

HOUSE BILL No. 4992

June 26, 1997, Introduced by Reps. Kelly, DeHart, Hale, Gire, DeVuyst, Scott, LaForge, Basham, Callahan, Griffin, Brewer, Cherry, Varga, Wojno, Schermesser, Hanley, Bogardus, Goschka, Quarles, Schauer, Vaughn, Prusi, Parks and Voorhees and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 732 and 733 (MCL 257.732 and 257.733),
section 732 as amended by 1996 PA 493 and section 733 as amended
by 1994 PA 50.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 732. (1) Each municipal judge and each clerk of a
2 court of record shall keep a full record of every case in which a
3 person is charged with or cited for a violation of this act or a
4 local ordinance substantially corresponding to this act regulat-
5 ing the operation of vehicles on highways. Except as provided in
6 subsection (15), the municipal judge or clerk of the court of
7 record shall prepare and forward to the secretary of state an
8 abstract of the court record as follows:

1 (a) Within 14 days after a conviction, forfeiture of bail,
2 or entry of a civil infraction determination or default judgment,
3 upon a charge of or citation for violating this act or a local
4 ordinance corresponding to this act regulating the operation of
5 vehicles on highways.

6 (b) Immediately for each case charging a violation of
7 section 625(1), (3), (4), (5), or (6), or a local ordinance sub-
8 stantially corresponding to section 625(1), (3), or (6) in which
9 the charge is dismissed or the defendant is acquitted.

10 (2) If a city or village department, bureau, or person is
11 authorized to accept a payment of money as a settlement for a
12 violation of a local ordinance corresponding to this act, the
13 city or village department, bureau, or person shall send a full
14 report of each case in which a person pays any amount of money to
15 the city or village department, bureau, or person to the secre-
16 tary of state upon a form prescribed by the secretary of state.

17 (3) The abstract or report required under this section shall
18 be made upon a form furnished by the secretary of state. An
19 abstract shall be certified by signature, stamp, or facsimile
20 signature of the person required to prepare the abstract as
21 correct. An abstract or report shall include all of the
22 following:

23 (a) The name, address, and date of birth of the person
24 charged or cited.

25 (b) The number of the person's operator's or chauffeur's
26 license, if any.

(c) The date and nature of the violation.

(d) The type of vehicle driven at the time of the violation and, if the vehicle is a commercial motor vehicle, that vehicle's group designation and indorsement classification.

(e) The date of the conviction, finding, forfeiture, judgment, or civil infraction determination.

(f) Whether bail was forfeited.

(g) Any license revocation, restriction, suspension, or denial ordered by the court pursuant to this act.

(h) Other information considered necessary to the secretary of state.

(4) The clerk of the court also shall forward an abstract of the court record to the secretary of state upon a person's conviction involving any of the following:

(a) A violation of section 413, 414, or 479a of the Michigan penal code, ~~Act No. 328 of the Public Acts of 1931, being sections 750.413, 750.414, and 750.479a of the Michigan Compiled Laws~~ 1931 PA 328, MCL 750.413, 750.414, AND 750.479A.

(b) A violation of section 1 of ~~Act No. 214 of the Public Acts of 1931, being section 752.191 of the Michigan Compiled Laws~~ 1931 PA 214, MCL 752.191.

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

(d) A violation of section 33b of the Michigan liquor control act, ~~Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.33b of the Michigan Compiled Laws~~ 1933

1 (EX SESS) PA 8, MCL 436.33B, or a local ordinance substantially
2 corresponding to that section.

3 (e) An attempt to violate, a conspiracy to violate, or a
4 violation of part 74 or section 17766a of the public health code,
5 ~~Act No. 368 of the Public Acts of 1978, being sections 333.7401~~
6 ~~to 333.7461 and 333.17766a of the Michigan Compiled Laws~~ 1978 PA
7 368, MCL 333.7401 TO 333.7461 AND 333.17766A, or a local ordi-
8 nance that prohibits conduct prohibited under part 74 or section
9 17766a of ~~Act No. 368 of the Public Acts of 1978~~ THE PUBLIC
10 HEALTH CODE, 1978 PA 368, MCL 333.7401 TO 333.7461 AND
11 333.17766A, unless the convicted person is sentenced to life
12 imprisonment or a minimum term of imprisonment that exceeds 1
13 year for the offense.

