

# HOUSE BILL NO. 4867

August 29, 2019, Introduced by Reps. Hertel, Tate, Kennedy, Kuppa, Pohutsky, Chirkun, Ellison, Sabo, Shannon, Cambensy, Lasinski and Brenda Carter and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 319 and 907 (MCL 257.319 and 257.907), section 319 as amended by 2016 PA 358 and section 907 as amended by 2015 PA 126.

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

1           Sec. 319. (1) The secretary of state shall immediately suspend  
2 a person's license as provided in this section on receiving a



1 record of the person's conviction for a crime described in this  
2 section, whether the conviction is under a law of this state, a  
3 local ordinance substantially corresponding to a law of this state,  
4 a law of another state substantially corresponding to a law of this  
5 state, or, beginning October 31, 2010, a law of the United States  
6 substantially corresponding to a law of this state.

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

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

11 (b) A violation of section 413 of the Michigan penal code,  
12 1931 PA 328, MCL 750.413.

13 (c) A violation of section 1 of former 1931 PA 214, ~~MCL~~  
14 ~~752.191~~, or former section 626c.

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

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

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

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

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

26 (e) A violation of section 602a(2) or (3) of this act or  
27 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL  
28 750.479a.

29 (f) Beginning October 31, 2010, a violation of section 601d.



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

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

5 (b) A violation of section 601b(2), section 601c(1), section  
6 653a(3), section 626 before October 31, 2010, or, beginning October  
7 31, 2010, section 626(2).

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

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

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

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

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

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

27 (6) For a violation of section 414 of the Michigan penal code,  
28 1931 PA 328, MCL 750.414, the secretary of state shall suspend the  
29 person's license as follows:



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

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

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

9 (a) Subject to subsection ~~(24)~~, **(25)**, if the person has 1  
10 prior conviction for an offense described in section 624a or 624b  
11 of this act or section 33b(1) of former 1933 (Ex Sess) PA 8, for 90  
12 days. The secretary of state may issue the person a restricted  
13 license after the first 30 days of suspension.

14 (b) Subject to subsection ~~(24)~~, **(25)**, if the person has 2 or  
15 more prior convictions for an offense described in this subsection  
16 or section 33b(1) of former 1933 (Ex Sess) PA 8, for 1 year. The  
17 secretary of state may issue the person a restricted license after  
18 the first 60 days of suspension.

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

21 (a) For 180 days for a violation of section 625(1) or (8)  
22 before October 31, 2010 or, beginning October 31, 2010, section  
23 625(1)(a) or (b) or (8) if the person has no prior convictions  
24 within 7 years. The secretary of state may issue the person a  
25 restricted license during a specified portion of the suspension,  
26 except that the secretary of state shall not issue a restricted  
27 license during the first 30 days of suspension.

28 (b) For 90 days for a violation of section 625(3) if the  
29 person has no prior convictions within 7 years. However, if the



1 person is convicted of a violation of section 625(3), for operating  
2 a vehicle when, due to the consumption of a controlled substance or  
3 a combination of alcoholic liquor and a controlled substance, the  
4 person's ability to operate the vehicle was visibly impaired, the  
5 secretary of state shall suspend the person's license under this  
6 subdivision for 180 days. The secretary of state may issue the  
7 person a restricted license during all or a specified portion of  
8 the suspension.

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

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

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

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

24 (g) Beginning October 31, 2010, for 1 year for a violation of  
25 section 625(1)(c) if the person has no prior convictions within 7  
26 years or not more than 2 convictions within 10 years. The secretary  
27 of state may issue the person a restricted license, except that the  
28 secretary of state shall not issue a restricted license during the  
29 first 45 days of suspension.



