

# HOUSE BILL No. 5187

September 27, 1991, Introduced by Reps. Leland, Palamara, Rocca, Barns, Middaugh, Hertel, Gire, Niederstadt, Randall, Wozniak, Pitoniak, Owen, Baade, Dobronski, Joe Young, Sr., DeMars, Trim, Stopczynski, Nye, Hoffman, Bartnik, Strand, Harder, Clarke, Munsell, Sikkema, Willis Bullard, London, Dobb, Shugars, Oxender, Bobier, Ostling, Gilmer, Bennane, Jonker, Olshove, Hickner, Kosteva, Gubow, Bennett, Murphy, Hunter and Mathieu and referred to the Committee on Judiciary.

A bill to amend sections 52, 303, and 732 of Act No. 300 of the Public Acts of 1949, entitled as amended

"Michigan vehicle code,"

sections 52 and 732 as amended by Act No. 99 of the Public Acts of 1991 and section 303 as amended by Act No. 349 of the Public Acts of 1988, being sections 257.52, 257.303, and 257.732 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 52, 303, and 732 of Act No. 300 of the  
2 Public Acts of 1949, sections 52 and 732 as amended by Act No. 99  
3 of the Public Acts of 1991 and section 303 as amended by Act  
4 No. 349 of the Public Acts of 1988, being sections 257.52,  
5 257.303, and 257.732 of the Michigan Compiled Laws, are amended  
6 to read as follows:

1       Sec. 52. (1) "Revocation" means that the operator's or  
2 chauffeur's license and privilege to operate a motor vehicle on  
3 the public highways are terminated and shall not be renewed or  
4 restored ~~until the later of the following~~ EXCEPT AS FOLLOWS:

5       (A) FOR A VIOLATION OTHER THAN A VIOLATION OF SECTION 89A OR  
6 529A OF THE MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS  
7 OF 1931, BEING SECTIONS 750.89A AND 750.529A OF THE MICHIGAN  
8 COMPILED LAWS, UNTIL THE LATER OF THE FOLLOWING:

9       (i) ~~(a)~~ The expiration of not less than 1 year after the  
10 license was revoked.

11       (ii) ~~(b)~~ The expiration of not less than 5 years after the  
12 date of a subsequent revocation occurring within 7 years after  
13 the date of a prior revocation.

14       (B) FOR A VIOLATION OF SECTION 89A OR 529A OF ACT NO. 328 OF  
15 THE PUBLIC ACTS OF 1931, UNTIL THE LATER OF THE FOLLOWING:

16       (i) THE EXPIRATION OF NOT LESS THAN 10 YEARS AFTER THE  
17 LICENSE WAS REVOKED.

18       (ii) IF THE INDIVIDUAL WAS IMPRISONED FOR THE VIOLATION, THE  
19 EXPIRATION OF NOT LESS THAN 10 YEARS AFTER THE INDIVIDUAL IS  
20 RELEASED FROM IMPRISONMENT.

21       (2) If a license has been revoked, an application for a new  
22 license may be presented and acted upon by the secretary of state  
23 as provided in section 303.

24       (3) When referring to a dealer license, "revocation" means  
25 that a person's authorization to engage in business as a dealer  
26 is terminated and shall not be restored or renewed, except that

1 an application for a new license may be considered at the  
2 discretion of the secretary of state.

3 Sec. 303. (1) The secretary of state shall not issue a  
4 license under this act:

5 (a) To a person, as an operator, who is 17 years of age or  
6 less, except that the secretary of state may issue a license to a  
7 person who is not less than 16 years of age and who has satisfac-  
8 torily passed a driver education course and examination given by  
9 a public school or nonpublic school of this or another state  
10 offering a course approved by the department of education, or an  
11 equivalent examination as prescribed in section 811. The secre-  
12 tary of state may issue to a person not less than 14 years of age  
13 a restricted license as provided in this act. This subdivision  
14 shall not apply to a person who has been the holder of a valid  
15 driver's license issued by another state, territory, or posses-  
16 sion of the United States or another sovereignty for at least 1  
17 year immediately before application for a driver's license under  
18 this act.

19 (b) To a person, as a chauffeur, who is 17 years of age or  
20 less, except that the secretary of state may issue a license to a  
21 person who is not less than 16 years of age and who has satisfac-  
22 torily passed a driver education course and examination given by  
23 a public school or nonpublic school of this or another state  
24 offering a course approved by the department of education, or an  
25 equivalent examination as prescribed in section 811.