14 (f) An attempt to commit any of the offenses described in
15 subdivisions (a) to (d).

16 (5) As used in subsections (6) to (8), "felony in which a
17 motor vehicle was used" means a felony during the commission of
18 which the person operated a motor vehicle and while operating the
19 vehicle presented real or potential harm to persons or property
20 and 1 or more of the following circumstances existed:

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

22 (b) The vehicle was used to transport a victim of the
23 felony.

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

25 (d) The vehicle was necessary for the commission of the
26 felony.

1 (6) If a person is charged with a felony in which a motor
2 vehicle was used, other than a felony specified in subsection (4)
3 or section 319(1)(a) to (e), the prosecuting attorney shall
4 include the following statement on the complaint and information
5 filed in district or circuit court:

6 "You are charged with the commission of a felony in which a
7 motor vehicle was used. If you are convicted and the judge finds
8 that the conviction is for a felony in which a motor vehicle was
9 used, as defined in section 319 of the Michigan vehicle code,
10 ~~Act No. 300 of the Public Acts of 1949, being section 257.319 of~~
11 ~~the Michigan Compiled Laws~~ 1949 PA 300, MCL 257.319 your
12 driver's license shall be suspended by the secretary of state.".

13 (7) If a juvenile is accused of an act, the nature of which
14 constitutes a felony in which a motor vehicle was used, other
15 than a felony specified in subsection (4) or section 319(1)(a) to
16 (e), the prosecuting attorney or juvenile division of the probate
17 court shall include the following statement on the petition filed
18 in the probate court:

19 "You are accused of an act the nature of which constitutes a
20 felony in which a motor vehicle was used. If the accusation is
21 found to be true and the judge or referee finds that the nature
22 of the act constitutes a felony in which a motor vehicle was
23 used, as defined in section 319 of the Michigan vehicle code,
24 ~~Act No. 300 of the Public Acts of 1949, being section 257.319 of~~
25 ~~the Michigan Compiled Laws~~ 1949 PA 300, MCL 257.319, your
26 driver's license shall be suspended by the secretary of state.".

1 (8) If the judge or juvenile court referee determines as
2 part of the sentence or disposition that the felony for which the
3 defendant was convicted or adjudicated and with respect to which
4 notice was given pursuant to subsection (6) or (7) is a felony in
5 which a motor vehicle was used, the clerk of the court shall for-
6 ward an abstract of the court record of that conviction to the
7 secretary of state.

8 (9) As used in subsections (10) and (11), "felony in which a
9 commercial motor vehicle was used" means a felony during the com-
10 mission of which the person operated a commercial motor vehicle
11 and while the person was operating the vehicle 1 or more of the
12 following circumstances existed:

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

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

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

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

19 (10) If a person is charged with a felony in which a commer-
20 cial motor vehicle was used and for which a vehicle group desig-
21 nation on a license is subject to suspension or revocation under
22 section 319b(1)(c)(iii), 319b(1)(d), or 319b(1)(e)(iii) or (vi),
23 the prosecuting attorney shall include the following statement on
24 the complaint and information filed in district or circuit
25 court:

26 "You are charged with the commission of a felony in which a
27 commercial motor vehicle was used. If you are convicted and the

1 judge finds that the conviction is for a felony in which a
2 commercial motor vehicle was used, as defined in section 319b of
3 the Michigan vehicle code, ~~Act No. 300 of the Public Acts of~~
4 ~~1949, being section 257.319b of the Michigan Compiled Laws~~ 1949
5 PA 300, MCL 257.319B, all vehicle group designations on your
6 driver's license shall be suspended or revoked by the secretary
7 of state.".

8 (11) If the judge determines as part of the sentence that
9 the felony for which the defendant was convicted and with respect
10 to which notice was given pursuant to subsection (10) is a felony
11 in which a commercial motor vehicle was used, the clerk of the
12 court shall forward an abstract of the court record of that con-
13 viction to the secretary of state.

14 (12) Every person required to forward abstracts to the sec-
15 retary of state under this section shall certify for the period
16 from January 1 through June 30 and for the period from July 1
17 through December 31 that all abstracts required to be forwarded
18 during the period have been forwarded. The certification shall
19 be filed with the secretary of state not later than 28 days after
20 the end of the period covered by the certification. The certifi-
21 cation shall be made upon a form furnished by the secretary of
22 state and shall include all of the following:

23 (a) The name and title of the person required to forward
24 abstracts.

