

HOUSE BILL No. 4864

June 19, 2003, Introduced by Reps. Minore, Jammick, Law, Julian, Stewart, Nofs and Hart and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 320a (MCL 257.320a), as amended by 2002 PA 149, and by adding section 615a; and to repeal acts and parts of acts.

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
6 otherwise 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, or
9 snowmobile.....6 points

- 1 (b) A violation of section 601b(2) or (3), 601c(1)
2 or (2), or 653a(3) or (4).....6 points
- 3 (c) A violation of section 625(1), (4), (5), or
4 (7), section 81134 or 82127(1) of the natural resources
5 and environmental protection act, 1994 PA 451,
6 MCL 324.81134 and 324.82127, or a law or ordinance
7 substantially corresponding to section 625(1), (4), (5),
8 or (7) or, section 81134 or 82127(1) of the natural
9 resources and environmental protection act, 1994 PA 451,
10 MCL 324.81134 and 324.82127.....6 points
- 11 (d) Failing to stop and disclose identity at the
12 scene of an accident when required by law.....6 points
- 13 (e) Operating a motor vehicle in violation of
14 section 626.....6 points
- 15 (f) Fleeing or eluding an officer..... 6 points
- 16 (g) Violation of section 627(9) pertaining to speed
17 in a designated work area by exceeding the lawful maximum
18 by more than 15 miles per hour.....5 points
- 19 (h) Violation of any law other than the law
20 described in subdivision (g) or ordinance pertaining to
21 speed by exceeding the lawful maximum by more than 15
22 miles per hour.....4 points
- 23 (i) Violation of section 625(3) or (6), section
24 81135 or 82127(3) of the natural resources and
25 environmental protection act, 1994 PA 451, MCL 324.81135
26 and 324.82127, or a law or ordinance substantially
27 corresponding to section 625(3) or (6) or, section 81135

1 or 82127(3) of the natural resources and environmental
2 protection act, 1994 PA 451, MCL 324.81135 and 324.82127.4 points
3 (j) Violation of section 626a or a law or ordinance
4 substantially corresponding to section 626a.....4 points
5 (k) Violation of section 653a(2)..... 4 points
6 (l) Violation of section 627(9) pertaining to speed
7 in a designated work area by exceeding the lawful maximum
8 by more than 10 but not more than 15 miles per hour.....4 points
9 (m) Violation of any law other than the law
10 described in subdivision (l) or ordinance pertaining to
11 speed by exceeding the lawful maximum by more than 10 but
12 not more than 15 miles per hour or careless driving in
13 violation of section 626b or a law or ordinance
14 substantially corresponding to section 626b.....3 points
15 (n) Violation of section 627(9) pertaining to speed
16 in a designated work area by exceeding the lawful maximum
17 by 10 miles per hour or less.....3 points
18 (o) Violation of any law other than the law
19 described in subdivision (n) or ordinance pertaining to
20 speed by exceeding the lawful maximum by 10 miles per
21 hour or less.....2 points
22 (p) Disobeying a traffic signal or stop sign, or
23 improper passing.....3 points
24 (q) Violation of section 624a, 624b, or a law or
25 ordinance substantially corresponding to section 624a or
26 624b.....2 points
27 (r) Violation of section 310e(4) or (6) or a law or

1 ordinance substantially corresponding to section 310e(4)
2 or (6).....2 points

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

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

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

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

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

13 **(5) Points shall not be entered for a violation enforced by**
14 **using an unmanned traffic monitoring device pursuant to**
15 **section 615a.**

16 (6) ~~-(5)-~~ If more than 1 conviction, civil infraction
17 determination, or probate court disposition results from the same
18 incident, points shall be entered only for the violation that
19 receives the highest number of points under this section.

20 (7) ~~-(6)-~~ If a person has accumulated 9 points as provided in
21 this section, the secretary of state may call the person in for
22 an interview as to the person's driving ability and record after
23 due notice as to time and place of the interview. If the person
24 fails to appear as provided in this subsection, the secretary of
25 state shall add 3 points to the person's record.

26 (8) ~~-(7)-~~ If a person violates a speed restriction
27 established by an executive order issued during a state of emergency

1 emergency as provided by 1982 PA 191, MCL 10.81 to 10.89, the
2 secretary of state shall enter points for the violation pursuant
3 to subsection (1).

