4 state, or, beginning October 31, 2010, a law of the United States
5 substantially corresponding to a law of this state.

6 (2) The secretary of state shall suspend the person's license
7 for 1 year for any of the following crimes:

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

10 (b) A violation of section 413 of the Michigan penal code,
11 1931 PA 328, MCL 750.413.

12 (c) A violation of section 1 of former 1931 PA 214, ~~MCL~~
13 ~~752.191,~~ or former section 626c.

14 (d) A felony in which a motor vehicle was used. As used in
15 this section, "felony in which a motor vehicle was used" means a
16 felony during the commission of which the person convicted operated
17 a motor vehicle and while operating the vehicle presented real or
18 potential harm to persons or property and 1 or more of the
19 following circumstances existed:

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

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

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

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

25 (e) A violation of section 602a(2) or (3) of this act or
26 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL
27 750.479a.

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

29 (3) The secretary of state shall suspend the person's license

1 for 90 days for any of the following crimes:

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

4 (b) A violation of section 601b(2), section 601c(1), section
5 653a(3), section 626 before October 31, 2010, or, beginning October
6 31, 2010, section 626(2).

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

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

12 (4) The secretary of state shall suspend the person's license
13 for 30 days for malicious destruction resulting from the operation
14 of a vehicle under section 382(1)(a) of the Michigan penal code,
15 1931 PA 328, MCL 750.382.

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

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

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

26 (6) For a violation of section 414 of the Michigan penal code,
27 1931 PA 328, MCL 750.414, the secretary of state shall suspend the
28 person's license as follows:

29 (a) If the person has no prior conviction for that offense

1 within 7 years, for 90 days.

2 (b) If the person has 1 or more prior convictions for that
3 offense within 7 years, for 1 year.

4 (7) For a violation of section 624a or 624b of this act or
5 section 703(1) of the Michigan liquor control code of 1998, 1998 PA
6 58, MCL 436.1703, the secretary of state shall suspend the person's
7 license as follows:

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

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

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

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

27 (b) For 90 days for a violation of section 625(3) if the
28 person has no prior convictions within 7 years. However, if the
29 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
28 first 45 days of suspension.

29 (h) Beginning October 31, 2010, the department shall order a

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

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

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

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

28 (i) Beginning October 31, 2010, if an individual violates the
29 conditions of the restricted license issued under subdivision (g)

1 or operates or attempts to operate a motor vehicle with a blood
2 alcohol level of 0.025 grams per 210 liters of breath, the
3 secretary of state shall impose an additional like period of
4 suspension and restriction as prescribed under subdivision (g).
5 This subdivision does not require an additional like period of
6 suspension and restriction for any of the following:

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

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

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

23 (9) For a violation of section 367c of the Michigan penal
24 code, 1931 PA 328, MCL 750.367c, the secretary of state shall
25 suspend the person's license as follows:

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

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

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

3 (11) For a violation or attempted violation of section 411a(2)
4 of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a
5 school, the secretary of state shall suspend the license of a
6 person 14 years of age or over but less than 21 years of age until
7 3 years after the date of the conviction or juvenile disposition
8 for the violation. The secretary of state may issue the person a
9 restricted license after the first 365 days of suspension.

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

17 (13) Except as provided in subsection (15), a suspension under
18 this section ~~shall~~**must** be imposed notwithstanding a court order
19 unless the court order complies with section 323.

20 (14) If the secretary of state receives records of more than 1
21 conviction of a person resulting from the same incident, a
22 suspension ~~shall~~**must** be imposed only for the violation to which
23 the longest period of suspension applies under this section.

24 (15) The secretary of state may waive a restriction,
25 suspension, or revocation of a person's license imposed under this
26 act if the person submits proof that a court in another state
27 revoked, suspended, or restricted his or her license for a period
28 equal to or greater than the period of a restriction, suspension,
29 or revocation prescribed under this act for the violation and that

1 the revocation, suspension, or restriction was served for the
2 violation, or may grant a restricted license.

3 (16) The secretary of state shall not issue a restricted
4 license to a person whose license is suspended under this section
5 unless a restricted license is authorized under this section and
6 the person is otherwise eligible for a license.

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

10 (18) Except as provided in subsection (17), a restricted
11 license issued under this section ~~shall~~**must** permit the person to
12 whom it is issued to take any driving skills test required by the
13 secretary of state and to operate a vehicle under 1 or more of the
14 following circumstances:

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

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

17 (i) The person's residence.

18 (ii) The person's work location.

19 (iii) An alcohol or drug education or treatment program as
20 ordered by the court.

21 (iv) The court probation department.

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

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

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

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

29 (19) While driving with a restricted license, the person shall

1 carry proof of his or her destination and the hours of any
2 employment, class, or other reason for traveling and shall display
3 that proof upon a peace officer's request.

