



HOUSE BILL No. 4811

May 10, 1995, Introduced by Reps. Kukuk, Porreca, Horton, Bush, Weeks, Rocca, Brewer, Green, Hill, Profit, Willard, LeTarte, Palamara, Perricone, Nye, Goschka, McBryde, Jellema, Jamian, Galloway and Ryan and referred to the Committee on Judiciary and Civil Rights.

A bill to amend sections 303, 319, and 602a of Act No. 300 of the Public Acts of 1949, entitled as amended "Michigan vehicle code," section 303 as amended by Act No. 359 of the Public Acts of 1993, section 319 as amended by Act No. 449 of the Public Acts of 1994, and section 602a as amended by Act No. 406 of the Public Acts of 1988, being sections 257.303, 257.319, and 257.602a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 303, 319, and 602a of Act No. 300 of
2 the Public Acts of 1949, section 303 as amended by Act No. 359 of
3 the Public Acts of 1993, section 319 as amended by Act No. 449 of
4 the Public Acts of 1994, and section 602a as amended by Act
5 No. 406 of the Public Acts of 1988, being sections 257.303,

1 257.319, and 257.602a of the Michigan Compiled Laws, are amended
2 to read as follows:

3 Sec. 303. (1) The secretary of state shall not issue a
4 license under this act to any of the following:

5 (a) A person, as an operator, who is less than 18 years of
6 age, except ~~that~~ the secretary of state may issue a license to
7 a person who is not less than 16 years of age and who has satis-
8 factorily passed a driver education course and examination given
9 by a public school or nonpublic school of this or another state
10 offering a course approved by the department of education, or an
11 equivalent course and examination as prescribed in section 811.
12 The secretary of state may issue A RESTRICTED LICENSE to a person
13 not less than 14 years of age ~~a restricted license~~ as provided
14 in this act. This subdivision ~~shall~~ DOES not apply to a person
15 who has ~~been the holder of~~ HELD a valid ~~driver's~~ DRIVER
16 license issued by another state, territory, or possession of the
17 United States or another sovereignty for at least 1 year immedi-
18 ately before application for a ~~driver's~~ DRIVER license under
19 this act.

20 (b) A person, as a chauffeur, who is less than 18 years of
21 age, except ~~that~~ the secretary of state may issue a license to
22 a person who is not less than 16 years of age and who has satis-
23 factorily passed a driver education course and examination given
24 by a public school or nonpublic school of this or another state
25 offering a course approved by the department of education, or an
26 equivalent course and examination as prescribed in section 811.

1 (c) A person whose license has been suspended during the
2 period for which the license was suspended.

3 (d) A person who has been convicted under section 625(4) or
4 (5).

5 (E) A PERSON WHO HAS BEEN CONVICTED UNDER SECTION 479A(6) OF
6 THE MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF 1931,
7 BEING SECTION 750.479A OF THE MICHIGAN COMPILED LAWS.

8 (F) A PERSON WHO HAS BEEN CONVICTED UNDER SECTION 602A(5).

9 (G) ~~(e)~~ A person who is ~~an~~ A habitual violator of the
10 criminal laws relating to operating a vehicle while impaired by
11 or under the influence of intoxicating liquor or a controlled
12 substance or a combination of intoxicating liquor and a con-
13 trolled substance, or with a blood alcohol content of 0.10% or
14 more by weight of alcohol. Convictions of any of the following,
15 whether under a law of this state, a local ordinance substan-
16 tially corresponding to a law of this state, or a law of another
17 state substantially corresponding to a law of this state, ~~shall~~
18 ~~be~~ ARE prima facie evidence that the person is ~~an~~ A habitual
19 violator as described in this subdivision:

20 (i) Any combination of 2 convictions within 7 years for 1 or
21 more of the following:

22 (A) A violation of section 625(1), (4), or (5).

23 (B) A violation of former section 625(1) or (2).

24 (ii) Any combination of 3 convictions within 10 years for 1
25 or more of the following:

26 (A) A violation of section 625(1), (3), (4), or (5).

1 (B) A violation of former section 625(1) or (2) or former
2 section 625b.

3 (H) ~~(f)~~ A person who in the opinion of the secretary of
4 state is afflicted with or suffering from a physical or mental
5 disability or disease ~~which prevents~~ PREVENTING that person
6 from exercising reasonable and ordinary control over a motor
7 vehicle while operating the motor vehicle upon the highways.

8 (I) ~~(g)~~ A person who is unable to understand highway warn-
9 ing or direction signs in the English language.