25 (b) The court for which the certification is filed.

26 (c) The time period covered by the certification.

(d) The following statement:

"I certify that all abstracts required by section 732 of the Michigan vehicle code, MCL 257.732; MSA 9.2432, for the period _____ through _____ have been forwarded to the secretary of state.".

(e) Other information the secretary of state considers necessary.

(f) The signature of the person required to forward abstracts.

(13) The failure, refusal, or neglect of a person to comply with this section constitutes misconduct in office and is grounds for removal from office.

(14) Except as provided in subsection (15), the secretary of state shall keep all abstracts received under this section at the secretary of state's main office and the abstracts shall be open for public inspection during the office's usual business hours. Each abstract shall be entered upon the master driving record of the person to whom it pertains.

(15) Except for controlled substance offenses described in subsection (4), the court shall not submit, and the secretary of state shall discard and not enter on the master driving record, an abstract for a conviction or civil infraction determination for any of the following violations:

(a) The parking or standing of a vehicle.

(b) A nonmoving violation that is not the basis for the secretary of state's suspension, revocation, or denial of an operator's or chauffeur's license.

1 (c) A violation of chapter II that is not the basis for the
2 secretary of state's suspension, revocation, or denial of an
3 operator's or chauffeur's license.

4 (d) Except for a violation of section 33b(1) or (2) of ~~Act~~
5 ~~No. 8 of the Public Acts of the Extra Session of 1933~~ THE
6 MICHIGAN LIQUOR CONTROL ACT, 1933 (EX SESS) PA 8, MCL 436.33B, or
7 a local ordinance substantially corresponding to section 33b(1)
8 or (2) of ~~Act No. 8 of the Public Acts of the Extra Session of~~
9 ~~1933~~ THE MICHIGAN LIQUOR CONTROL ACT, 1933 (EX SESS) PA 8, MCL
10 436.33B, or section 624a or 624b or a local ordinance substan-
11 tially corresponding to section 624a or 624b, a pedestrian, pas-
12 senger, or bicycle violation.

13 (e) A violation of section 710e or a local ordinance sub-
14 stantially corresponding to section 710e.

15 (16) The secretary of state shall discard and not enter on
16 the master driving record an abstract for a bond forfeiture that
17 occurred outside this state. However, the secretary of state
18 shall retain and enter on the master driving record an abstract
19 of an out-of-state bond forfeiture for an offense that occurred
20 after January 1, 1990 in connection with the operation of a com-
21 mercial motor vehicle.

22 (17) The secretary of state shall inform the courts of this
23 state of the nonmoving violations and violations of chapter II
24 that are used by the secretary of state as the basis for the sus-
25 pension, restriction, revocation, or denial of an operator's or
26 chauffeur's license.

1 (18) If a conviction or civil infraction determination is
2 reversed upon appeal, the person whose conviction or
3 determination has been reversed may serve on the secretary of
4 state a certified copy of the order of reversal. The secretary
5 of state shall enter the order in the proper book or index in
6 connection with the record of the conviction or civil infraction
7 determination.

8 (19) The secretary of state may permit a city or village
9 department, bureau, person, or court to modify the requirement as
10 to the time and manner of reporting a conviction, civil infrac-
11 tion determination, or settlement to the secretary of state if
12 the modification will increase the economy and efficiency of col-
13 lecting and utilizing the records. If the permitted abstract of
14 court record reporting a conviction, civil infraction determina-
15 tion, or settlement originates as a part of the written notice to
16 appear, authorized in section 728(1) or 742(1), the form of the
17 written notice and report shall be as prescribed by the secretary
18 of state.

19 (20) Except as provided in this act and notwithstanding any
20 other provision of law, a court shall not order expunction of any
21 violation reportable to the secretary of state under this
22 section.

