

# HOUSE BILL No. 4644

March 19, 2009, Introduced by Rep. Johnson and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 303 and 319 (MCL 257.303 and 257.319), section 303 as amended by 2008 PA 7 and section 319 as amended by 2008 PA 462.

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

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

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 is suspended, revoked, denied, or

1 canceled in any state. If the suspension, revocation, denial, or  
2 cancellation is not from the jurisdiction that issued the last  
3 license to the person, the secretary of state may issue a license  
4 after the expiration of 5 years from the effective date of the most  
5 recent suspension, revocation, denial, or cancellation.

6 (d) A person who in the opinion of the secretary of state is  
7 afflicted with or suffering from a physical or mental disability or  
8 disease preventing that person from exercising reasonable and  
9 ordinary control over a motor vehicle while operating the motor  
10 vehicle upon the highways.

11 (e) A person who is unable to understand highway warning or  
12 direction signs in the English language.

13 (f) A person who is unable to pass a knowledge, skill, or  
14 ability test administered by the secretary of state in connection  
15 with the issuance of an original operator's or chauffeur's license,  
16 original motorcycle indorsement, or an original or renewal of a  
17 vehicle group designation or vehicle indorsement.

18 (g) A person who has been convicted of, has received a  
19 juvenile disposition for, or has been determined responsible for 2  
20 or more moving violations under a law of this state, a local  
21 ordinance substantially corresponding to a law of this state, or a  
22 law of another state substantially corresponding to a law of this  
23 state within the preceding 3 years, if the violations occurred  
24 before issuance of an original license to the person in this state,  
25 another state, or another country.

26 (h) A nonresident, including, but not limited to, a foreign  
27 exchange student.

1 (i) A person who has failed to answer a citation or notice to  
2 appear in court or for any matter pending or fails to comply with  
3 an order or judgment of the court, including, but not limited to,  
4 paying all fines, costs, fees, and assessments, in violation of  
5 section 321a, until that person answers the citation or notice to  
6 appear in court or for any matter pending or complies with an order  
7 or judgment of the court, including, but not limited to, paying all  
8 fines, costs, fees, and assessments, as provided under section  
9 321a.

10 (j) A person not licensed under this act who has been  
11 convicted of, has received a juvenile disposition for, or has been  
12 determined responsible for a crime or civil infraction described in  
13 section 319, 324, or 904. A person shall be denied a license under  
14 this subdivision for the length of time corresponding to the period  
15 of the licensing sanction that would have been imposed under  
16 section 319, 324, or 904 if the person had been licensed at the  
17 time of the violation.

18 (k) A person not licensed under this act who has been  
19 convicted of or received a juvenile disposition for committing a  
20 crime described in section 319e. A person shall be denied a license  
21 under this subdivision for the length of time that corresponds to  
22 the period of the licensing sanction that would have been imposed  
23 under section 319e if the person had been licensed at the time of  
24 the violation.

25 (l) A person not licensed under this act who is determined to  
26 have violated section 33b(1) of former 1933 (Ex Sess) PA 8, section  
27 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL

1 436.1703, or section 624a or 624b. ~~of this act.~~ The person shall be  
2 denied a license under this subdivision for a period of time that  
3 corresponds to the period of the licensing sanction that would have  
4 been imposed under those sections had the person been licensed at  
5 the time of the violation.

6 (m) A person whose commercial driver license application is  
7 canceled under section 324(2).

8 (n) Unless otherwise eligible under section 307(1), a person  
9 who is not a citizen of the United States.

10 (O) **A PERSON NOT LICENSED UNDER THIS ACT WHO HAS RECEIVED A**  
11 **JUVENILE DISPOSITION FOR THE WILLFUL AND REPEATED ABSENCE FROM**  
12 **SCHOOL OR OTHER LEARNING PROGRAM. THE PERSON SHALL BE DENIED A**  
13 **LICENSE UNDER THIS SUBDIVISION FOR 6 MONTHS FROM THE DATE OF**  
14 **DISPOSITION.**

15 (2) Upon receiving the appropriate records of conviction, the  
16 secretary of state shall revoke the operator's or chauffeur's  
17 license of a person and deny issuance of an operator's or  
18 chauffeur's license to a person having any of the following,  
19 whether under a law of this state, a local ordinance substantially  
20 corresponding to a law of this state, a law of another state  
21 substantially corresponding to a law of this state, or, **BEGINNING**  
22 **OCTOBER 31, 2010**, a law of the United States substantially  
23 corresponding to a law of this state:

24 (a) Any combination of 2 convictions within 7 years for  
25 reckless driving in violation of section **626 BEFORE OCTOBER 31,**  
26 **2010 OR, BEGINNING OCTOBER 31, 2010**, 626(2).