26 (c) To a person whose license has been suspended during the  
27 period for which the license was suspended.

1 (d) ~~to~~ EXCEPT AS PROVIDED IN SUBDIVISION (E), TO a person  
2 whose license has been revoked under this act until the later of  
3 the following:

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

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

9 (E) TO A PERSON WHOSE LICENSE HAS BEEN REVOKED FOR A VIOLA-  
10 TION OF SECTION 89A OR 529A OF THE MICHIGAN PENAL CODE, ACT  
11 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.89A AND  
12 750.529A OF THE MICHIGAN COMPILED LAWS, UNTIL THE LATER OF THE  
13 FOLLOWING:

14 (i) THE EXPIRATION OF NOT LESS THAN 10 YEARS AFTER THE  
15 LICENSE WAS REVOKED.

16 (ii) IF THE INDIVIDUAL WAS IMPRISONED FOR THE VIOLATION, THE  
17 EXPIRATION OF NOT LESS THAN 10 YEARS AFTER THE INDIVIDUAL IS  
18 RELEASED FROM IMPRISONMENT.

19 (F) ~~(e)~~ To a person who is an habitual violator of the  
20 criminal laws relating to operating a vehicle while impaired by  
21 or under the influence of intoxicating liquor or a controlled  
22 substance or a combination of intoxicating liquor and a con-  
23 trolled substance, or with a blood alcohol content of 0.10% or  
24 more by weight of alcohol. Convictions of any of the following,  
25 whether under a law of this state, a local ordinance substan-  
26 tially corresponding to a law of this state, or a law of another  
27 state substantially corresponding to a law of this state, shall

1 be prima facie evidence that the person is an habitual violator  
2 as described in this subdivision:

3 (i) Two convictions under section 625(1) or (2), or 1 con-  
4 viction under section 625(1) and 1 conviction under section  
5 625(2) within 7 years.

6 (ii) Three convictions under section 625b within 10 years.

7 (G) ~~(f)~~ To a person who in the opinion of the secretary of  
8 state is afflicted with or suffering from a physical or mental  
9 disability or disease which prevents that person from exercising  
10 reasonable and ordinary control over a motor vehicle while oper-  
11 ating the motor vehicle upon the highways.

12 (H) ~~(g)~~ To a person who is unable to understand highway  
13 warning or direction signs in the English language.

14 (I) ~~(h)~~ To a person who is an habitually reckless driver.  
15 Four convictions of reckless driving under this act or any other  
16 law of this state relating to reckless driving or under a local  
17 ordinance of this state or a law of another state which defines  
18 the term "reckless driving" substantially similar to the law of  
19 this state shall be prima facie evidence that the person is an  
20 habitually reckless driver.

21 (J) ~~(i)~~ To a person who is an habitual criminal. Two con-  
22 victions of a felony involving the use of a motor vehicle in this  
23 or another state shall be prima facie evidence that the person is  
24 an habitual criminal.

25 (K) ~~(j)~~ To a person who is unable to pass a knowledge,  
26 skill, or ability test administered by the secretary of state in  
27 connection with the issuance of an original operator's or

1 chauffeur's license, original motorcycle indorsement, or an  
2 original or renewal of a vehicle group designation or vehicle  
3 indorsement.

4 (l) ~~-(k)-~~ To a person who has been convicted, received a  
5 probate court finding, or been determined responsible for 2 or  
6 more moving violations under a law of this state, a local ordi-  
7 nance substantially corresponding to a law of this state, or a  
8 law of another state substantially corresponding to a law of this  
9 state, within the preceding 3 years, if the violations occurred  
10 prior to the issuance of an original license to the person in  
11 this or another state.

12 (M) ~~-(L)-~~ To a nonresident.

13 (2) Upon receipt of the appropriate records of conviction,  
14 the secretary of state shall revoke the operator's or chauffeur's  
15 license of a person having any of the following convictions,  
16 whether under a law of this state, a local ordinance substan-  
17 tially corresponding to a law of this state, or a law of another  
18 state substantially corresponding to a law of this state:

19 (a) Four convictions of reckless driving within 7 years.

20 (b) Two convictions of a felony involving the use of a motor  
21 vehicle within 7 years.

