

# HOUSE BILL No. 4241

February 6, 1997, Introduced by Rep. Kukuk and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 303, 319, and 602a (MCL 257.303, 257.319, and 257.602a), section 303 as amended by 1996 PA 387, section 319 as amended by 1994 PA 449, and section 602a as amended by 1988 PA 406.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

3       (a) A person, as an operator, who is less than 18 years of  
4 age, except as otherwise provided in this act.

5       (b) A person, as a chauffeur, who is less than 18 years of  
6 age, except as otherwise provided in this act.

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

1 (d) A person who has been convicted of or received a probate  
2 court disposition for A VIOLATION OF section 625(4) or (5).

3 (e) A person who has been convicted of or received a probate  
4 court disposition for negligent homicide, manslaughter, or murder  
5 resulting from the operation of a motor vehicle.

6 (f) A person who is an habitual violator of the criminal  
7 laws relating to operating a vehicle while impaired by or under  
8 the influence of intoxicating liquor or a controlled substance or  
9 a combination of intoxicating liquor and a controlled substance,  
10 or with an alcohol content of 0.10 grams or more per 100 millili-  
11 ters of blood, per 210 liters of breath, or per 67 milliliters of  
12 urine. Convictions of any of the following, whether under a law  
13 of this state, a local ordinance substantially corresponding to a  
14 law of this state, or a law of another state substantially corre-  
15 sponding to a law of this state, are prima facie evidence that  
16 the person is an habitual violator as described in this  
17 subdivision:

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

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

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

22 (ii) Any combination of 3 convictions within 10 years for 1  
23 or more of the following if any of the convictions resulted from  
24 ~~an arrest~~ A VIOLATION COMMITTED on or after January 1, 1992:

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

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

1 (g) A person who in the opinion of the secretary of state is  
2 afflicted with or suffering from a physical or mental disability  
3 or disease preventing that person from exercising reasonable and  
4 ordinary control over a motor vehicle while operating the motor  
5 vehicle upon the highways.

6 (h) A person who is unable to understand highway warning or  
7 direction signs in the English language.

8 (i) A person who is an habitually reckless driver. Two con-  
9 victions within 7 years of reckless driving under this act or any  
10 other law of this state relating to reckless driving or under a  
11 local ordinance of this state or a law of another state that  
12 defines the term "reckless driving" substantially similarly to  
13 the law of this state are prima facie evidence that the person is  
14 an habitually reckless driver.

15 (j) A person who is an habitual criminal. Two convictions  
16 of a felony in which a motor vehicle was used in this or another  
17 state are prima facie evidence that the person is an habitual  
18 criminal.

19 (k) A person who is unable to pass a knowledge, skill, or  
20 ability test administered by the secretary of state in connection  
21 with the issuance of an original operator's or chauffeur's  
22 license, original motorcycle indorsement, or an original or  
23 renewal of a vehicle group designation or vehicle indorsement.

24 (l) A person who has been convicted of, has received a pro-  
25 bate court disposition for, or has been determined responsible  
26 for 2 or more moving violations under a law of this state, a  
27 local ordinance substantially corresponding to a law of this

1 state, or a law of another state substantially corresponding to a  
2 law of this state, within the preceding 3 years, if the viola-  
3 tions occurred before issuance of an original license to the  
4 person in this or another state.

5 (m) A nonresident including a foreign exchange student.

6 (n) A person not licensed under this act who has been con-  
7 victed of, has received a probate court disposition for, or has  
8 been determined responsible for a crime or civil infraction  
9 described in section 319, 324, or 904. A person shall be denied  
10 a license under this subdivision for the length of time corre-  
11 sponding to the period of the licensing sanction that would have  
12 been imposed under section 319, 324, or 904 if the person had  
13 been licensed at the time of the violation.

14 (o) A person not licensed under this act who has been con-  
15 victed of or received a probate court disposition for committing  
16 a crime described in section 319e. A person shall be denied a  
17 license under this subdivision for the length of time that corre-  
18 sponds to the period of the licensing sanction that would have  
19 been imposed under section 319e if the person had been licensed  
20 at the time of the violation.

21 (p) A person not licensed under this act who is determined  
22 to have violated section 33b(1) of the Michigan ~~Liquor Control~~  
23 ~~Act, Act No. 8 of the Public Acts of the Extra Session of 1933,~~  
24 ~~being section 436.33b of the Michigan Compiled Laws, or section~~  
25 ~~624b- LIQUOR CONTROL ACT, 1933 (EX SESS) PA 8, MCL 436.33B.~~ The  
26 person shall be denied a license under this subdivision for a  
27 period of time that corresponds to the period of the licensing

1 sanction that would have been imposed under those sections had  
2 the person been licensed at the time of the violation.