27 (b) Any combination of 2 or more convictions within 7 years

1 for any of the following:

2 (i) A felony in which a motor vehicle was used.

3 (ii) A violation or attempted violation of section 601b(2) or  
4 (3), section 601c(1) or (2), section 602a(4) or (5), section 617,  
5 section 653a(3) or (4), or section 904(4) or (5).

6 (iii) Negligent homicide, manslaughter, or murder resulting from  
7 the operation of a vehicle or an attempt to commit any of those  
8 crimes.

9 (iv) A violation or attempted violation of section 479a(4) or  
10 (5) of the Michigan penal code, 1931 PA 328, MCL 750.479a.

11 (c) Any combination of 2 convictions within 7 years for any of  
12 the following or a combination of 1 conviction for a violation or  
13 attempted violation of section 625(6) and 1 conviction for any of  
14 the following within 7 years:

15 (i) A violation or attempted violation of section 625, except a  
16 violation of section 625(2), or a violation of any prior enactment  
17 of section 625 in which the defendant operated a vehicle while  
18 under the influence of intoxicating or alcoholic liquor or a  
19 controlled substance, or a combination of intoxicating or alcoholic  
20 liquor and a controlled substance, or while visibly impaired, or  
21 with an unlawful bodily alcohol content.

22 (ii) A violation or attempted violation of section 625m.

23 (iii) A violation or attempted violation of former section 625b.

24 (d) One conviction for a violation or attempted violation of  
25 section 315(5), section 601b(3), section 601c(2), section 602a(4)  
26 or (5), section 617, section 625(4) or (5), ~~section 626(3) or (4),~~  
27 section 653a(4), ~~or~~ section 904(4) or (5), **OR, BEGINNING OCTOBER**

1 31, 2010, SECTION 626(3) OR (4).

2 (e) One conviction of negligent homicide, manslaughter, or  
3 murder resulting from the operation of a vehicle or an attempt to  
4 commit any of those crimes.

5 (f) One conviction for a violation or attempted violation of  
6 section 479a(4) or (5) of the Michigan penal code, 1931 PA 328, MCL  
7 750.479a.

8 (g) Any combination of 3 convictions within 10 years for any  
9 of the following or 1 conviction for a violation or attempted  
10 violation of section 625(6) and any combination of 2 convictions  
11 for any of the following within 10 years, if any of the convictions  
12 resulted from an arrest on or after January 1, 1992:

13 (i) A violation or attempted violation of section 625, except a  
14 violation of section 625(2), or a violation of any prior enactment  
15 of section 625 in which the defendant operated a vehicle while  
16 under the influence of intoxicating or alcoholic liquor or a  
17 controlled substance, or a combination of intoxicating or alcoholic  
18 liquor and a controlled substance, or while visibly impaired, or  
19 with an unlawful bodily alcohol content.

20 (ii) A violation or attempted violation of section 625m.

21 (iii) A violation or attempted violation of former section 625b.

22 (3) The secretary of state shall revoke a license under  
23 subsection (2) notwithstanding a court order unless the court order  
24 complies with section 323.

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 act  
27 or revoked and denied under subsection (2) until all of the

1 following occur, as applicable:

2 (a) The later of the following:

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

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

8 (b) For a denial under subsection (2)(a), (b), (c), and (g),  
9 the person rebuts by clear and convincing evidence the presumption  
10 resulting from the prima facie evidence that he or she is a  
11 habitual offender. The convictions that resulted in the revocation  
12 and denial constitute prima facie evidence that he or she is a  
13 habitual offender.

14 (c) The person meets the requirements of the department.

15 (5) The secretary of state may deny issuance of an operator's  
16 license as follows:

17 (a) Until the age of 17, to a person not licensed under this  
18 act who was convicted of or received a juvenile disposition for  
19 violating or attempting to violate section 411a(2) of the Michigan  
20 penal code, 1931 PA 328, MCL 750.411a, involving a school when he  
21 or she was less than 14 years of age. A person not issued a license  
22 under this subdivision is not eligible to begin graduated licensing  
23 training until he or she attains 16 years of age.

24 (b) To a person less than 21 years of age not licensed under  
25 this act who was convicted of or received a juvenile disposition  
26 for violating or attempting to violate section 411a(2) of the  
27 Michigan penal code, 1931 PA 328, MCL 750.411a, involving a school

1 when he or she was 14 years of age or older, until 3 years after  
2 the date of the conviction or juvenile disposition. A person not  
3 issued a license under this subdivision is not eligible to begin  
4 graduated licensing training or otherwise obtain an original  
5 operator's or chauffeur's license until 3 years after the date of  
6 the conviction or juvenile disposition.

