

SUBSTITUTE FOR
HOUSE BILL NO. 5123

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 625n and 904 (MCL 257.625n and 257.904),
section 625n as added by 1996 PA 491 and section 904 as amended
by 1994 PA 450.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 625n. (1) Except as otherwise provided in this section
2 and in addition to any other penalty provided for in this act,
3 the judgment of sentence for a conviction for a violation of
4 section 625(1), a violation of section 625(3) described in sec-
5 tion 625(9)(b) or (c), ~~or~~ a violation of section 625(4) or (5),
6 OR A VIOLATION OF SECTION 904(4) OR (6) may require 1 of the fol-
7 lowing with regard to the vehicle used in the offense if the
8 defendant owns the vehicle in whole or in part or leases the
9 vehicle:

1 (a) Forfeiture of the vehicle if the defendant owns the
2 vehicle in whole or in part.

3 (b) Return of the vehicle to the lessor if the defendant
4 leases the vehicle.

5 (2) The vehicle may be seized pursuant to an order of sei-
6 zure issued by the court having jurisdiction upon a showing of
7 probable cause that the vehicle is subject to forfeiture or
8 return to the lessor.

9 (3) The forfeiture of a vehicle is subject to the interest
10 of the holder of a security interest who did not have prior
11 knowledge of or consent to the violation.

12 (4) Within 3 days after the defendant's conviction for a
13 violation described in subsection (1), the court shall notify the
14 defendant, his or her attorney, and the prosecuting attorney if
15 the court intends to consider imposing a sanction under this
16 section. Within 3 days after this notice, the prosecuting attor-
17 ney shall give notice to all owners of the vehicle and any person
18 holding a security interest in the vehicle that the court may
19 require forfeiture or return of the vehicle.

20 (5) If a vehicle is seized before disposition of the crimi-
21 nal proceedings, a defendant who is an owner or lessee of the
22 vehicle may move the court having jurisdiction over the proceed-
23 ings to require the seizing agency to file a lien against the
24 vehicle and to return the vehicle to the owner or lessee pending
25 disposition of the criminal proceedings. The court shall hear
26 the motion within 7 days after the motion is filed. If the
27 defendant establishes at the hearing that he or she holds the

1 legal title of the vehicle or that he or she has a leasehold
2 interest and that it is necessary for him or her or a member of
3 his or her family to use the vehicle pending the outcome of the
4 forfeiture action, the court may order the seizing agency to
5 return the vehicle to the owner or lessee. If the court orders
6 the return of the vehicle to the owner or lessee, the court shall
7 order the seizing agency to file a lien against the vehicle.

8 (6) Within 14 days after notice by the prosecuting attorney
9 is given under subsection (4), an owner, lessee, or holder of a
10 security interest may file a claim of interest in the vehicle.
11 Within 21 days after the expiration of the period for filing
12 claims, but before sentencing, the court shall hold a hearing to
13 determine the legitimacy of any claim, the extent of any
14 co-owner's equity interest, and the liability of the defendant to
15 any co-lessee.

16 (7) If a vehicle is forfeited under this section, the unit
17 of government that seized the vehicle shall sell the vehicle and
18 dispose of the proceeds in the following order of priority:

19 (a) Pay any outstanding security interest of a secured party
20 who did not have prior knowledge of or consent to the commission
21 of the violation.

22 (b) Pay the equity interest of a co-owner who did not have
23 prior knowledge of or consent to the commission of the
24 violation.

25 (c) Satisfy any order of restitution entered in the prosecu-
26 tion for the violation.

HB5123, As Passed House, June 18, 1998

House Bill No. 5123

4

1 (d) Pay the claim of each person who shows that he or she is
2 a victim of the violation to the extent that the claim is not
3 covered by an order of restitution.

4 (e) Pay any outstanding lien against the property that has
5 been imposed by a governmental unit.

6 (f) Pay the proper expenses of the proceedings for forfei-
7 ture and sale, including, but not limited to, expenses incurred
8 during the seizure process and expenses for maintaining custody
9 of the property, advertising, and court costs.

