

SENATE BILL No. 254

February 22, 2001, Introduced by Senator JOHNSON and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 320a and 732 (MCL 257.320a and 257.732), as amended by 2000 PA 460.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 320a. (1) The secretary of state, within 10 days after
2 the receipt of a properly prepared abstract from this or another
3 state, shall record the date of conviction, civil infraction
4 determination, or probate court disposition, and the number of
5 points for each, based on the following formula, except as other-
6 wise provided in this section and section 629c:

- 7 (a) Manslaughter, negligent homicide, or a felony
- 8 resulting from the operation of a motor vehicle, ORV,
- 9 or snowmobile..... 6 points

1 (b) A violation of section 653a(4)..... 6 points

2 (c) A violation of section 625(1), (4), (5), or
3 (7), section 81134 or 82127(1) of the natural resources
4 and environmental protection act, 1994 PA 451,
5 MCL 324.81134 and 324.82127, BEGINNING JANUARY 1, 2002,
6 SECTION 80176(1), (4), OR (5) OF THE NATURAL RESOURCES
7 AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451,
8 MCL 324.80176, or a law or ordinance substantially cor-
9 responding to section 625(1), (4), (5), or (7), ~~or,~~
10 section 81134 or 82127(1) of the natural resources and
11 environmental protection act, 1994 PA 451,
12 MCL 324.81134 and 324.82127, OR BEGINNING JANUARY 1,
13 2002, SECTION 80176(1), (4), OR (5) OF THE NATURAL
14 RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994
15 PA 451, MCL 324.80176..... 6 points

16 (d) Failing to stop and disclose identity at the
17 scene of an accident when required by law..... 6 points

18 (e) Operating a motor vehicle in violation of sec-
19 tion 626 or section 653a(3)..... 6 points

20 (f) Fleeing or eluding an officer..... 6 points

21 (g) Violation of any law or ordinance pertaining
22 to speed by exceeding the lawful maximum by more than
23 15 miles per hour..... 4 points

24 (h) Violation of section 625(3) or (6), section
25 81135 or 82127(3) of the natural resources and environ-
26 mental protection act, 1994 PA 451, MCL 324.81135 and
27 324.82127, BEGINNING JANUARY 1, 2002, SECTION 80176(3)

1 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
2 ACT, 1994 PA 451, MCL 324.80176, or a law or ordinance
3 substantially corresponding to section 625(3) or (6) or
4 ~~7~~, section 81135 or 82127(3) of the natural resources
5 and environmental protection act, 1994 PA 451,
6 MCL 324.81135 and 324.82127, OR BEGINNING JANUARY 1,
7 2002, SECTION 80176(3) OF THE NATURAL RESOURCES AND
8 ENVIRONMENTAL PROTECTION ACT, 1994 PA 451,
9 MCL 324.80176..... 4 points

10 (i) Violation of section 626a or a law or ordi-
11 nance substantially corresponding to section 626a..... 4 points

12 (j) Violation of section 653a(2)..... 4 points

13 (k) Violation of any law or ordinance pertaining
14 to speed by exceeding the lawful maximum by more than
15 10 but not more than 15 miles per hour or careless
16 driving in violation of section 626b or a law or ordi-
17 nance substantially corresponding to section 626b..... 3 points

18 (l) Violation of any law or ordinance pertaining
19 to speed by exceeding the lawful maximum by 10 miles
20 per hour or less..... 2 points

21 (m) Disobeying a traffic signal or stop sign, or
22 improper passing..... 3 points

23 (n) Violation of section 624a, 624b, or a law or
24 ordinance substantially corresponding to section 624a
25 or 624b..... 2 points

1 (o) Violation of section 310e(4) or (6) or a law
2 or ordinance substantially corresponding to section
3 310e(4) or (6)..... 2 points

4 (p) All other moving violations pertaining to the
5 operation of motor vehicles reported under this section 2 points

6 (q) A refusal by a person less than 21 years of
7 age to submit to a preliminary breath test required by
8 a peace officer under section 625a..... 2 points

9 (2) Points shall not be entered for a violation of section
10 310e(14), 311, 625m, 658, 717, 719, 719a, or 723.

11 (3) Points shall not be entered for bond forfeitures.

12 (4) Points shall not be entered for overweight loads or for
13 defective equipment.