3 (2) Upon receipt of the appropriate records of conviction,  
4 the secretary of state shall revoke the operator's or chauffeur's  
5 license of a person having any of the following, whether under a  
6 law of this state, a local ordinance substantially corresponding  
7 to a law of this state, or a law of another state substantially  
8 corresponding to a law of this state:

9 (a) Two convictions of reckless driving in violation of sec-  
10 tion 626 within 7 years.

11 (b) Two convictions of a felony in which a motor vehicle was  
12 used within 7 years.

13 (c) Any combination of 2 convictions within 7 years for any  
14 of the following:

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

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

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

18 (iv) Negligent homicide, manslaughter, or murder resulting  
19 from the operation of a motor vehicle.

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

21 (e) One conviction of negligent homicide, manslaughter, or  
22 murder resulting from the operation of a motor vehicle.

23 (f) Any combination of 3 convictions within 10 years for any  
24 of the following if any of the convictions resulted from an  
25 arrest on or after January 1, 1992:

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

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

3       (iii) Negligent homicide, manslaughter, or murder resulting  
4 from the operation of a motor vehicle.

5       (3) The secretary of state shall revoke a license under sub-  
6 section (2) notwithstanding a court order issued under section  
7 625, section 625b, former section 625(1) or (2), or former sec-  
8 tion 625b or a local ordinance substantially corresponding to  
9 section 625, section 625b, former section 625(1) or (2), or  
10 former section 625b.

11       (4) The secretary of state shall not issue a license under  
12 this act to a person whose license has been revoked under this  
13 act or denied under subsection (1)(d), (e), (f), (i), or (j)  
14 until both of the following occur:

15       (a) The later of the following:

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

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

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

22       (5) Multiple convictions or civil infraction determinations  
23 resulting from the same incident shall be treated as a single  
24 violation for purposes of denial or revocation of a license under  
25 this section.

26       (6) As used in this section, "felony in which a motor  
27 vehicle was used" means a felony during the commission of which

1 the person operated a motor vehicle and while operating the  
2 vehicle presented real or potential harm to persons or property  
3 and 1 or more of the following circumstances existed:

4 (a) The vehicle was used as an instrument of the felony.

5 (b) The vehicle was used to transport a victim of the  
6 felony.

7 (c) The vehicle was used to flee the scene of the felony.

8 (d) The vehicle was necessary for the commission of the  
9 felony.

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

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

20 (b) Perjury or making a false certification to the secretary  
21 of state under any law requiring the registration of a motor  
22 vehicle or regulating the operation of a motor vehicle on a  
23 highway.

24 (c) A violation of section 413 or 414 of the Michigan penal  
25 code, ~~Act No. 328 of the Public Acts of 1931, being sections~~  
26 ~~750.413 and 750.414 of the Michigan Compiled Laws~~ 1931 PA 328,  
27 MCL 750.413 AND 750.414, or a violation of section 1 of ~~Act~~

1 ~~No. 214 of the Public Acts of 1931, being section 752.191 of the~~  
2 ~~Michigan Compiled Laws~~ 1931 PA 214, MCL 752.191.

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

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

8 (f) 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 oper-  
11 ated a motor vehicle and while operating the vehicle presented  
12 real or potential harm to persons or property and 1 or more of  
13 the 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  
16 felony.

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

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

20 (2) The secretary of state shall suspend the license of a  
21 person convicted of malicious destruction resulting from the  
22 operation of a motor vehicle under section 382 of the Michigan  
23 penal code, ~~Act No. 328 of the Public Acts of 1931, as amended,~~  
24 ~~being section 750.382 of the Michigan Compiled Laws~~ 1931 PA 328,  
25 MCL 750.382, for not more than 1 year as ordered by the court as  
26 part of the sentence.



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

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

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

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

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

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

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

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

26 (iv) One conviction under section 625(4) or (5) followed by  
27 1 conviction under section 625(3) within a 7-year period.

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

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

25 (5) Upon receiving a certificate of conviction pursuant to  
26 section 33b(3) of the Michigan liquor control act, ~~Act No. 8 of~~  
27 ~~the Public Acts of the Extra Session of 1933, being section~~

1 ~~436.33b of the Michigan Compiled Laws~~ 1933 (EX SESS) PA 8, MCL  
2 436.33B, or a local ordinance or law of another state substan-  
3 tially corresponding to section 33b(3) of ~~Act No. 8 of the~~  
4 ~~Public Acts of the Extra Session of 1933~~ THE MICHIGAN LIQUOR  
5 CONTROL ACT, 1933 (EX SESS) PA 8, MCL 436.33B, the secretary of  
6 state shall suspend pursuant to court order the person's  
7 operator's or chauffeur's license for 90 days. A suspension  
8 under this subsection shall be in addition to any other suspen-  
9 sion of the person's license.