10 (g) The balance remaining after the payment of items (a)
11 through (f) shall be distributed by the court having jurisdiction
12 over the forfeiture proceedings to the unit or units of govern-
13 ment substantially involved in effecting the forfeiture.
14 Seventy-five percent of the money received by a unit of govern-
15 ment under this subdivision shall be used to enhance enforcement
16 of the criminal laws and 25% of the money shall be used to imple-
17 ment the crime victim's rights act, ~~Act No. 87 of the Public~~
18 ~~Acts of 1985, being sections 780.751 to 780.834 of the Michigan~~
19 ~~Compiled Laws~~ 1985 PA 87, MCL 780.751 TO 780.834. A unit of
20 government receiving money under this subdivision shall report
21 annually to the department of management and budget the amount of
22 money received under this subdivision that was used to enhance
23 enforcement of the criminal laws and the amount that was used to
24 implement the crime victim's rights act, 1985 PA 87, MCL 780.751
25 TO 780.834.

1 (8) The court may order the defendant to pay to a co-lessee
2 any liability determined under subsection (6). The order may be
3 enforced in the same manner as a civil judgment.

4 (9) The return of a vehicle to the lessor under this section
5 does not affect or impair the lessor's rights or the defendant's
6 obligations under the lease.

7 (10) A person who knowingly conceals, sells, gives away, or
8 otherwise transfers or disposes of a vehicle with the intent to
9 avoid forfeiture or return of the vehicle to the lessor under
10 this section is guilty of a felony punishable by imprisonment for
11 not more than 4 years or a fine of not more than \$2,000.00, or
12 both.

13 Sec. 904. (1) A person whose operator's or chauffeur's
14 license ~~or registration certificate~~ has been suspended or
15 revoked and who has been notified as provided in section 212 of
16 that suspension or revocation, whose application for license has
17 been denied, or who has never applied for a license, shall not
18 operate a motor vehicle upon a highway or other place open to the
19 general public or generally accessible to motor vehicles, includ-
20 ing an area designated for the parking of motor vehicles, within
21 this state.

22 (2) A person shall not knowingly permit a motor vehicle
23 owned by the person to be operated upon a highway or other place
24 open to the general public or generally accessible to motor vehi-
25 cles, including an area designated for the parking of vehicles,
26 within this state by a person whose license ~~or registration~~
27 ~~certificate~~ is suspended or revoked, whose application for

1 license has been denied, or who has never applied for a license,
2 except as permitted under this act.

3 (3) ~~A~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A
4 person who violates ~~this~~ subsection (1) OR (2) is guilty of a
5 misdemeanor punishable as follows:

6 (a) For a first violation, by imprisonment for not more than
7 90 days or a fine of not more than \$500.00, or both. Unless the
8 vehicle was stolen or used with the permission of a person who
9 did not knowingly permit an unlicensed driver to operate the
10 vehicle, the registration plates of the vehicle shall be
11 ~~cancelled~~ CANCELED by the secretary of state upon notification
12 by a court.

13 (b) For a second or subsequent violation, by imprisonment
14 for not more than 1 year or a fine of not more than \$1,000.00, or
15 both. Unless the vehicle was stolen, the registration plates of
16 the vehicle shall be ~~cancelled~~ CANCELED by the secretary of
17 state upon notification by a court.

18 (4) A PERSON WHO VIOLATES SUBSECTION (1) AND WHO, BY OPERA-
19 TION OF A MOTOR VEHICLE, CAUSES THE DEATH OF ANOTHER PERSON [
20] IS GUILTY OF A
21 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 15 YEARS OR A
22 FINE OF NOT MORE THAN \$5,000.00, OR BOTH. THIS SUBSECTION DOES
23 NOT APPLY TO A PERSON WHOSE OPERATOR'S OR CHAUFFEUR'S LICENSE WAS
24 SUSPENDED BECAUSE THAT PERSON FAILED TO ANSWER A CITATION PURSU-
25 ANT TO SECTION 321A OR HAS FAILED TO COMPLY WITH AN ORDER OR
26 JUDGMENT ISSUED PURSUANT TO SECTION 907.

HB5123, As Passed House, June 18, 1998

Sub. H.B. 5123 (H-2) as amended June 16, 1998

7

1 (5) IN ADDITION TO BEING SUBJECT TO ANY OTHER PENALTY
2 PROVIDED FOR IN THIS ACT, [IF A PERSON IS CONVICTED UNDER
3 SUBSECTION (4), THE COURT MAY ORDER] 1 OF THE FOLLOWING IN THE
MANNER PRESCRIBED IN
4 SECTION 625N WITH REGARD TO THE VEHICLE USED IN THE OFFENSE IF
5 THE PERSON OWNS THE VEHICLE, IN WHOLE OR IN PART, OR LEASES THE
6 VEHICLE:

7 (A) FORFEITURE OF THE VEHICLE IF THE OPERATOR OWNS THE VEHI-
8 CLE IN WHOLE OR IN PART.