23 (21) A COURT SHALL NOT TAKE UNDER ADVISEMENT A CONVICTION OR
24 CIVIL INFRACTION DETERMINATION REQUIRED TO BE REPORTED TO THE
25 SECRETARY OF STATE BY THIS ACT. EXCEPT AS OTHERWISE PROVIDED IN
26 THIS SECTION, A CONVICTION OR CIVIL INFRACTION DETERMINATION
27 SHALL NOT BE SUSPENDED OR SUPPRESSED BY A COURT. UPON A

1 CONVICTION OR CIVIL INFRACTION DETERMINATION, THE CONVICTION OR
2 CIVIL INFRACTION DETERMINATION SHALL IMMEDIATELY BE REPORTED TO
3 THE SECRETARY OF STATE IN ACCORDANCE WITH THIS SECTION.

4 (22) IF A COURT FAILS TO FORWARD AN ABSTRACT OF A CASE TO
5 THE SECRETARY OF STATE AS REQUIRED UNDER SUBSECTION (1) WITHIN 14
6 DAYS AFTER A CONVICTION OR CIVIL INFRACTION DETERMINATION HAS
7 BEEN MADE IN THAT CASE, THE COURT SHALL BE PROHIBITED FROM
8 ASSESSING OR COLLECTING ANY FINES OR COSTS IN THE CASE AND THE
9 COURT SHALL HONOR A PERSON'S REQUEST FOR A REFUND OF ANY FINES
10 AND COSTS COLLECTED.

11 (23) EXCEPT AS PROVIDED IN THIS SUBSECTION, A COURT MAY
12 ORDER THE SECRETARY OF STATE TO SUPPRESS A CONVICTION OR CIVIL
13 INFRACTION DETERMINATION SUBJECT TO 3 OR LESS POINTS UNDER
14 SECTION 320A OR 629C. A CONVICTION OR CIVIL INFRACTION DETERMI-
15 NATION SHALL NOT BE SUPPRESSED IF THE PERSON'S DRIVING RECORD
16 CONTAINS A SUPPRESSED OR NONSUPPRESSED CONVICTION OR CIVIL
17 INFRACTION DETERMINATION, A FAILURE TO APPEAR IN COURT OR A FAIL-
18 URE TO COMPLY WITH JUDGMENT, OR A SUSPENSION OR REVOCATION OF A
19 DEFINITE TERM DURING THE IMMEDIATELY PRECEDING 4 YEARS. IF
20 WITHIN 12 MONTHS AFTER A CONVICTION OR CIVIL INFRACTION DETERMI-
21 NATION IS SUPPRESSED BY THE SECRETARY OF STATE THE PERSON
22 RECEIVES AN ADDITIONAL CONVICTION OR CIVIL INFRACTION DETERMINA-
23 TION SUBJECT TO ANY POINTS UNDER SECTION 320A OR 629C OR RECEIVES
24 A FAILURE TO APPEAR IN COURT OR A FAILURE TO COMPLY WITH JUDGMENT
25 CONVICTION UNDER SECTION 321A, THE SECRETARY OF STATE SHALL
26 REMOVE THE SUPPRESSED STATUS FROM THE SUPPRESSED CONVICTION OR
27 CIVIL INFRACTION DETERMINATION. IF MORE THAN 1 CONVICTION OR

1 CIVIL INFRACTION DETERMINATION RESULTS FROM THE SAME INCIDENT,
2 ALL MAY BE SUPPRESSED AS PROVIDED IN THIS SECTION. A CONVICTION
3 FOR CARELESS DRIVING OR A CONVICTION OR CIVIL INFRACTION DETERMI-
4 NATION THAT RESULTS FROM OPERATING A COMMERCIAL MOTOR VEHICLE
5 SHALL NOT BE SUPPRESSED.

6 Sec. 733. (1) The department shall not release information
7 relating to an accident on the record of a driver to a nongovern-
8 mental agency unless the driver was subsequently convicted of or
9 determined responsible for a violation of this act in connection
10 with the accident.

11 (2) The department shall not release information relating to
12 an accident on the record of a police officer, fire fighter, or a
13 person authorized to operate an ambulance or other emergency
14 vehicle to a nongovernmental agency if the accident occurred
15 while the person was operating the vehicle during the course of
16 his or her employment.

17 (3) THE DEPARTMENT SHALL NOT RELEASE TO A NONGOVERNMENTAL
18 AGENCY INFORMATION RELATING TO A SECTION 732 ABSTRACT PROPERLY
19 SUPPRESSED ON THE RECORD OF A DRIVER UNTIL THE SUPPRESSED STATUS
20 IS REMOVED.