7 (6) The secretary of state shall deny issuance of a vehicle  
8 group designation to a person if the person has been disqualified  
9 by the United States secretary of transportation from operating a  
10 commercial motor vehicle.

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

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

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

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

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

23 (d) The vehicle was necessary for the commission of the  
24 felony.

25 Sec. 319. (1) The secretary of state shall immediately suspend  
26 a person's license as provided in this section upon receiving a  
27 record of the person's conviction for a crime described in this



1 section, whether the conviction is under a law of this state, a  
2 local ordinance substantially corresponding to a law of this state,  
3 a law of another state substantially corresponding to a law of this  
4 state, or, **BEGINNING OCTOBER 31, 2010**, a law of the United States  
5 substantially corresponding to a law of this state.

6 (2) The secretary of state shall suspend the person's license  
7 for 1 year for any of the following crimes:

8 (a) Fraudulently altering or forging documents pertaining to  
9 motor vehicles in violation of section 257.

10 (b) A violation of section 413 of the Michigan penal code,  
11 1931 PA 328, MCL 750.413.

12 (c) A violation of section 1 of former 1931 PA 214, MCL  
13 752.191, or section 626c.

14 (d) A felony in which a motor vehicle was used. As used in  
15 this section, "felony in which a motor vehicle was used" means a  
16 felony during the commission of which the person convicted operated  
17 a motor vehicle and while operating the vehicle presented real or  
18 potential harm to persons or property and 1 or more of the  
19 following circumstances existed:

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

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

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

23 (iv) The vehicle was necessary for the commission of the  
24 felony.

25 (e) A violation of section 602a(2) or (3) ~~of this act or~~  
26 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL  
27 750.479a.

1 (f) ~~A BEGINNING OCTOBER 31, 2010, A~~ violation of section 601d.

2 (3) The secretary of state shall suspend the person's license  
3 for 90 days for any of the following crimes:

4 (a) Failing to stop and disclose identity at the scene of an  
5 accident resulting in injury in violation of section 617a.

6 (b) A violation of section 601b(2), section 601c(1), section  
7 **653A(3), SECTION 626 BEFORE OCTOBER 31, 2010, OR, BEGINNING OCTOBER**  
8 **31, 2010, SECTION 626(2).** ~~, or section 653a(3).~~

9 (c) Malicious destruction resulting from the operation of a  
10 vehicle under section 382(1)(b), (c), or (d) of the Michigan penal  
11 code, 1931 PA 328, MCL 750.382.

12 (d) A violation of section 703(2) of the Michigan liquor  
13 control code of 1998, 1998 PA 58, MCL 436.1703.

14 (4) The secretary of state shall suspend the person's license  
15 for 30 days for malicious destruction resulting from the operation  
16 of a vehicle under section 382(1)(a) of the Michigan penal code,  
17 1931 PA 328, MCL 750.382.

18 (5) For perjury or making a false certification to the  
19 secretary of state under any law requiring the registration of a  
20 motor vehicle or regulating the operation of a vehicle on a  
21 highway, or for conduct prohibited under section 324(1) or a local  
22 ordinance substantially corresponding to section 324(1), the  
23 secretary shall suspend the person's license as follows:

24 (a) If the person has no prior conviction for an offense  
25 described in this subsection within 7 years, for 90 days.

26 (b) If the person has 1 or more prior convictions for an  
27 offense described in this subsection within 7 years, for 1 year.

1 (6) For a violation of section 414 of the Michigan penal code,  
2 1931 PA 328, MCL 750.414, the secretary of state shall suspend the  
3 person's license as follows:

4 (a) If the person has no prior conviction for that offense  
5 within 7 years, for 90 days.

6 (b) If the person has 1 or more prior convictions for that  
7 offense within 7 years, for 1 year.

8 (7) For a violation of section 624a or 624b of this act or  
9 section 703(1) of the Michigan liquor control code of 1998, 1998 PA  
10 58, MCL 436.1703, the secretary of state shall suspend the person's  
11 license as follows:

12 (a) If the person has 1 prior conviction for an offense  
13 described in this subsection or section 33b(1) of former 1933 (Ex  
14 Sess) PA 8, for 90 days. The secretary of state may issue the  
15 person a restricted license after the first 30 days of suspension.

16 (b) If the person has 2 or more prior convictions for an  
17 offense described in this subsection or section 33b(1) of former  
18 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue  
19 the person a restricted license after the first 60 days of  
20 suspension.