10 (J) ~~(h)~~ A person who is ~~an~~ A habitually reckless
11 driver. Four convictions of reckless driving under this act or
12 any other law of this state relating to reckless driving or under
13 a local ordinance of this state or a law of another state ~~which~~
14 THAT defines the term "reckless driving" substantially ~~similar~~
15 SIMILARLY to the law of this state ~~shall be~~ ARE prima facie
16 evidence that the person is ~~an~~ A habitually reckless driver.

17 (K) ~~(i)~~ A person who is ~~an~~ A habitual criminal. Two
18 convictions of a felony ~~involving the use of~~ IN WHICH a motor
19 vehicle WAS USED in this or another state shall be prima facie
20 evidence that the person is ~~an~~ A habitual criminal.

21 (L) ~~(j)~~ A person who is unable to pass a knowledge, skill,
22 or ability test administered by the secretary of state in connec-
23 tion with the issuance of an original operator's or chauffeur's
24 license, original motorcycle indorsement, or an original or
25 renewal of a vehicle group designation or vehicle indorsement.

26 (M) ~~(k)~~ A person who has been convicted OF, received a
27 probate court disposition FOR, or been determined responsible for

1 2 or more moving violations under a law of this state, a local
2 ordinance substantially corresponding to a law of this state, or
3 a law of another state substantially corresponding to a law of
4 this state, within the preceding 3 years ~~—~~ if the violations
5 occurred ~~prior to the issuance of~~ BEFORE an original license
6 WAS ISSUED to the person in this STATE or another state.

7 (N) ~~(L)~~ A nonresident.

8 (O) ~~(M)~~ A person not licensed under this act who has been
9 convicted of or received a probate court disposition for commit-
10 ting a crime described in section 319, 324, or 904. A person
11 shall be denied a license under this subdivision for the length
12 of time that corresponds to the period of the licensing sanction
13 that would have been imposed under section 319, 324, or 904 if
14 the person had been licensed at the time of the violation.

15 (P) ~~(N)~~ A person not licensed under this act who has been
16 convicted of or received a probate court disposition for commit-
17 ting a crime described in section 319e. A person shall be denied
18 a license under this subdivision for the length of time ~~that~~
19 ~~corresponds~~ CORRESPONDING to the period of the licensing sanc-
20 tion that would have been imposed under section 319e if the
21 person had been licensed at the time of the violation.

22 (2) Upon receipt of the appropriate records of conviction,
23 the secretary of state shall revoke the operator's or chauffeur's
24 license of a person having any of the following convictions,
25 whether under a law of this state, a local ordinance substan-
26 tially corresponding to a law of this state, or a law of another
27 state substantially corresponding to a law of this state:

1 (a) Four convictions of reckless driving within 7 years.

2 (b) Two convictions of a felony ~~involving the use of~~ IN
3 WHICH a motor vehicle WAS USED within 7 years.

4 (c) Any combination of 2 convictions within 7 years for ~~+~~
5 ~~or more~~ ANY of the following:

6 (i) A violation of section 625(1).

7 (ii) A violation of former section 625(1) or (2).

8 (iii) A violation of section 625(4) or (5).

9 (d) One conviction under section 625(4) or (5).

10 (e) Any combination of 3 convictions within 10 years for ~~+~~
11 ~~or more~~ ANY of the following:

12 (i) A violation of section 625(1), (3), (4), or (5).

13 (ii) A violation of former section 625(1) or (2) or former
14 section 625b.

15 (F) ONE CONVICTION UNDER SECTION 479A(6) OF THE MICHIGAN
16 PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTION
17 750.479A OF THE MICHIGAN COMPILED LAWS.

18 (G) ONE CONVICTION UNDER SECTION 602A(5).

19 (3) The secretary of state shall revoke a license under sub-
20 section (2) notwithstanding a court order issued under section
21 625, section 625b, former section 625(1) or (2), or former sec-
22 tion 625b, or a local ordinance substantially corresponding to
23 section 625, section 625b, former section 625(1) or (2), or
24 former section 625b.

25 (4) The secretary of state shall not issue a license under
26 this act to a person whose license has been revoked under this

1 act or denied under subsection (1)(d), (e), (h), or (i) until
2 both of the following occur:

3 (a) The later of the following:

4 (i) The expiration of not less than 1 year after the license
5 was revoked or denied.

6 (ii) The expiration of not less than 5 years after the date
7 of a subsequent revocation or denial occurring within 7 years
8 after the date of any prior revocation or denial.

9 (b) The person meets the requirements of the department.

10 (5) Multiple convictions, civil infraction determinations,
11 or probate court dispositions resulting from the same incident
12 shall be treated as a single violation for purposes of denial or
13 revocation of a license under this section.