9 (B) RETURN OF THE VEHICLE TO THE LESSOR IF THE OPERATOR
10 LEASES THE VEHICLE.

11 (6) IF A PERSON PERMITTED TO OPERATE A MOTOR VEHICLE IN VIO-
12 LATION OF SUBSECTION (2) CAUSES THE DEATH OF ANOTHER PERSON BY
13 OPERATION OF THAT MOTOR VEHICLE [
14], THE PERSON KNOWINGLY PERMITTING THE
15 OPERATION OF THAT MOTOR VEHICLE IS GUILTY OF A FELONY PUNISHABLE
16 BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS, OR A FINE OF NOT MORE
17 THAN \$1,000.00, OR BOTH. [IF A PERSON, LIMITED PARTNERSHIP,
18 PARTNERSHIP, OR CORPORATION IS FOUND GUILTY OF VIOLATING THIS
19 SUBSECTION, THE COURT MAY ORDER 1 OF THE PENALTIES DESCRIBED IN]
SUBSECTION (5) IN THE MANNER PRESCRIBED
20 IN SECTION 625N.

(7) ~~-(2)-~~ Upon receiving a record of a person's conviction for unlawful operation of a motor vehicle while the person's license is suspended or revoked or of a person's conviction or civil infraction determination for a moving violation of the vehicle laws of this state or a political subdivision of this state while the person's license is suspended or revoked, the secretary of state immediately shall extend the period of the

1 first suspension or revocation for an additional like period.

2 This subsection applies only if the violation occurs during a
3 suspension of definite length or if the violation occurs before
4 the person is approved for a license following a revocation.

5 (8) ~~-(3)-~~ Upon receiving a record of the conviction, bond
6 forfeiture, or a civil infraction determination of a person for
7 unlawful operation of a motor vehicle requiring a ~~class 1, class~~
8 ~~2, or class 3 indorsement or~~ vehicle group designation while the
9 ~~indorsement or~~ designation is suspended pursuant to section
10 319a or 319b, or revoked, the secretary of state immediately
11 shall extend the period of suspension or revocation for an addi-
12 tional like period. This subsection applies only if the viola-
13 tion occurs during a suspension of definite length, if the viola-
14 tion occurs before the person is approved for a license following
15 a revocation, or if the person operates a commercial vehicle
16 while disqualified under the commercial motor vehicle safety act
17 of 1986, title XII of Public Law 99-570, 100 Stat. 3207-170.

18 (9) ~~-(4)-~~ If the secretary of state receives records of more
19 than 1 conviction or civil infraction determination resulting
20 from the same incident, all of the convictions or civil infrac-
21 tion determinations shall be treated as a single violation for
22 purposes of extending the period of suspension or revocation
23 under subsection ~~-(2)- or -(3)-~~ (7) OR (8).

24 (10) ~~-(5)-~~ Before a person is arraigned before a district
25 court magistrate or judge on a charge of violating this section,
26 the arresting officer shall obtain the person's driving record
27 from the secretary of state and shall furnish the record to the

1 court. The driving record of the person may be obtained from the
2 secretary of state's computer information network.

3 (11) ~~-(6)-~~ This section does not apply to a person who oper-
4 ates a vehicle solely for the purpose of protecting human life or
5 property if the life or property is endangered and summoning
6 prompt aid is essential.

7 (12) ~~-(7)-~~ A person whose vehicle group designation is sus-
8 pended or revoked and who has been notified as provided in sec-
9 tion 212 of that suspension or revocation, or whose application
10 for a vehicle group designation has been denied as provided in
11 this act, or who has never applied for a vehicle group designa-
12 tion and who operates a commercial motor vehicle within this
13 state, except as permitted under this act, while any of those
14 conditions exist is guilty of a misdemeanor punishable, except as
15 otherwise provided in this section, by imprisonment for not less
16 than 3 days or more than 90 days or a fine of not more than
17 \$100.00, or both.

18 Enacting section 1. This amendatory act takes effect
19 September 1, 1998.