

HOUSE BILL No. 5468

January 14, 1998, Introduced by Reps. Hale, Kelly, Wallace, Hanley, Bogardus, Thomas, Schermesser, Willard, Curtis, Harder, Griffin, Scott, Vaughn, DeHart, Varga and Price and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 249, 254, and 303 (MCL 257.249, 257.254, and 257.303[1]), section 249 as amended by 1993 PA 300, section 254 as amended by 1990 PA 98, and section 303 as amended by 1996 PA 587, and by adding section 254a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 249. (1) The secretary of state may deny the applica-
2 tion of a person for a license as a dealer and refuse to issue
3 the person a license as a dealer, or may suspend or revoke a
4 license already issued, if the secretary of state finds that 1 or
5 more of the following apply:

6 (a) The applicant or licensee has made a false statement of
7 a material fact in his or her application.

1 (b) The applicant or licensee has not complied with the
2 provisions of this chapter or a rule promulgated under this
3 chapter.

4 (c) The applicant or licensee has sold or offered for sale a
5 new vehicle of a type required to be registered under this act
6 without having authority of a contract with a manufacturer or
7 distributor of the new vehicle.

8 (d) The applicant or licensee has been guilty of a fraudu-
9 lent act in connection with selling or otherwise dealing in vehi-
10 cles of a type required to be registered under this act.

11 (e) The applicant or licensee has entered into or is about
12 to enter into a contract or agreement with a manufacturer or dis-
13 tributor of vehicles of a type required to be registered under
14 this act ~~—, which~~ THAT is contrary to any provision of this
15 act.

16 (f) The applicant or licensee has no established place of
17 business ~~—which~~ THAT is used or will be used for ~~—the purpose~~
18 ~~of~~ selling, displaying, and offering for sale or dealing in
19 vehicles of a type required to be registered, and does not have
20 proper servicing facilities.

21 (g) The applicant or licensee is a corporation or partner-
22 ship ~~—~~ and a stockholder, officer, director, or partner of the
23 applicant or licensee has been guilty of any act or omission that
24 would be cause for refusing, revoking, or suspending a license
25 issued to the stockholder, officer, director, or partner as an
26 individual.

1 (h) The applicant or licensee has possessed a vehicle or a
2 vehicle part ~~that has been~~ confiscated under section 415 of the
3 Michigan penal code, ~~Act No. 328 of the Public Acts of 1931, as~~
4 ~~amended, being section 750.415 of the Michigan Compiled Laws~~
5 1931 PA 328, MCL 750.415. The secretary of state shall conduct a
6 hearing pursuant to the administrative procedures act of 1969,
7 ~~Act No. 306 of the Public Acts of 1969, as amended, being sec-~~
8 ~~tions 24.201 to 24.328 of the Michigan Compiled Laws~~ 1969 PA
9 306, MCL 24.201 TO 24.328, before ~~the secretary of state takes~~
10 TAKING any action under this subdivision.

11 (i) The applicant or licensee has been convicted under sec-
12 tion 415 of ~~Act No. 328 of the Public Acts of 1931, as amended~~
13 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.415.

14 (j) The applicant or licensee has been convicted of violat-
15 ing ~~Act No. 119 of the Public Acts of 1986, being sections~~
16 ~~257.1351 to 257.1355 of the Michigan Compiled Laws~~ 1986 PA 119,
17 MCL 257.1351 TO 257.1355.

18 (2) UPON RECEIVING AN ABSTRACT OF CONVICTION, THE SECRETARY
19 OF STATE SHALL REVOKE THE LICENSE OF A PERSON AS A DEALER AND
20 SHALL DENY THE APPLICATION OF A PERSON FOR A LICENSE AS A DEALER
21 UNTIL THE EXPIRATION OF NOT LESS THAN 5 YEARS AFTER THE DATE OF
22 THE PERSON'S CONVICTION IF 1 OR MORE OF THE FOLLOWING APPLY:

23 (A) THE APPLICANT OR LICENSEE HAS BEEN CONVICTED UNDER SEC-
24 TION 535A OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.535A.

25 (B) THE APPLICANT OR LICENSEE HAS BEEN CONVICTED UNDER SEC-
26 TION 413 OR 535C OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
27 750.413 AND 750.535C, AND HAS 1 OR MORE PRIOR CONVICTIONS FOR

1 VIOLATIONS OR ATTEMPTED VIOLATIONS OF SECTION 413, 414, 415, 535,
2 535A, OR 535C OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
3 750.413, 750.414, 750.415, 750.535, 750.535A, AND 750.535C.