14 Sec. 319. (1) The secretary of state shall immediately sus-
15 pend a person's license for not less than 90 days or more than 2
16 years upon receiving a record of the person's conviction for any
17 of the following crimes or attempts to commit any of the follow-
18 ing crimes, whether the conviction is under a law of this state,
19 a local ordinance substantially corresponding to a law of this
20 state, or a law of another state substantially corresponding to a
21 law of this state:

22 (a) Fraudulently altering or forging documents pertaining to
23 motor vehicles, in violation of section 257.

24 (b) Perjury or making a false certification to the secretary
25 of state under any law requiring the registration of a motor
26 vehicle or regulating the operation of a motor vehicle on a
27 highway.

1 (c) A violation of section 413 or 414 of the Michigan penal
2 code, Act No. 328 of the Public Acts of 1931, being sections
3 750.413 and 750.414 of the Michigan Compiled Laws, or a violation
4 of section 1 of Act No. 214 of the Public Acts of 1931, being
5 section 752.191 of the Michigan Compiled Laws.

6 (d) A conviction for reckless driving in violation of sec-
7 tion 626.

8 (e) Failing to stop and disclose identity at the scene of an
9 accident resulting in death or injury in violation of section 617
10 or 617a.

11 (f) A felony in which a motor vehicle was used. As used in
12 this section, "felony in which a motor vehicle was used" means a
13 felony during the commission of which the person convicted oper-
14 ated a motor vehicle and while operating the vehicle presented
15 real or potential harm to persons or property and 1 or more of
16 the following circumstances existed:

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

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

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

21 (iv) The vehicle was necessary for the commission of the
22 felony.

23 (2) The secretary of state shall suspend the license of a
24 person convicted of malicious destruction resulting from the
25 operation of a motor vehicle under section 382 of the Michigan
26 penal code, Act No. 328 of the Public Acts of 1931, as amended,

1 being section 750.382 of the Michigan Compiled Laws, for not more
2 than 1 year as ordered by the court as part of the sentence.

3 (3) The secretary of state shall immediately suspend a
4 person's license for the period specified in the abstract of con-
5 viction upon receiving the person's license and abstract of con-
6 viction forwarded to the secretary of state pursuant to section
7 367c of the Michigan penal code, Act No. 328 of the Public Acts
8 of 1931, being section 750.367c of the Michigan Compiled Laws.

9 (4) Except as otherwise provided in subsection (9), if a
10 court has not ordered a suspension of a person's license under
11 this act for a violation described in subdivision (a), (b), (c),
12 or (d) for a period equal to or greater than the period of a sus-
13 pension prescribed under subdivision (a), (b), (c), or (d) for
14 the violation, the secretary of state shall suspend the license
15 as follows, notwithstanding a court order issued under
16 section 625(1), (3), or (6), section 625b, former section 625(1)
17 or (2), or former section 625b or a local ordinance substantially
18 corresponding to section 625(1), (3), or (6), section 625b,
19 former section 625(1) or (2), or former section 625b:

20 (a) For not less than 90 days or more than 1 year upon
21 receiving a record of the person's conviction for a violation of
22 section 625(3), a local ordinance substantially corresponding to
23 section 625(3), or a law of another state substantially corre-
24 sponding to section 625(3), if the person has no prior convic-
25 tions within 7 years for a violation of section 625(1), (3), (4),
26 or (5), former section 625(1) or (2), or former section 625b, a
27 local ordinance substantially corresponding to section 625(1) or

1 (3), former section 625(1) or (2), or former section 625b, or a
2 law of another state substantially corresponding to section
3 625(1), (3), (4), or (5), former section 625(1) or (2), or former
4 section 625b. However, if the person is convicted of a violation
5 of section 625(3), a local ordinance substantially corresponding
6 to section 625(3), or a law of another state substantially corre-
7 sponding to section 625(3) for operating a vehicle when, due to
8 the consumption of a controlled substance or a combination of
9 intoxicating liquor and a controlled substance, the person's
10 ability to operate the vehicle was visibly impaired, the secre-
11 tary of state shall suspend the person's license under this sub-
12 division for a period of not less than 6 months or more than 1
13 year.

14 (b) For not less than 6 months or more than 2 years upon
15 receiving a record of the person's conviction if the person has
16 the following convictions, whether under the law of this state, a
17 local ordinance substantially corresponding to a law of this
18 state, or a law of another state substantially corresponding to a
19 law of this state:

20 (i) One conviction under section 625(1) or former section
21 625(1) or (2).

22 (ii) Any combination of 2 convictions under section 625(3)
23 or former section 625b within a 7-year period.