22 (c) Two convictions under section 625(1) or (2), or 1 con-  
23 viction under section 625(1) and 1 conviction under section  
24 625(2) within 7 years.

25 (d) Three convictions under section 625b within 10 years.

26 (3) The secretary of state shall revoke a license under  
27 subsection (2) notwithstanding a court order issued under section

1 625 or 625b, or a local ordinance substantially corresponding to  
2 section 625(1) or (2) or 625b.

3 (4) UPON RECEIPT OF THE APPROPRIATE RECORDS OF CONVICTION,  
4 THE SECRETARY OF STATE SHALL REVOKE THE OPERATOR'S OR CHAUFFEUR'S  
5 LICENSE OF AN INDIVIDUAL CONVICTED OF VIOLATING SECTION 89A OR  
6 529A OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931.

7 (5) THE SECRETARY OF STATE SHALL REVOKE A LICENSE UNDER  
8 SUBSECTION (4) NOTWITHSTANDING A COURT ORDER ISSUED UNDER  
9 SECTION 89A OR 529A OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931.

10 Sec. 732. (1) Each municipal judge and each clerk of a  
11 court of record shall keep a full record of every case in which a  
12 person is charged with or cited for a violation of this act or of  
13 a law corresponding to this act regulating the operation of vehi-  
14 cles on highways, OR FOR A VIOLATION OF SECTION 89A OR 529A OF  
15 THE MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF 1931,  
16 BEING SECTIONS 750.89A AND 750.529A OF THE MICHIGAN COMPILED  
17 LAWS.

18 (2) Within 14 days after the conviction or forfeiture of  
19 bail of a person, or entry of a civil infraction determination,  
20 default judgment, or probate court order of disposition for a  
21 child found to be within the provisions of chapter XIIA of Act  
22 No. 288 of the Public Acts of 1939, being sections 712A.1 to  
23 712A.28 of the Michigan Compiled Laws, upon a charge of, or  
24 citation for, violating this act or a local ordinance correspond-  
25 ing to this act regulating the operation of vehicles on highways,  
26 OR FOR A VIOLATION OF SECTION 89A OR 529A OF ACT NO. 328 OF THE  
27 PUBLIC ACTS OF 1931, and, for each case charging a violation of

1 section 625(1), (3), (4), or (5), or a local ordinance  
2 substantially corresponding to section 625(1) or (3) in which the  
3 charge is dismissed or the defendant is acquitted, except as pro-  
4 vided in subsection (15), the municipal judge or clerk of the  
5 court of record shall prepare and immediately forward to the sec-  
6 retary of state an abstract of the record of the court for the  
7 case. The abstract shall be certified by signature, stamp, or  
8 facsimile signature by the person required to prepare the  
9 abstract to be true and correct. If a city or village depart-  
10 ment, bureau, or person is authorized to accept a payment of  
11 money as a settlement for a violation of a local ordinance corre-  
12 sponding to this act, the city or village department, bureau, or  
13 person shall send a full report of each case in which a person  
14 pays any amount of money to the city or village department,  
15 bureau, or person to the secretary of state upon a form pre-  
16 scribed 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 and shall  
19 include the name, address, and date of birth of the person  
20 charged or cited; the number of the person's operator's or  
21 chauffeur's license, if any; the date and nature of the viola-  
22 tion; the type of vehicle driven at the time of the violation and  
23 if the vehicle is a commercial motor vehicle, that vehicle's  
24 group designation and indorsement classification; the date of the  
25 conviction, finding, forfeiture, judgment, or determination;  
26 whether bail was forfeited; any license revocation, restriction,  
27 suspension, or denial ordered by the court pursuant to this act;



1 and other information considered necessary to the secretary of  
2 state.

3 (4) The clerk of the court also shall forward an abstract of  
4 the record of the court to the secretary of state upon the con-  
5 viction of a person or entry of a probate court order of disposi-  
6 tion for a child found to be within the provisions of chapter  
7 XIIA of Act No. 288 of the Public Acts of 1939, being sections  
8 712A.1 to 712A.28 of the Michigan Compiled Laws, involving a vio-  
9 lation of section 89A, 324, 413, 414, ~~or~~ 479a, OR 529A of the  
10 Michigan penal code, Act No. 328 of the Public Acts of 1931,  
11 being sections 750.89A, 750.324, 750.413, 750.414, ~~and~~  
12 750.479a, AND 750.529A of the Michigan Compiled Laws; a violation  
13 of section 1 of Act No. 214 of the Public Acts of 1931, being  
14 section 752.191 of the Michigan Compiled Laws; or an attempt to  
15 commit any of these offenses.