10 (6) Upon receiving the record of a person's conviction for a  
11 violation of section ~~602a~~ 602A(1), (3), OR (4) of this act or  
12 section 479a(1), (4), or (5) of ~~Act No. 328 of the Public Acts~~  
13 ~~of 1931, being section 750.479a of the Michigan Compiled Laws~~  
14 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.479A, the secretary  
15 of state immediately shall suspend the person's license for the  
16 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~~ THE MICHIGAN LIQUOR CONTROL ACT, 1933 (EX SESS) PA  
23 8, MCL 436.33B, and, notwithstanding any court order to the con-  
24 trary, the secretary of state shall suspend the person's  
25 operator's or chauffeur's license for the period of time  
26 described in section 33b(5) of ~~Act No. 8 of the Public Acts of~~  
27 ~~the Extra Session of 1933 or section 624b~~ THE MICHIGAN LIQUOR

1 CONTROL ACT, 1933 (EX SESS) PA 8, MCL 436.33B, and, if  
2 applicable, issue a restricted license as ordered by the court in  
3 the manner provided for in section 33b(7) ~~or section 624b.~~ OF  
4 THE MICHIGAN LIQUOR CONTROL ACT, 1933 (EX SESS) PA 8, MCL  
5 436.33B. In the case of a person who does not possess an opera-  
6 tor or chauffeur license, the secretary of state shall deny the  
7 application for an operator or chauffeur license for the applica-  
8 ble suspension period.

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

14 (9) If the secretary of state receives records of more than  
15 1 conviction of a person resulting from the same incident, a sus-  
16 pension shall be imposed only for the violation to which the  
17 longest period of suspension applies under this section.

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

26 Sec. 602a. (1) A driver of a motor vehicle who is given by  
27 hand, voice, emergency light, or siren a visual or audible signal

1 by a police or conservation officer, acting in the lawful  
2 performance of his or her duty, directing the driver to bring his  
3 or her motor vehicle to a stop, and who willfully fails to obey  
4 that direction by increasing the speed of the motor vehicle,  
5 extinguishing the lights of the motor vehicle, or otherwise  
6 attempting to flee or elude the officer, is guilty of a misde-  
7 meanor, and shall be punished by imprisonment for not less than  
8 30 days nor more than 1 year, and, in addition, may be fined not  
9 more than \$1,000.00 and may be ordered to pay the costs of the  
10 prosecution. The court may depart from the minimum term of  
11 imprisonment authorized under this subsection if the court finds  
12 on the record that there are substantial and compelling reasons  
13 to do so and if the court imposes community service as a part of  
14 the sentence.

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

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

25 (4) The driver of a motor vehicle who attempts to flee or  
26 elude a police or conservation officer in violation of subsection  
27 (1) and while attempting to so flee or elude causes serious

1 bodily injury to a person, is guilty of a felony, and shall be  
2 punished by imprisonment for ~~a minimum term of~~ not less than 1  
3 year ~~and a maximum term of not~~ OR more than 4 years, and by a  
4 fine of not more than \$10,000.00, together with the costs of the  
5 prosecution. The court may depart from the minimum term of  
6 imprisonment authorized under this subsection if the court finds  
7 on the record that there are substantial and compelling reasons  
8 to do so and if the court imposes community service as a part of  
9 the sentence.

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

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

1 of suspension of the person's license shall begin after the  
2 completion of the term of imprisonment.

3       (7) AS PART OF THE SENTENCE FOR A VIOLATION OF  
4 SUBSECTION (5), THE COURT SHALL ORDER THE SECRETARY OF STATE TO  
5 REVOKE THE PERSON'S OPERATOR'S OR CHAUFFEUR'S LICENSE. IF A TERM  
6 OF IMPRISONMENT IS SERVED AS A PART OF THE SENTENCE, THE PERIOD  
7 OF REVOCATION OF THE PERSON'S LICENSE SHALL BEGIN AFTER THE COM-  
8 PLETION OF THE TERM OF IMPRISONMENT.

9       (8) ~~-(6)-~~ As used in this section, "serious bodily injury"  
10 means serious impairment of a body function or permanent serious  
11 disfigurement.

12       Enacting section 1. This amendatory act does not take  
13 effect unless Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_  
14 (request no. 00290'97) of the 89th Legislature is enacted into  
15 law.