4 (20) Subject to subsection (22), as used in subsection (8),
5 "prior conviction" means a conviction for any of the following,
6 whether under a law of this state, a local ordinance substantially
7 corresponding to a law of this state, or a law of another state
8 substantially corresponding to a law of this state:

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

11 (i) Section 625, except a violation of section 625(2), or a
12 violation of any prior enactment of section 625 in which the
13 defendant operated a vehicle while under the influence of
14 intoxicating or alcoholic liquor or a controlled substance, or a
15 combination of intoxicating or alcoholic liquor and a controlled
16 substance, or while visibly impaired, or with an unlawful bodily
17 alcohol content.

18 (ii) Section 625m.

19 (iii) Former section 625b.

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

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

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

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

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

7 **(24) The secretary of state may suspend a person's license for**
8 **1 year for a second or subsequent violation of section 682.**

9 **(25)** ~~(24)~~For purposes of subsection (7), "prior conviction"
10 means either a misdemeanor conviction or a civil infraction
11 determination for a violation of section 703(1) of the **Michigan**
12 liquor control code of 1998, 1998 PA 58, MCL 436.1703.

13 Sec. 907. (1) A violation of this act, or a local ordinance
14 substantially corresponding to a provision of this act, that is
15 designated a civil infraction ~~shall not be considered~~**is not** a
16 lesser included offense of a criminal offense.

17 (2) If a person is determined under sections 741 to 750 to be
18 responsible or responsible "with explanation" for a civil
19 infraction under this act or a local ordinance substantially
20 corresponding to a provision of this act, the judge or district
21 court magistrate may order the person to pay a civil fine of not
22 more than \$100.00 and costs as provided in subsection (4). However,
23 if the civil infraction was a moving violation that resulted in an
24 at-fault collision with another vehicle, a person, or any other
25 object, the civil fine ordered under this section ~~shall~~**must** be
26 increased by \$25.00 but the total civil fine ~~shall~~**must** not exceed
27 \$100.00. However, for a violation of section 602b, the person ~~shall~~
28 **must** be ordered to pay costs as provided in subsection (4) and a
29 civil fine of \$100.00 for a first offense and \$200.00 for a second

1 or subsequent offense. For a violation of section 674(1)(s) or a
2 local ordinance substantially corresponding to section 674(1)(s),
3 the person ~~shall~~**must** be ordered to pay costs as provided in
4 subsection (4) and a civil fine of not less than \$100.00 or more
5 than \$250.00. For a violation of section 676c, the person ~~shall~~
6 **must** be ordered to pay costs as provided in subsection (4) and a
7 civil fine of \$1,000.00. For a violation of section 328, the civil
8 fine ordered under this subsection ~~shall be not more than~~**must not**
9 **exceed** \$50.00. For a violation of section 710d, the civil fine
10 ordered under this subsection ~~shall~~**must** not exceed \$10.00, subject
11 to subsection (12). For a violation of section 710e, the civil fine
12 and court costs ordered under this subsection ~~shall~~**must** be \$25.00.
13 For a violation of section 682 or a local ordinance substantially
14 corresponding to section 682, the person ~~shall~~**must** be ordered to
15 pay costs as provided in subsection (4) and a civil fine of not
16 less than ~~\$100.00~~**\$250.00** or more than \$500.00 **for a first offense**
17 **and a civil fine of not less than \$500.00 or more than \$1,000.00**
18 **for a second or subsequent offense.** For a violation of section 240,
19 the civil fine ordered under this subsection ~~shall be~~**is** \$15.00.
20 For a violation of section 252a(1), the civil fine ordered under
21 this subsection ~~shall be~~**is** \$50.00. For a violation of section
22 676a(3), the civil fine ordered under this section ~~shall be~~**must**
23 ~~not more than~~**exceed** \$10.00. For a first violation of section
24 319f(1), the civil fine ordered under this section ~~shall~~**must** be
25 not less than \$2,500.00 or more than \$2,750.00; for a second or
26 subsequent violation, the civil fine ~~shall~~**must** be not less than
27 \$5,000.00 or more than \$5,500.00. For a violation of section
28 319g(1)(a), the civil fine ordered under this section ~~shall~~**must** be
29 not more than \$10,000.00. For a violation of section 319g(1)(g),

1 the civil fine ordered under this section ~~shall~~**must** be not less
2 than \$2,750.00 or more than \$25,000.00. Permission may be granted
3 for payment of a civil fine and costs to be made within a specified
4 period of time or in specified installments, but unless permission
5 is included in the order or judgment, the civil fine and costs
6 ~~shall~~**must** be payable immediately.