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  
3 (4), or section 319(1)(a) to (f) 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, Act  
10 No. 300 of the Public Acts of 1949, being section 257.319 of the  
11 Michigan Compiled Laws, your driver's license shall be suspended  
12 by the secretary of state."

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

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

26 (8) If the judge or juvenile court referee determines as  
27 part of the sentence or disposition that the felony for which the

1 defendant was convicted or adjudicated and with respect to which  
2 notice was given pursuant to subsection (6) or (7) is a felony in  
3 which a motor vehicle was used, the clerk of the court shall for-  
4 ward an abstract of the court record of that conviction or adju-  
5 dication to the secretary of state.

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

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

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

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

15 (d) The vehicle was necessary for the commission of the  
16 felony.

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

23 "You are charged with the commission of a felony in which a  
24 commercial motor vehicle was used. If you are convicted and the  
25 judge finds that the conviction is for a felony in which a com-  
26 mercial motor vehicle was used, as defined in section 319b of the  
27 Michigan vehicle code, Act No. 300 of the Public Acts of 1949,

1 being section 257.319b of the Michigan Compiled Laws, all vehicle  
2 group designations on your driver's license shall be suspended by  
3 the secretary of state."

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

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

19 (a) The name and title of the person required to forward  
20 abstracts.

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

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

23 (d) The following statement:

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

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

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

5 (13) The failure, refusal, or neglect of a person to comply  
6 with this section shall constitute misconduct in office and shall  
7 be grounds for removal from office.

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

14 (15) The court shall not submit, and the secretary of state  
15 shall discard and not enter on the master driving record, an  
16 abstract for a conviction, civil infraction determination, or  
17 probate court order of disposition for any of the following  
18 offenses:

19 (a) The parking or standing of a vehicle.

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

23 (c) A violation of chapter II which is not the basis for the  
24 secretary of state's suspension, revocation, or denial of an  
25 operator's or chauffeur's license.

26 (d) A pedestrian, passenger, or bicycle violation.

1 (e) A violation of section 710e.

2 (16) The secretary of state shall discard and not enter on  
3 the master driving record an abstract for a bond forfeiture which  
4 occurred outside this state. However, the secretary of state  
5 shall retain and enter on the master driving record an abstract  
6 of an out-of-state bond forfeiture for an offense which occurred  
7 after October 1, 1989 in connection with the operation of a com-  
8 mercial motor vehicle.

9 (17) The secretary of state shall inform the courts of this  
10 state of the nonmoving violations and violations of chapter II  
11 which are used by the secretary of state as the basis for the  
12 suspension, restriction, revocation, or denial of an operator's  
13 or chauffeur's license.

14 (18) If a conviction, civil infraction determination, or  
15 probate court order of disposition is reversed upon appeal, the  
16 person whose conviction, determination, or order of disposition  
17 has been reversed may serve on the secretary of state a certified  
18 copy of the order of reversal, and the secretary of state shall  
19 enter the order in the proper book or index in connection with  
20 the record of the conviction, civil infraction determination, or  
21 probate court order of disposition.

22 (19) The secretary of state may permit a city or village  
23 department, bureau, person, or court to modify the requirement as  
24 to the time and manner of reporting a conviction, civil infrac-  
25 tion determination, settlement, or probate court order of dispo-  
26 sition to the secretary of state when the modification will  
27 increase the economy and efficiency of collecting and utilizing

1 the records. If the permitted abstract of court record reporting  
2 a conviction, civil infraction determination, settlement, or pro-  
3 bate court order of disposition originates as a part of the writ-  
4 ten notice to appear, authorized in section 728(1) or 742(1), the  
5 form of the written notice and report shall be as prescribed by  
6 the secretary of state.

7 Section 2. This amendatory act shall take effect January 1,  
8 1992.

9 Section 3. This amendatory act shall not take effect unless  
10 Senate Bill No. \_\_\_\_\_ or House Bill No. 5186 (request  
11 no. 04303'91) of the 86th Legislature is enacted into law.