14 (5) If more than 1 conviction, civil infraction determina-
15 tion, or probate court disposition results from the same inci-
16 dent, points shall be entered only for the violation that
17 receives the highest number of points under this section.

18 (6) If a person has accumulated 9 points as provided in this
19 section, the secretary of state may call the person in for an
20 interview as to the person's driving ability and record after due
21 notice as to time and place of the interview. If the person
22 fails to appear as provided in this subsection, the secretary of
23 state shall add 3 points to the person's record.

24 (7) If a person violates a speed restriction established by
25 an executive order issued during a state of energy emergency as
26 provided by 1982 PA 191, MCL 10.81 to 10.89, the secretary of

1 state shall enter points for the violation pursuant to subsection
2 (1).

3 (8) The secretary of state shall enter 6 points upon the
4 record of a person whose license is suspended or denied pursuant
5 to section 625f. However, if a conviction, civil infraction
6 determination, or probate court disposition results from the same
7 incident, additional points for that offense shall not be
8 entered.

9 (9) If a Michigan driver commits a violation in another
10 state that would be a civil infraction if committed in Michigan,
11 and a conviction results solely because of the failure of the
12 Michigan driver to appear in that state to contest the violation,
13 upon receipt of the abstract of conviction by the secretary of
14 state, the violation shall be noted on the driver's record, but
15 no points shall be assessed against his or her driver's license.

16 Sec. 732. (1) Each municipal judge and each clerk of a
17 court of record shall keep a full record of every case in which a
18 person is charged with or cited for a violation of this act or a
19 local ordinance substantially corresponding to this act regulat-
20 ing the operation of vehicles on highways and, beginning October
21 1, 2000, with those offenses pertaining to the operation of ORVs
22 or snowmobiles for which points are assessed under section
23 ~~320a(1)(b)~~ 320A(1)(C) or ~~(f)~~ (H), AND BEGINNING JANUARY 1,
24 2002, WITH THOSE OFFENSES PERTAINING TO THE OPERATION OF VESSELS
25 FOR WHICH POINTS ARE ASSESSED UNDER SECTION 320A(1)(C) OR (H).
26 Except as provided in subsection (15), the municipal judge or

1 clerk of the court of record shall prepare and forward to the
2 secretary of state an abstract of the court record as follows:

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

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

13 (c) Beginning October 1, 2000, immediately for each case
14 charging a violation of section 82127(1) or (3), 81134, or 81135
15 of the natural resources and environmental protection act, 1994
16 PA 451, MCL 324.82127, 324.81134, and 324.81135, or a local ordi-
17 nance substantially corresponding to those sections.

18 (D) BEGINNING JANUARY 1, 2002, IMMEDIATELY FOR EACH CASE
19 CHARGING A VIOLATION OF SECTION 80176(1), (3), (4), OR (5) OF THE
20 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451,
21 MCL 324.80176, OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING
22 TO THAT SECTION.

23 (2) If a city or village department, bureau, or person is
24 authorized to accept a payment of money as a settlement for a
25 violation of a local ordinance substantially corresponding to
26 this act, the city or village department, bureau, or person shall
27 send a full report of each case in which a person pays any amount

1 of money to the city or village department, bureau, or person to
2 the secretary of state upon a form prescribed by the secretary of
3 state.

4 (3) The abstract or report required under this section shall
5 be made upon a form furnished by the secretary of state. An
6 abstract shall be certified by signature, stamp, or facsimile
7 signature of the person required to prepare the abstract as
8 correct. An abstract or report shall include all of the
9 following:

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

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

14 (c) The date and nature of the violation.

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

18 (e) The date of the conviction, finding, forfeiture, judg-
19 ment, or civil infraction determination.

20 (f) Whether bail was forfeited.

21 (g) Any license restriction, suspension, or denial ordered
22 by the court as provided by law.

23 (h) The vehicle identification number and registration plate
24 number of all vehicles that are ordered immobilized or
25 forfeited.

26 (i) Other information considered necessary to the secretary
27 of state.

1 (4) The clerk of the court also shall forward an abstract of
2 the court record to the secretary of state upon a person's con-
3 viction involving any of the following:

4 (a) A violation of section 413, 414, or 479a of the Michigan
5 penal code, 1931 PA 328, MCL 750.413, 750.414, and 750.479a.