21 (8) The secretary of state shall suspend the person's license  
22 for a violation of section 625 or 625m as follows:

23 (a) For 180 days for a violation of section **625(1) OR (8)**  
24 **BEFORE OCTOBER 31, 2010 OR, BEGINNING OCTOBER 31, 2010, SECTION**  
25 **625(1) (a) or (b) or (8)** if the person has no prior convictions  
26 within 7 years. The secretary of state may issue the person a  
27 restricted license during a specified portion of the suspension,

1 except that the secretary of state shall not issue a restricted  
2 license during the first 30 days of suspension.

3 (b) For 90 days for a violation of section 625(3) if the  
4 person has no prior convictions within 7 years. However, if the  
5 person is convicted of a violation of section 625(3), for operating  
6 a vehicle when, due to the consumption of a controlled substance or  
7 a combination of alcoholic liquor and a controlled substance, the  
8 person's ability to operate the vehicle was visibly impaired, the  
9 secretary of state shall suspend the person's license under this  
10 subdivision for 180 days. The secretary of state may issue the  
11 person a restricted license during all or a specified portion of  
12 the suspension.

13 (c) For 30 days for a violation of section 625(6) if the  
14 person has no prior convictions within 7 years. The secretary of  
15 state may issue the person a restricted license during all or a  
16 specified portion of the suspension.

17 (d) For 90 days for a violation of section 625(6) if the  
18 person has 1 or more prior convictions for that offense within 7  
19 years.

20 (e) For 180 days for a violation of section 625(7) if the  
21 person has no prior convictions within 7 years. The secretary of  
22 state may issue the person a restricted license after the first 90  
23 days of suspension.

24 (f) For 90 days for a violation of section 625m if the person  
25 has no prior convictions within 7 years. The secretary of state may  
26 issue the person a restricted license during all or a specified  
27 portion of the suspension.

1           (g) ~~For~~**BEGINNING OCTOBER 31, 2010, FOR** 1 year for a violation  
2 of section 625(1)(c) if the person has no prior convictions within  
3 7 years or not more than 2 convictions within 10 years. The  
4 secretary of state may issue the person a restricted license,  
5 except that the secretary of state shall not issue a restricted  
6 license during the first 45 days of suspension.

7           (h) ~~The~~**BEGINNING OCTOBER 31, 2010, THE** department shall order  
8 a person convicted of violating section 625(1)(c) not to operate a  
9 motor vehicle under a restricted license issued under subdivision  
10 (g) unless the vehicle is equipped with an ignition interlock  
11 device approved, certified, and installed as required under  
12 sections 625k and 625l. The ignition interlock device may be removed  
13 after the interlock device provider provides the department with  
14 verification that the person has operated the vehicle with no  
15 instances of reaching or exceeding a blood alcohol level of 0.025  
16 grams per 210 liters of breath.

17           (i) ~~If~~**BEGINNING OCTOBER 31, 2010, IF** an individual violates  
18 the conditions of the restricted license issued under subdivision  
19 (g) or operates or attempts to operate a motor vehicle with a blood  
20 alcohol level of 0.025 grams per 210 liters of breath, the  
21 secretary of state shall impose an additional like period of  
22 suspension and restriction as prescribed under subdivision (g).  
23 This subdivision does not apply to a start-up test failure within  
24 the first 2 months after installation of the ignition interlock  
25 device. As used in this subdivision, "start-up test failure" means  
26 that term as defined in R 257.313a of the Michigan administrative  
27 code.

1 (9) For a violation of section 367c of the Michigan penal  
2 code, 1931 PA 328, MCL 750.367c, the secretary of state shall  
3 suspend the person's license as follows:

4 (a) If the person has no prior conviction for an offense  
5 described in this subsection within 7 years, for 6 months.

6 (b) If the person has 1 or more convictions for an offense  
7 described in this subsection within 7 years, for 1 year.

8 (10) For a violation of section 315(4), the secretary of state  
9 may suspend the person's license for 6 months.

10 (11) For a violation or attempted violation of section 411a(2)  
11 of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a  
12 school, the secretary of state shall suspend the license of a  
13 person 14 years of age or over but less than 21 years of age until  
14 3 years after the date of the conviction or juvenile disposition  
15 for the violation. The secretary of state may issue the person a  
16 restricted license after the first 365 days of suspension.