1 (h) Beginning October 31, 2010, the department shall order a  
2 person convicted of violating section 625(1)(c) not to operate a  
3 motor vehicle under a restricted license issued under subdivision  
4 (g) unless the vehicle is equipped with an ignition interlock  
5 device approved, certified, and installed as required under  
6 sections 625k and 625l. The ignition interlock device may be removed  
7 after the interlock device provider provides the department with  
8 verification that the person has operated the vehicle with no  
9 instances of reaching or exceeding a blood alcohol level of 0.025  
10 grams per 210 liters of breath. This subdivision does not prohibit  
11 the removal of the ignition interlock device for any of the  
12 following:

13 (i) A start-up test failure that occurs within the first 2  
14 months after installation of the device. As used in this  
15 subdivision, "start-up test failure" means that the ignition  
16 interlock device has prevented the motor vehicle from being  
17 started. Multiple unsuccessful attempts at 1 time to start the  
18 vehicle are treated as 1 start-up test failure only under this  
19 subparagraph.

20 (ii) A start-up test failure occurring more than 2 months after  
21 installation of the device, if not more than 15 minutes after  
22 detecting the start-up test failure the person delivers a breath  
23 sample that the ignition interlock device analyzes as having an  
24 alcohol level of less than 0.025 grams per 210 liters of breath.

25 (iii) A retest prompted by the device, if not more than 5  
26 minutes after detecting the retest failure the person delivers a  
27 breath sample that the ignition interlock device analyzes as having  
28 an alcohol level of less than 0.025 grams per 210 liters of breath.

29 (i) Beginning October 31, 2010, if an individual violates the



1 conditions of the restricted license issued under subdivision (g)  
2 or operates or attempts to operate a motor vehicle with a blood  
3 alcohol level of 0.025 grams per 210 liters of breath, the  
4 secretary of state shall impose an additional like period of  
5 suspension and restriction as prescribed under subdivision (g).  
6 This subdivision does not require an additional like period of  
7 suspension and restriction for any of the following:

8 (i) A start-up test failure within the first 2 months after  
9 installation of the ignition interlock device. As used in this  
10 subdivision, "start-up test failure" means that the ignition  
11 interlock device has prevented the motor vehicle from being  
12 started. Multiple unsuccessful attempts at 1 time to start the  
13 vehicle are treated as 1 start-up test failure only under this  
14 subparagraph.

15 (ii) A start-up test failure occurring more than 2 months after  
16 installation of the device, if not more than 15 minutes after  
17 detecting the start-up test failure the person delivers a breath  
18 sample that the ignition interlock device analyzes as having an  
19 alcohol level of less than 0.025 grams per 210 liters of breath.

20 (iii) Any retest prompted by the device, if not more than 5  
21 minutes after detecting the retest failure the person delivers a  
22 breath sample that the ignition interlock device analyzes as having  
23 an alcohol level of less than 0.025 grams per 210 liters of breath.

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

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

29 (b) If the person has 1 or more convictions for an offense



1 described in this subsection within 7 years, for 1 year.

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

4 (11) For a violation or attempted violation of section 411a(2)  
5 of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a  
6 school, the secretary of state shall suspend the license of a  
7 person 14 years of age or over but less than 21 years of age until  
8 3 years after the date of the conviction or juvenile disposition  
9 for the violation. The secretary of state may issue the person a  
10 restricted license after the first 365 days of suspension.

11 (12) For a second or subsequent violation of section 701(1) of  
12 the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701,  
13 by an individual who is not a retail licensee or a retail  
14 licensee's clerk, agent, or employee, the secretary of state shall  
15 suspend the person's license for 180 days. The secretary of state  
16 may issue a person a restricted license during all or a specified  
17 portion of the suspension.

18 (13) Except as provided in subsection (15), a suspension under  
19 this section ~~shall~~**must** be imposed notwithstanding a court order  
20 unless the court order complies with section 323.

21 (14) If the secretary of state receives records of more than 1  
22 conviction of a person resulting from the same incident, a  
23 suspension ~~shall~~**must** be imposed only for the violation to which  
24 the longest period of suspension applies under this section.

25 (15) The secretary of state may waive a restriction,  
26 suspension, or revocation of a person's license imposed under this  
27 act if the person submits proof that a court in another state  
28 revoked, suspended, or restricted his or her license for a period  
29 equal to or greater than the period of a restriction, suspension,





1 or revocation prescribed under this act for the violation and that  
2 the revocation, suspension, or restriction was served for the  
3 violation, or may grant a restricted license.