24 (iii) One conviction under section 625(1) or former section
25 625(1) or (2) and 1 conviction under section 625(3) or former
26 section 625b within a 7-year period.

1 (iv) One conviction under section 625(4) or (5) followed by
2 1 conviction under section 625(3) within a 7-year period.

3 (c) For not less than 30 days or more than 90 days upon
4 receiving a record of the person's conviction for a violation of
5 section 625(6), a local ordinance substantially corresponding to
6 section 625(6), or a law of another state substantially corre-
7 sponding to section 625(6), if the person has no prior convic-
8 tions within 7 years for a violation of section 625(1), (3), (4),
9 (5), or (6), former section 625(1) or (2), or former section
10 625b, a local ordinance substantially corresponding to section
11 625(1), (3), or (6), former section 625(1) or (2), or former sec-
12 tion 625b, or a law of another state substantially corresponding
13 to section 625(1), (3), (4), (5), or (6), former section 625(1)
14 or (2), or former section 625b.

15 (d) For not less than 90 days or more than 1 year upon
16 receiving a record of the person's conviction for a violation of
17 section 625(6), a local ordinance substantially corresponding to
18 section 625(6), or a law of another state substantially corre-
19 sponding to section 625(6), if the person has 1 or more prior
20 convictions within 7 years for a violation of section 625(1),
21 (3), (4), (5), or (6), former section 625(1) or (2), or former
22 section 625b, a local ordinance substantially corresponding to
23 section 625(1), (3), or (6), former section 625(1) or (2), or
24 former section 625b, or a law of another state substantially cor-
25 responding to section 625(1), (3), (4), (5), or (6), former sec-
26 tion 625(1) or (2), or former section 625b.

1 (5) Upon receiving a certificate of conviction pursuant to
2 section 33b(3) of the Michigan liquor control act, Act No. 8 of
3 the Public Acts of the Extra Session of 1933, being section
4 436.33b of the Michigan Compiled Laws, or a local ordinance or
5 law of another state substantially corresponding to section
6 33b(3) of Act No. 8 of the Public Acts of the Extra Session of
7 1933, the secretary of state shall suspend pursuant to court
8 order the person's operator's or chauffeur's license for
9 90 days. A suspension under this subsection shall be in addition
10 to any other suspension of the person's license.

11 (6) Upon receiving the record of a person's conviction for a
12 violation of section ~~602a~~ 602A(1), (3), OR (4) of this act or
13 section 479a(1), (4), or (5) of Act No. 328 of the Public Acts of
14 1931, being section 750.479a of the Michigan Compiled Laws, the
15 secretary of state immediately shall suspend the person's license
16 for the period ordered by the court as part of the sentence or
17 disposition.

18 (7) Upon the receipt of a civil infraction determination or
19 probate court order of disposition for a violation of section
20 33b(1) of Act No. 8 of the Public Acts of the Extra Session of
21 1933, being section 436.33b of the Michigan Compiled Laws, and
22 section 624b and, notwithstanding any court order to the con-
23 trary, the secretary of state shall suspend the person's
24 operator's or chauffeur's license for the period of time
25 described in section 33b(5) of Act No. 8 of the Public Acts of
26 the Extra Session of 1933 or section 624b and, if applicable,
27 issue a restricted license as ordered by the court in the manner

1 provided for in section 33b(7) or section 624b. In the case of a
2 person who does not possess an operator or chauffeur license, the
3 secretary of state shall deny the application for an operator or
4 chauffeur license for the applicable suspension period.

5 (8) Except as provided in subsection (10), a suspension pur-
6 suant to this section shall be imposed notwithstanding a court
7 order issued under section 625(1), (3), (4), (5), or (6) or sec-
8 tion 625b or a local ordinance substantially corresponding to
9 section 625(1), (3), or (6) or section 625b.

10 (9) If the secretary of state receives records of more than
11 1 conviction of a person resulting from the same incident, a sus-
12 pension shall be imposed only for the violation to which the
13 longest period of suspension applies under this section.

14 (10) The secretary of state may waive a suspension of a
15 person's license imposed under subsection (4)(a), (b), (c), or
16 (d) if the person submits proof that a court in another state
17 revoked, suspended, or restricted his or her license for a period
18 equal to or greater than the period of a suspension prescribed
19 under subsection (4)(a), (b), (c), or (d) for the violation and
20 that the revocation, suspension, or restriction was served for
21 the violation, or may grant a restricted license.