17 (12) FOR A JUVENILE WHO IS DETERMINED TO BE WITHIN THE  
18 JURISDICTION OF THE FAMILY DIVISION OF CIRCUIT COURT UNDER SECTION  
19 2(A)(4) OF CHAPTER XIIA OF THE PROBATE CODE OF 1939, 1939 PA 288,  
20 MCL 712A.2, DUE TO WILLFUL AND REPEATED ABSENCE FROM SCHOOL OR  
21 ANOTHER LEARNING PROGRAM, THE SECRETARY OF STATE SHALL SUSPEND THE  
22 LICENSE OF THE JUVENILE FOR 6 MONTHS BEGINNING ON THE DATE OF  
23 DISPOSITION.

24 (13) ~~(12)~~ Except as provided in subsection ~~(14)~~ (15), a  
25 suspension under this section shall be imposed notwithstanding a  
26 court order unless the court order complies with section 323.

27 (14) ~~(13)~~ If the secretary of state receives records of more

1 than 1 conviction of a person resulting from the same incident, a  
2 suspension shall be imposed only for the violation to which the  
3 longest period of suspension applies under this section.

4 (15) ~~(14)~~—The secretary of state may waive a restriction,  
5 suspension, or revocation of a person's license imposed under this  
6 act if the person submits proof that a court in another state  
7 revoked, suspended, or restricted his or her license for a period  
8 equal to or greater than the period of a restriction, suspension,  
9 or revocation prescribed under this act for the violation and that  
10 the revocation, suspension, or restriction was served for the  
11 violation, or may grant a restricted license.

12 (16) ~~(15)~~—The secretary of state shall not issue a restricted  
13 license to a person whose license is suspended under this section  
14 unless a restricted license is authorized under this section and  
15 the person is otherwise eligible for a license.

16 (17) ~~(16)~~—The secretary of state shall not issue a restricted  
17 license to a person under subsection (8) that would permit the  
18 person to operate a commercial motor vehicle.

19 (18) ~~(17)~~—Except as provided in subsection ~~(16)~~ ~~(17)~~, a  
20 restricted license issued under this section shall permit the  
21 person to whom it is issued to take any driving skills test  
22 required by the secretary of state and to operate a vehicle under 1  
23 or more of the following circumstances:

24 (a) In the course of the person's employment or occupation.

25 (b) To and from any combination of the following:

26 (i) The person's residence.

27 (ii) The person's work location.

1           (iii) An alcohol or drug education or treatment program as  
2 ordered by the court.

3           (iv) The court probation department.

4           (v) A court-ordered community service program.

5           (vi) An educational institution at which the person is enrolled  
6 as a student.

7           (vii) A place of regularly occurring medical treatment for a  
8 serious condition for the person or a member of the person's  
9 household or immediate family.

10           (19) ~~(18)~~ While driving with a restricted license, the person  
11 shall carry proof of his or her destination and the hours of any  
12 employment, class, or other reason for traveling and shall display  
13 that proof upon a peace officer's request.

14           (20) ~~(19)~~ Subject to subsection ~~(21)~~ (22), as used in  
15 subsection (8), "prior conviction" means a conviction for any of  
16 the following, whether under a law of this state, a local ordinance  
17 substantially corresponding to a law of this state, or a law of  
18 another state substantially corresponding to a law of this state:

19           (a) Except as provided in subsection ~~(20)~~ (21), a violation or  
20 attempted violation of any of the following:

21           (i) Section 625, except a violation of section 625(2), or a  
22 violation of any prior enactment of section 625 in which the  
23 defendant operated a vehicle while under the influence of  
24 intoxicating or alcoholic liquor or a controlled substance, or a  
25 combination of intoxicating or alcoholic liquor and a controlled  
26 substance, or while visibly impaired, or with an unlawful bodily  
27 alcohol content.



1 (ii) Section 625m.

2 (iii) Former section 625b.

3 (b) Negligent homicide, manslaughter, or murder resulting from  
4 the operation of a vehicle or an attempt to commit any of those  
5 crimes.

6 (c) ~~A-BEGINNING OCTOBER 31, 2010, A~~ violation of section 601d  
7 or section 626(3) or (4).

8 (21) ~~(20)~~—Except for purposes of the suspensions described in  
9 subsection (8)(c) and (d), only 1 violation or attempted violation  
10 of section 625(6), a local ordinance substantially corresponding to  
11 section 625(6), or a law of another state substantially  
12 corresponding to section 625(6) may be used as a prior conviction.

13 (22) ~~(21)~~—If 2 or more convictions described in subsection  
14 ~~(19)~~—(20) are convictions for violations arising out of the same  
15 transaction, only 1 conviction shall be used to determine whether  
16 the person has a prior conviction.

17 Enacting section 1. This amendatory act does not take effect  
18 unless Senate Bill No. \_\_\_\_\_ or House Bill No. 4645(request no.  
19 01322'09 a) of the 95th Legislature is enacted into law.