4 (3) THE SECRETARY OF STATE SHALL DENY THE APPLICATION OF A
5 PERSON FOR A LICENSE AS A DEALER IF 1 OR MORE OF THE FOLLOWING
6 APPLY:

7 (A) THE PERSON HAS 3 OR MORE CONVICTIONS UNDER SECTION 413
8 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.413.

9 (B) THE PERSON HAS 3 OR MORE CONVICTIONS UNDER SECTION 535A
10 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.535A.

11 (C) THE PERSON HAS 3 OR MORE CONVICTIONS UNDER SECTION 535C
12 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.535C.

13 Sec. 254. (1) ~~Any person who shall knowingly make any~~ A
14 PERSON WHO DOES ANY OF THE FOLLOWING IS GUILTY OF A FELONY PUN-
15 ISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A FINE OF
16 NOT MORE THAN \$20,000.00, OR BOTH:

17 (A) KNOWINGLY MAKES A false statement of a material fact ~~—~~
18 ~~either~~ in his or her application for the certificate of title
19 required by this act ~~—~~ or in ~~any~~ AN assignment of that title.
20 ~~—, or who, with~~

21 (6) WITH intent to procure or pass title to a motor vehicle
22 ~~which~~ he or she knows or has reason to believe has been stolen
23 ~~—, shall receive or transfer~~ OR HAS 1 OR MORE MAJOR COMPONENT
24 PARTS THAT HAVE BEEN STOLEN, RECEIVES OR TRANSFERS possession of
25 the ~~same~~ VEHICLE from or to another ~~—, or who shall have~~
26 PERSON.

1 (2) A PERSON WHO HAS in his or her possession any vehicle
2 ~~which~~ he or she knows or has reason to believe has been stolen
3 ~~, and who is not an officer of the law engaged at the time in~~
4 ~~the performance of his or her duty as such officer,~~ is guilty of
5 a felony ~~, punishable by a fine of not more than \$5,000.00, or~~
6 ~~by~~ imprisonment for not more than 10 years OR A FINE OF NOT MORE
7 THAN \$5,000.00, or both.

8 (3) THIS SECTION DOES NOT APPLY TO A PEACE OFFICER PERFORM-
9 ING HIS OR HER DUTIES AS A PEACE OFFICER AT THE TIME OF A VIOLA-
10 TION OF THIS SECTION.

11 (4) This ~~provision shall~~ SECTION DOES not ~~be exclusive of~~
12 ~~any other penalties prescribed by~~ PROHIBIT THE PROSECUTION OF A
13 PERSON UNDER any OTHER law for the larceny ~~of the~~ OR unautho-
14 rized taking of a vehicle OR MAJOR COMPONENT PART.

15 SEC. 254A. (1) A PERSON WHO DOES EITHER OF THE FOLLOWING IS
16 GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN
17 10 YEARS OR A FINE OF NOT MORE THAN \$20,000.00, OR BOTH:

18 (A) KNOWINGLY SELLS, GIVES, OR EXCHANGES A MOTOR VEHICLE
19 CERTIFICATE OF TITLE WITHOUT ALSO SELLING, GIVING, OR EXCHANGING
20 THE MOTOR VEHICLE FOR WHICH THE TITLE WAS ISSUED.

21 (B) SELLS, GIVES, OR EXCHANGES A MOTOR VEHICLE CERTIFICATE
22 OF TITLE OR IDENTIFYING MARKER KNOWING THAT THE CERTIFICATE OF
23 TITLE OR IDENTIFYING MARKER WILL BE USED TO DISGUISE THE IDENTITY
24 OF A STOLEN MOTOR VEHICLE OR A MOTOR VEHICLE THAT HAS 1 OR MORE
25 MAJOR COMPONENT PARTS THAT ARE STOLEN.

26 (2) A PERSON WHO WITH THE INTENT TO MISLEAD ANOTHER PERSON
27 AS TO THE IDENTITY OF A MOTOR VEHICLE BUYS, RECEIVES, OR

1 POSSESSES A MOTOR VEHICLE CERTIFICATE OF TITLE OR IDENTIFYING
2 MARKER THAT BELONGS TO ANOTHER VEHICLE IS GUILTY OF A FELONY PUN-
3 ISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF
4 NOT MORE THAN \$20,000.00, OR BOTH.