4 (16) The secretary of state shall not issue a restricted  
5 license to a person whose license is suspended under this section  
6 unless a restricted license is authorized under this section and  
7 the person is otherwise eligible for a license.

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

11 (18) Except as provided in subsection (17), a restricted  
12 license issued under this section ~~shall~~**must** permit the person to  
13 whom it is issued to take any driving skills test required by the  
14 secretary of state and to operate a vehicle under 1 or more of the  
15 following circumstances:

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

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

18 (i) The person's residence.

19 (ii) The person's work location.

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

22 (iv) The court probation department.

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

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

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

29 (viii) An ignition interlock service provider as required.



1 (19) While driving with a restricted license, the person shall  
2 carry proof of his or her destination and the hours of any  
3 employment, class, or other reason for traveling and shall display  
4 that proof upon a peace officer's request.

5 (20) Subject to subsection (22), as used in subsection (8),  
6 "prior conviction" means a conviction for any of the following,  
7 whether under a law of this state, a local ordinance substantially  
8 corresponding to a law of this state, or a law of another state  
9 substantially corresponding to a law of this state:

10 (a) Except as provided in subsection (21), a violation or  
11 attempted violation of any of the following:

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

19 (ii) Section 625m.

20 (iii) Former section 625b.

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

24 (c) Beginning October 31, 2010, a violation of section 601d or  
25 section 626(3) or (4).

26 (21) Except for purposes of the suspensions described in  
27 subsection (8)(c) and (d), only 1 violation or attempted violation  
28 of section 625(6), a local ordinance substantially corresponding to  
29 section 625(6), or a law of another state substantially



1 corresponding to section 625(6) may be used as a prior conviction.

2 (22) If 2 or more convictions described in subsection (20) are  
3 convictions for violations arising out of the same transaction,  
4 only 1 conviction ~~shall~~**must** be used to determine whether the  
5 person has a prior conviction.

6 (23) Any period of suspension or restriction required under  
7 this section is not subject to appeal to the secretary of state.

8 **(24) The secretary of state may suspend a person's license for**  
9 **1 year for a second or subsequent violation of section 682.**

10 (25) ~~(24)~~For purposes of subsection (7), "prior conviction"  
11 means either a misdemeanor conviction or a civil infraction  
12 determination for a violation of section 703(1) of the liquor  
13 control code of 1998, 1998 PA 58, MCL 436.1703.

14 Sec. 907. (1) A violation of this act, or a local ordinance  
15 substantially corresponding to a provision of this act, that is  
16 designated a civil infraction ~~shall not be considered~~**is not** a  
17 lesser included offense of a criminal offense.

18 (2) If a person is determined under sections 741 to 750 to be  
19 responsible or responsible "with explanation" for a civil  
20 infraction under this act or a local ordinance substantially  
21 corresponding to a provision of this act, the judge or district  
22 court magistrate may order the person to pay a civil fine of not  
23 more than \$100.00 and costs as provided in subsection (4). However,  
24 if the civil infraction was a moving violation that resulted in an  
25 at-fault collision with another vehicle, a person, or any other  
26 object, the civil fine ordered under this section ~~shall~~**must** be  
27 increased by \$25.00 but the total civil fine ~~shall~~**must** not exceed  
28 \$100.00. However, for a violation of section 602b, the person ~~shall~~  
29 **must** be ordered to pay costs as provided in subsection (4) and a