6 (b) A violation of section 1 of 1931 PA 214, MCL 752.191.

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

9 (d) A violation of section 653a(4).

10 (e) A violation of section 703 of the Michigan liquor con-
11 trol code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance
12 substantially corresponding to that section.

13 (f) An attempt to violate, a conspiracy to violate, or a
14 violation of part 74 or section 17766a of the public health code,
15 1978 PA 368, MCL 333.7401 to 333.7461 and 333.17766a, or a local
16 ordinance that prohibits conduct prohibited under part 74 or sec-
17 tion 17766a of the public health code, 1978 PA 368, MCL 333.7401
18 to 333.7461 and 333.17766a, unless the convicted person is sen-
19 tenced to life imprisonment or a minimum term of imprisonment
20 that exceeds 1 year for the offense.

21 (g) An attempt to commit an offense described in subdivi-
22 sions (a) to (e).

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

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

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

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

5 (d) The vehicle was necessary for the commission of the
6 felony.

7 (6) If a person is charged with a felony in which a motor
8 vehicle was used, other than a felony specified in subsection (4)
9 or section 319, the prosecuting attorney shall include the fol-
10 lowing statement on the complaint and information filed in dis-
11 trict or circuit court:

12 "You are charged with the commission of a felony in which a
13 motor vehicle was used. If you are convicted and the judge finds
14 that the conviction is for a felony in which a motor vehicle was
15 used, as defined in section 319 of the Michigan vehicle code,
16 1949 PA 300, MCL 257.319, your driver's license shall be sus-
17 pended by the secretary of state."

18 (7) If a juvenile is accused of an act, the nature of which
19 constitutes a felony in which a motor vehicle was used, other
20 than a felony specified in subsection (4) or section 319, the
21 prosecuting attorney or family division of circuit court shall
22 include the following statement on the petition filed in the
23 court:

24 "You are accused of an act the nature of which constitutes a
25 felony in which a motor vehicle was used. If the accusation is
26 found to be true and the judge or referee finds that the nature
27 of the act constitutes a felony in which a motor vehicle was

1 used, as defined in section 319 of the Michigan vehicle code,
2 1949 PA 300, MCL 257.319, your driver's license shall be sus-
3 pended by the secretary of state."

4 (8) If the court determines as part of the sentence or dis-
5 position that the felony for which the person was convicted or
6 adjudicated and with respect to which notice was given under sub-
7 section (6) or (7) is a felony in which a motor vehicle was used,
8 the clerk of the court shall forward an abstract of the court
9 record of that conviction to the secretary of state.

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

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

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

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

19 (d) The vehicle was necessary for the commission of the
20 felony.

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

1 "You are charged with the commission of a felony in which a
2 commercial motor vehicle was used. If you are convicted and the
3 judge finds that the conviction is for a felony in which a com-
4 mercial motor vehicle was used, as defined in section 319b of the
5 Michigan vehicle code, 1949 PA 300, MCL 257.319b, all vehicle
6 group designations on your driver's license shall be suspended or
7 revoked by the secretary of state."

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

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

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

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

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

1 (d) The following statement:

2 "I certify that all abstracts required by section 732 of the
3 Michigan vehicle code, MCL 257.732; MSA 9.2432, for the period
4 _____ through _____ have been forwarded to the secre-
5 tary of state."

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

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

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

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

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

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

25 (b) A nonmoving violation that is not the basis for the sec-
26 retary of state's suspension, revocation, or denial of an
27 operator's or chauffeur's license.

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

4 (d) A pedestrian, passenger, or bicycle violation, other
5 than a violation of section 703(1) or (2) of the Michigan liquor
6 control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordi-
7 nance substantially corresponding to section 703(1) or (2) of the
8 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703,
9 or section 624a or 624b or a local ordinance substantially corre-
10 sponding to section 624a or 624b.

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

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

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

25 (18) If a conviction or civil infraction determination is
26 reversed upon appeal, the person whose conviction or
27 determination has been reversed may serve on the secretary of

1 state a certified copy of the order of reversal. The secretary
2 of state shall enter the order in the proper book or index in
3 connection with the record of the conviction or civil infraction
4 determination.

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

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