5 (3) A PERSON WHO KNOWINGLY MAKES OR PRESENTS A FALSE,
6 FORGED, OR ALTERED DOCUMENT TO OBTAIN A MOTOR VEHICLE CERTIFICATE
7 OF TITLE FROM THE SECRETARY OF STATE IS GUILTY OF A FELONY PUN-
8 ISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR BY A FINE OF
9 NOT MORE THAN \$10,000.00, OR BOTH.

10 (4) THIS SECTION DOES NOT PROHIBIT THE PROSECUTION OF A
11 PERSON UNDER ANY OTHER LAW FOR THE LARCENY OR THE UNAUTHORIZED
12 TAKING OF A MOTOR VEHICLE OR MAJOR COMPONENT PART.

13 (5) AS USED IN THIS SECTION:

14 (A) "IDENTIFYING MARKER" MEANS A VEHICLE IDENTIFICATION
15 NUMBER, FEDERAL SAFETY STICKER, ENGINE NUMBER, TRANSMISSION
16 NUMBER, BODY TAG, OR COMPONENT PART NUMBER OR AN IDENTITY PLATE
17 OR STICKER THAT IS STAMPED OR OTHERWISE MARKED WITH THE VEHICLE
18 IDENTIFICATION NUMBER OR VEHICLE IDENTIFICATION NUMBER
19 DERIVATIVE.

20 (B) "VEHICLE IDENTIFICATION NUMBER" MEANS AN IDENTIFICATION
21 NUMBER ASSIGNED TO A VEHICLE BY THE MANUFACTURER OR A SPECIAL
22 IDENTIFYING NUMBER ASSIGNED TO A VEHICLE BY THE SECRETARY OF
23 STATE UNDER SECTION 230.

24 (C) "VEHICLE IDENTIFICATION NUMBER DERIVATIVE" MEANS A PART
25 OF THE VEHICLE IDENTIFICATION NUMBER THAT IS UNIQUE IN ITSELF BUT
26 IS ALPHABETICALLY OR NUMERICALLY IDENTIFIABLE TO THE VEHICLE
27 IDENTIFICATION NUMBER.

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.

9 (d) A person who has been convicted of or received a probate
10 court disposition for a violation of section 625(4) or (5).

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

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

26 (i) Any combination of 2 convictions within 7 years for any
27 of the following:

- 1 (A) A violation of section 625(1), (4), or (5).
- 2 (B) A violation of former section 625(1) or (2).
- 3 (ii) Any combination of 3 convictions within 10 years for
4 any of the following if any of the convictions resulted from an
5 arrest on or after January 1, 1992:
- 6 (A) A violation of section 625(1), (3), (4), or (5).
- 7 (B) A violation of former section 625(1) or (2) or former
8 section 625b.
- 9 (g) A person who in the opinion of the secretary of state is
10 afflicted with or suffering from a physical or mental disability
11 or disease preventing that person from exercising reasonable and
12 ordinary control over a motor vehicle while operating the motor
13 vehicle upon the highways.
- 14 (h) A person who is unable to understand highway warning or
15 direction signs in the English language.
- 16 (i) A person who is an habitually reckless driver. Two con-
17 victions within 7 years of reckless driving under this act or any
18 other law of this state relating to reckless driving or under a
19 local ordinance of this state or a law of another state that
20 defines the term "reckless driving" substantially similarly to
21 the law of this state are prima facie evidence that the person is
22 an habitually reckless driver.
- 23 (j) A person who is an habitual criminal. Two convictions
24 of a felony in which a motor vehicle was used in this or another
25 state are prima facie evidence that the person is an habitual
26 criminal.

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

6 (l) A person who has been convicted of, has received a pro-
7 bate court disposition for, or has been determined responsible
8 for 2 or more moving violations under a law of this state, a
9 local ordinance substantially corresponding to a law of this
10 state, or a law of another state substantially corresponding to a
11 law of this state within the preceding 3 years, if the violations
12 occurred before issuance of an original license to the person in
13 this or another state.

14 (m) A nonresident, including a foreign exchange student.

15 (n) A person not licensed under this act who has been con-
16 victed of, has received a probate court disposition for, or has
17 been determined responsible for a crime or civil infraction
18 described in section 319, 324, or 904. A person shall be denied
19 a license under this subdivision for the length of time corre-
20 sponding to the period of the licensing sanction that would have
21 been imposed under section 319, 324, or 904 if the person had
22 been licensed at the time of the violation.