1 civil fine of \$100.00 for a first offense and \$200.00 for a second  
 2 or subsequent offense. For a violation of section 674(1)(s) or a  
 3 local ordinance substantially corresponding to section 674(1)(s),  
 4 the person ~~shall~~**must** be ordered to pay costs as provided in  
 5 subsection (4) and a civil fine of not less than \$100.00 or more  
 6 than \$250.00. For a violation of section 676c, the person ~~shall~~  
 7 **must** be ordered to pay costs as provided in subsection (4) and a  
 8 civil fine of \$1,000.00. For a violation of section 328, the civil  
 9 fine ordered under this subsection ~~shall be not more than~~**must not**  
 10 **exceed** \$50.00. For a violation of section 710d, the civil fine  
 11 ordered under this subsection ~~shall~~**must** not exceed \$10.00, subject  
 12 to subsection (12). For a violation of section 710e, the civil fine  
 13 and court costs ordered under this subsection ~~shall~~**must** be \$25.00.  
 14 For a violation of section 682 or a local ordinance substantially  
 15 corresponding to section 682, the person ~~shall~~**must** be ordered to  
 16 pay costs as provided in subsection (4) and a civil fine of not  
 17 less than ~~\$100.00~~**\$250.00** or more than \$500.00 **for a first offense**  
 18 **and a civil fine of not less than \$500.00 or more than \$1,000.00**  
 19 **for a second or subsequent offense.** For a violation of section 240,  
 20 the civil fine ordered under this subsection ~~shall be~~**is** \$15.00.  
 21 For a violation of section 252a(1), the civil fine ordered under  
 22 this subsection ~~shall be~~**is** \$50.00. For a violation of section  
 23 676a(3), the civil fine ordered under this section ~~shall be~~**must**  
 24 ~~not more than~~**exceed** \$10.00. For a first violation of section  
 25 319f(1), the civil fine ordered under this section ~~shall~~**must** be  
 26 not less than \$2,500.00 or more than \$2,750.00; for a second or  
 27 subsequent violation, the civil fine ~~shall~~**must** be not less than  
 28 \$5,000.00 or more than \$5,500.00. For a violation of section  
 29 319g(1)(a), the civil fine ordered under this section ~~shall~~**must** be



1 not more than \$10,000.00. For a violation of section 319g(1)(g),  
 2 the civil fine ordered under this section ~~shall~~**must** be not less  
 3 than \$2,750.00 or more than \$25,000.00. Permission may be granted  
 4 for payment of a civil fine and costs to be made within a specified  
 5 period of time or in specified installments, but unless permission  
 6 is included in the order or judgment, the civil fine and costs  
 7 ~~shall~~**must** be payable immediately.

8 (3) Except as provided in this subsection, if a person is  
 9 determined to be responsible or responsible "with explanation" for  
 10 a civil infraction under this act or a local ordinance  
 11 substantially corresponding to a provision of this act while  
 12 driving a commercial motor vehicle, he or she ~~shall~~**must** be ordered  
 13 to pay costs as provided in subsection (4) and a civil fine of not  
 14 more than \$250.00.

15 (4) If a civil fine is ordered under subsection (2) or (3),  
 16 the judge or district court magistrate shall summarily tax and  
 17 determine the costs of the action, which are not limited to the  
 18 costs taxable in ordinary civil actions, and may include all  
 19 expenses, direct and indirect, to which the plaintiff has been put  
 20 in connection with the civil infraction, up to the entry of  
 21 judgment. Costs ~~shall~~**must** not be ordered in excess of \$100.00. A  
 22 civil fine ordered under subsection (2) or (3) ~~shall~~**must** not be  
 23 waived unless costs ordered under this subsection are waived.  
 24 Except as otherwise provided by law, costs are payable to the  
 25 general fund of the plaintiff.

26 (5) In addition to a civil fine and costs ordered under  
 27 subsection (2) or (3) and subsection (4) and the justice system  
 28 assessment ordered under subsection (13), the judge or district  
 29 court magistrate may order the person to attend and complete a



1 program of treatment, education, or rehabilitation.

2 (6) A district court magistrate shall impose the sanctions  
3 permitted under subsections (2), (3), and (5) only to the extent  
4 expressly authorized by the chief judge or only judge of the  
5 district court district.

6 (7) Each district of the district court and each municipal  
7 court may establish a schedule of civil fines, costs, and  
8 assessments to be imposed for civil infractions that occur within  
9 the respective district or city. If a schedule is established, it  
10 ~~shall~~**must** be prominently posted and readily available for public  
11 inspection. A schedule need not include all violations that are  
12 designated by law or ordinance as civil infractions. A schedule may  
13 exclude cases on the basis of a defendant's prior record of civil  
14 infractions or traffic offenses, or a combination of civil  
15 infractions and traffic offenses.