22 Sec. 602a. (1) A driver of a motor vehicle who is given by
23 hand, voice, emergency light, or siren a visual or audible signal
24 by a police or conservation officer, acting in the lawful per-
25 formance of his or her duty, directing the driver to bring his or
26 her motor vehicle to a stop, and who willfully fails to obey that
27 direction by increasing the speed of the motor vehicle,

1 extinguishing the lights of the motor vehicle, or otherwise
2 attempting to flee or elude the officer, is guilty of a misde-
3 meanor, and shall be punished by imprisonment for not less than
4 30 days nor more than 1 year, and, in addition, may be fined not
5 more than \$1,000.00 and may be ordered to pay the costs of the
6 prosecution. The court may depart from the minimum term of
7 imprisonment authorized under this subsection if the court finds
8 on the record that there are substantial and compelling reasons
9 to do so and if the court imposes community service as a part of
10 the sentence.

11 (2) Subsection (1) does not apply unless the police or con-
12 servation officer giving the signal is in uniform, and the vehi-
13 cle driven by the police or conservation officer is identified as
14 an official police or department of natural resources vehicle.

15 (3) A person who violates subsection (1) within 5 years of a
16 prior conviction of a violation of subsection (1) is guilty of a
17 felony, and shall be punished by imprisonment for ~~a mandatory~~
18 ~~minimum term of~~ not less than 1 year ~~and a maximum term of not~~
19 OR more than 4 years, and by a fine of not more than \$10,000.00,
20 together with the costs of the prosecution.

21 (4) The driver of a motor vehicle who attempts to flee or
22 elude a police or conservation officer in violation of subsection
23 (1) and while attempting to so flee or elude causes serious
24 bodily injury to a person, is guilty of a felony, and shall be
25 punished by imprisonment for ~~a minimum term of~~ not less than 1
26 year ~~and a maximum term of not~~ OR more than 4 years, and by a
27 fine of not more than \$10,000.00, together with the costs of the

1 prosecution. The court may depart from the minimum term of
2 imprisonment authorized under this subsection if the court finds
3 on the record that there are substantial and compelling reasons
4 to do so and if the court imposes community service as a part of
5 the sentence.

6 (5) THE DRIVER OF A MOTOR VEHICLE WHO ATTEMPTS TO FLEE OR
7 ELUDE A POLICE OR CONSERVATION OFFICER IN VIOLATION OF SUBSECTION
8 (1) AND WHILE ATTEMPTING TO SO FLEE OR ELUDE CAUSES DEATH TO A
9 PERSON IS GUILTY OF A FELONY AND SHALL BE PUNISHED BY IMPRISON-
10 MENT FOR NOT LESS THAN 4 YEARS OR MORE THAN 15 YEARS AND BY A
11 FINE OF NOT MORE THAN \$15,000.00, TOGETHER WITH THE COSTS OF THE
12 PROSECUTION. THE COURT MAY DEPART FROM THE MINIMUM TERM OF
13 IMPRISONMENT AUTHORIZED UNDER THIS SUBSECTION IF THE COURT FINDS
14 ON THE RECORD THAT THERE ARE SUBSTANTIAL AND COMPELLING REASONS
15 TO DO SO AND IF THE COURT IMPOSES COMMUNITY SERVICE AS A PART OF
16 THE SENTENCE.

17 (6) ~~(5)~~ As part of the sentence for a violation of
18 subsection (1), (3), or (4), the court shall order the secretary
19 of state to suspend the person's operator's or chauffeur's
20 license for a period of 1 year. The person shall not be eligible
21 to receive a restricted license pursuant to section 323 or 323a
22 during the first 6 months of the period of suspension. If a term
23 of imprisonment is served as a part of the sentence, the period
24 of suspension of the person's license shall begin after the com-
25 pletion of the term of imprisonment.

26 (7) AS PART OF THE SENTENCE FOR A VIOLATION OF
27 SUBSECTION (5), THE COURT SHALL ORDER THE SECRETARY OF STATE TO

1 REVOKE THE PERSON'S OPERATOR'S OR CHAUFFEUR'S LICENSE. IF A TERM
2 OF IMPRISONMENT IS SERVED AS A PART OF THE SENTENCE, THE PERIOD
3 OF REVOCATION OF THE PERSON'S LICENSE SHALL BEGIN AFTER THE COM-
4 PLETION OF THE TERM OF IMPRISONMENT.

5 (8) ~~(6)~~ As used in this section, "serious bodily injury"
6 means serious impairment of a body function or permanent serious
7 disfigurement.

8 Section 2. This amendatory act shall not take effect unless
9 Senate Bill No. _____ or House Bill No. 4812 (request
10 no. 04369'95) of the 88th Legislature is enacted into law.