7 (3) Except as provided in this subsection, if a person is
8 determined to be responsible or responsible "with explanation" for
9 a civil infraction under this act or a local ordinance
10 substantially corresponding to a provision of this act while
11 driving a commercial motor vehicle, he or she ~~shall~~**must** be ordered
12 to pay costs as provided in subsection (4) and a civil fine of not
13 more than \$250.00.

14 (4) If a civil fine is ordered under subsection (2) or (3),
15 the judge or district court magistrate shall summarily tax and
16 determine the costs of the action, which are not limited to the
17 costs taxable in ordinary civil actions, and may include all
18 expenses, direct and indirect, to which the plaintiff has been put
19 in connection with the civil infraction, up to the entry of
20 judgment. Costs ~~shall~~**must** not be ordered in excess of \$100.00. A
21 civil fine ordered under subsection (2) or (3) ~~shall~~**must** not be
22 waived unless costs ordered under this subsection are waived.
23 Except as otherwise provided by law, costs are payable to the
24 general fund of the plaintiff.

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

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

5 (7) Each district of the district court and each municipal
6 court may establish a schedule of civil fines, costs, and
7 assessments to be imposed for civil infractions that occur within
8 the respective district or city. If a schedule is established, it
9 ~~shall~~**must** be prominently posted and readily available for public
10 inspection. A schedule need not include all violations that are
11 designated by law or ordinance as civil infractions. A schedule may
12 exclude cases on the basis of a defendant's prior record of civil
13 infractions or traffic offenses, or a combination of civil
14 infractions and traffic offenses.

15 (8) The state court administrator shall annually publish and
16 distribute to each district and court a recommended range of civil
17 fines and costs for first-time civil infractions. This
18 recommendation is not binding upon the courts having jurisdiction
19 over civil infractions but is intended to act as a normative guide
20 for judges and district court magistrates and a basis for public
21 evaluation of disparities in the imposition of civil fines and
22 costs throughout the state.

23 (9) If a person has received a civil infraction citation for
24 defective safety equipment on a vehicle under section 683, the
25 court shall waive a civil fine, costs, and assessments upon receipt
26 of certification by a law enforcement agency that repair of the
27 defective equipment was made before the appearance date on the
28 citation.

29 (10) A default in the payment of a civil fine or costs ordered

1 under subsection (2), (3), or (4) or a justice system assessment
2 ordered under subsection (13), or an installment of the fine,
3 costs, or assessment, may be collected by a means authorized for
4 the enforcement of a judgment under chapter 40 of the revised
5 judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or
6 under chapter 60 of the revised judicature act of 1961, 1961 PA
7 236, MCL 600.6001 to 600.6098.

8 (11) If a person fails to comply with an order or judgment
9 issued under this section within the time prescribed by the court,
10 the driver's license of that person ~~shall~~**must** be suspended under
11 section 321a until full compliance with that order or judgment
12 occurs. In addition to this suspension, the court may also proceed
13 under section 908.

14 (12) The court may waive any civil fine, cost, or assessment
15 against a person who received a civil infraction citation for a
16 violation of section 710d if the person, before the appearance date
17 on the citation, supplies the court with evidence of acquisition,
18 purchase, or rental of a child seating system meeting the
19 requirements of section 710d.

20 (13) In addition to any civil fines or costs ordered to be
21 paid under this section, the judge or district court magistrate
22 shall order the defendant to pay a justice system assessment of
23 \$40.00 for each civil infraction determination, except for a
24 parking violation or a violation for which the total fine and costs
25 imposed are \$10.00 or less. Upon payment of the assessment, the
26 clerk of the court shall transmit the assessment collected to the
27 state treasury to be deposited into the justice system fund created
28 in section 181 of the revised judicature act of 1961, 1961 PA 236,
29 MCL 600.181. An assessment levied under this subsection is not a

1 civil fine for purposes of section 909.

2 (14) If a person has received a citation for a violation of
3 section 223, the court shall waive any civil fine, costs, and
4 assessment, upon receipt of certification by a law enforcement
5 agency that the person, before the appearance date on the citation,
6 produced a valid registration certificate that was valid on the
7 date the violation of section 223 occurred.

8 (15) If a person has received a citation for a violation of
9 section 328(1) for failing to produce a certificate of insurance
10 under section 328(2), the court may waive the fee described in
11 section 328(3)(c) and shall waive any fine, costs, and any other
12 fee or assessment otherwise authorized under this act upon receipt
13 of verification by the court that the person, before the appearance
14 date on the citation, produced valid proof of insurance that was in
15 effect at the time the violation of section 328(1) occurred.
16 Insurance obtained subsequent to the time of the violation does not
17 make the person eligible for a waiver under this subsection.

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

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

29 Enacting section 1. This amendatory act takes effect 90 days

1 after the date it is enacted into law.