16 (8) The state court administrator shall annually publish and  
17 distribute to each district and court a recommended range of civil  
18 fines and costs for first-time civil infractions. This  
19 recommendation is not binding upon the courts having jurisdiction  
20 over civil infractions but is intended to act as a normative guide  
21 for judges and district court magistrates and a basis for public  
22 evaluation of disparities in the imposition of civil fines and  
23 costs throughout the state.

24 (9) If a person has received a civil infraction citation for  
25 defective safety equipment on a vehicle under section 683, the  
26 court shall waive a civil fine, costs, and assessments upon receipt  
27 of certification by a law enforcement agency that repair of the  
28 defective equipment was made before the appearance date on the  
29 citation.



1 (10) A default in the payment of a civil fine or costs ordered  
2 under subsection (2), (3), or (4) or a justice system assessment  
3 ordered under subsection (13), or an installment of the fine,  
4 costs, or assessment, may be collected by a means authorized for  
5 the enforcement of a judgment under chapter 40 of the revised  
6 judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or  
7 under chapter 60 of the revised judicature act of 1961, 1961 PA  
8 236, MCL 600.6001 to 600.6098.

9 (11) If a person fails to comply with an order or judgment  
10 issued under this section within the time prescribed by the court,  
11 the driver's license of that person ~~shall~~**must** be suspended under  
12 section 321a until full compliance with that order or judgment  
13 occurs. In addition to this suspension, the court may also proceed  
14 under section 908.

15 (12) The court may waive any civil fine, cost, or assessment  
16 against a person who received a civil infraction citation for a  
17 violation of section 710d if the person, before the appearance date  
18 on the citation, supplies the court with evidence of acquisition,  
19 purchase, or rental of a child seating system meeting the  
20 requirements of section 710d.

21 (13) In addition to any civil fines or costs ordered to be  
22 paid under this section, the judge or district court magistrate  
23 shall order the defendant to pay a justice system assessment of  
24 \$40.00 for each civil infraction determination, except for a  
25 parking violation or a violation for which the total fine and costs  
26 imposed are \$10.00 or less. Upon payment of the assessment, the  
27 clerk of the court shall transmit the assessment collected to the  
28 state treasury to be deposited into the justice system fund created  
29 in section 181 of the revised judicature act of 1961, 1961 PA 236,



1 MCL 600.181. An assessment levied under this subsection is not a  
2 civil fine for purposes of section 909.

3 (14) If a person has received a citation for a violation of  
4 section 223, the court shall waive any civil fine, costs, and  
5 assessment, upon receipt of certification by a law enforcement  
6 agency that the person, before the appearance date on the citation,  
7 produced a valid registration certificate that was valid on the  
8 date the violation of section 223 occurred.

9 (15) If a person has received a citation for a violation of  
10 section 328(1) for failing to produce a certificate of insurance  
11 under section 328(2), the court may waive the fee described in  
12 section 328(3)(c) and shall waive any fine, costs, and any other  
13 fee or assessment otherwise authorized under this act upon receipt  
14 of verification by the court that the person, before the appearance  
15 date on the citation, produced valid proof of insurance that was in  
16 effect at the time the violation of section 328(1) occurred.  
17 Insurance obtained subsequent to the time of the violation does not  
18 make the person eligible for a waiver under this subsection.

19 (16) If a person is determined to be responsible or  
20 responsible "with explanation" for a civil infraction under this  
21 act or a local ordinance substantially corresponding to a provision  
22 of this act and the civil infraction arises out of the ownership or  
23 operation of a commercial quadricycle, he or she ~~shall~~**must** be  
24 ordered to pay costs as provided in subsection (4) and a civil fine  
25 of not more than \$500.00.

26 (17) As used in this section, "moving violation" means an act  
27 or omission prohibited under this act or a local ordinance  
28 substantially corresponding to this act that involves the operation  
29 of a motor vehicle and for which a fine may be assessed.





1 Enacting section 1. This amendatory act takes effect 90 days  
2 after the date it is enacted into law.