23 (o) A person not licensed under this act who has been con-
24 victed of or received a probate court disposition for committing
25 a crime described in section 319e. A person shall be denied a
26 license under this subdivision for the length of time that
27 corresponds to the period of the licensing sanction that would

1 have been imposed under section 319e if the person had been
2 licensed at the time of the violation.

3 (p) A person not licensed under this act who is determined
4 to have violated section 33b(1) of the Michigan liquor control
5 act, ~~Act No. 8 of the Public Acts of the Extra Session of 1933,~~
6 ~~being section 436.33b of the Michigan Compiled Laws~~ 1933 (EX
7 SESS) PA 8, MCL 436.33B, or section 624a or 624b. The person
8 shall be denied a license under this subdivision for a period of
9 time that corresponds to the period of the licensing sanction
10 that would have been imposed under those sections had the person
11 been licensed at the time of the violation.

12 (q) A person who has been convicted of a violation of sec-
13 tion 602a(4) or (5) or a violation of section 479a(4) or (5) of
14 the Michigan penal code, ~~Act No. 328 of the Public Acts of 1931,~~
15 ~~being section 750.479a of the Michigan Compiled Laws~~ 1931 PA
16 328, MCL 750.479A.

17 (R) A PERSON WHO HAS ANY OF THE FOLLOWING:

18 (i) ONE OR MORE CONVICTIONS UNDER SECTION 535A OF THE
19 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.535A.

20 (ii) TWO OR MORE CONVICTIONS UNDER SECTION 413 OF THE
21 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.413.

22 (iii) TWO OR MORE CONVICTIONS UNDER SECTION 535C OF THE
23 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.535C.

24 (2) Upon receiving the appropriate records of conviction,
25 the secretary of state shall revoke the operator's or chauffeur's
26 license of a person having any of the following, whether under a
27 law of this state, a local ordinance substantially corresponding

1 to a law of this state, or a law of another state substantially
2 corresponding to a law of this state:

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (g) A CONVICTION FOR A violation of section 602a(4) or (5)
26 of this act or section 479a(4) or (5) of the Michigan penal code,

1 ~~Act No. 328 of the Public Acts of 1931, being section 750.479a~~
2 ~~of the Michigan Compiled Laws~~ 1931 PA 328, MCL 750.479A.

3 (H) ONE OR MORE CONVICTIONS UNDER SECTION 535A OF THE
4 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.535A.

5 (I) TWO OR MORE CONVICTIONS UNDER SECTION 413 OF THE
6 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.413.

7 (J) TWO OR MORE CONVICTIONS UNDER SECTION 535C OF THE
8 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.535C.

9 (3) The secretary of state shall revoke a license under sub-
10 section (2) notwithstanding a court order issued under section
11 625, section 625b, former section 625(1) or (2), or former sec-
12 tion 625b or a local ordinance substantially corresponding to
13 section 625, section 625b, former section 625(1) or (2), or
14 former section 625b.

15 (4) The secretary of state shall not issue a license under
16 this act to a person whose license has been revoked under this
17 act or denied under subsection (1)(d), (e), (f), (i), ~~or~~ (j),
18 (Q), OR (R) until ~~both of~~ THE PERSON MEETS THE DEPARTMENT'S
19 REQUIREMENTS AND the following ~~occur~~ HAVE OCCURRED AS
20 APPLICABLE:

21 (a) ~~The~~ EXCEPT FOR A DENIAL UNDER SUBSECTION (1)(R) OR A
22 REVOCATION UNDER SUBSECTION (2)(H), (I), OR (J), EXPIRATION OF
23 THE later of the following:

24 (i) ~~The expiration of not~~ NOT less than 1 year after the
25 license was revoked or denied.

1 (ii) ~~The expiration of not~~ NOT less than 5 years after the
2 date of a subsequent revocation or denial occurring within 7
3 years after the date of any prior revocation or denial.

4 (b) ~~The person meets the requirements of the department~~
5 FOR A DENIAL UNDER SUBSECTION (1)(R) OR A REVOCATION UNDER SUB-
6 SECTION (2)(H), (I), OR (J), NOT LESS THAN 2 YEARS AFTER THE
7 REVOCATION OR DENIAL.

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

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

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

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

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

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

23 Enacting section 1. This amendatory act does not take
24 effect unless Senate Bill No. _____ or House Bill No. _____
25 (request no. 01082'97) of the 89th Legislature is enacted into
26 law.