4 **(9)** ~~-(8)-~~ The secretary of state shall enter 6 points upon
5 the record of a person whose license is suspended or denied
6 pursuant to section 625f. However, if a conviction, civil
7 infraction determination, or probate court disposition results
8 from the same incident, additional points for that offense shall
9 not be entered.

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

18 **Sec. 615a. (1) The state transportation department in**
19 **cooperation with the department of state police shall select 10**
20 **geographically diverse locations within this state to implement a**
21 **pilot project that authorizes a county board of commissioners, a**
22 **board of county road commissioners, a county sheriff, the**
23 **governing body of a township, city, or village, or the department**
24 **of state police to install and use 1 or more unmanned traffic**
25 **monitoring devices at an intersection with a traffic control**
26 **signal on a highway or street within their respective**
27 **jurisdictions. The selected locations shall be intersections**

1 that have had repeated violations of drivers failing to comply
2 with the traffic control signal at the intersection. A traffic
3 monitoring implementation plan shall be adopted before operating
4 and using the unmanned traffic monitoring device.

5 (2) A traffic monitoring implementation plan adopted pursuant
6 to subsection (1) shall include, but not be limited to, the
7 following:

8 (a) A plan for the direct management of any unmanned traffic
9 monitoring devices by an appropriate law enforcement agency.

10 (b) An unmanned traffic monitoring device data collection
11 plan to provide for the collection of data for the purpose of
12 evaluating the effectiveness of installed unmanned traffic
13 monitoring devices.

14 (c) A public education campaign to enhance public awareness
15 of unmanned traffic monitoring devices and enforcement
16 activities.

17 (3) In developing the traffic monitoring plan described in
18 subsection (2), the monitoring jurisdiction shall solicit
19 recommendations from law enforcement officers, prosecutors,
20 judges, traffic engineers, and other interested parties.

21 (4) Each unmanned traffic monitoring device shall be
22 sufficiently marked or identified or a sign shall be placed at or
23 near the intersection indicating that the intersection is
24 monitored by an unmanned traffic monitoring device.

25 (5) Beginning 61 days after the installation of an unmanned
26 traffic monitoring device at an intersection with a traffic
27 control signal, a person is responsible for a civil infraction as

1 provided in this act if the person commits a violation of this
2 act at that intersection on the basis of evidence obtained from
3 an unmanned traffic monitoring device. However, for the first 30
4 days after the installation of an unmanned traffic monitoring
5 device at an intersection with a traffic control signal, the law
6 enforcement agency responsible for the management of the device
7 shall collect data regarding any violations for the purpose of
8 establishing a baseline to measure the effectiveness of the
9 unmanned traffic monitoring device. During the second 30 days
10 after the installation of an unmanned traffic monitoring device
11 at an intersection with a traffic control signal, a person
12 otherwise responsible for a civil infraction under this
13 subsection shall be issued a written warning only. While an
14 unmanned traffic monitoring device is installed at an
15 intersection with a traffic control signal, the law enforcement
16 agency responsible for the management of the device shall
17 continue to collect data regarding any violations of this act
18 covered by this section to regularly evaluate the effectiveness
19 of the device.

20 (6) A sworn statement of a police officer of the state or
21 local authority having jurisdiction over the highway or street,
22 based upon inspection of photographs, videotape, or digital
23 images produced by an unmanned traffic monitoring device, is
24 prima facie evidence of the facts contained in the sworn
25 statement. Any photographs, videotape, or digital images
26 evidencing such a violation shall be available for inspection in
27 a proceeding to adjudicate the liability for a violation of this

1 act covered by this section. Any photographs, videotape, or
2 digital images evidencing such a violation shall be destroyed 90
3 days after final disposition of the citation.

4 (7) In the prosecution of an offense established under this
5 section, prima facie evidence that the vehicle described in the
6 citation issued was operated in violation of this section,
7 together with proof that the defendant or defendants were at the
8 time of the violation the registered owner or owners of the
9 vehicle, constitutes a rebuttable presumption that the registered
10 owner or owners of the vehicle were the person or persons
11 responsible for the violation. The presumption may be rebutted
12 if the registered owner of the vehicle files an affidavit by
13 regular mail with the clerk of the court that he or she was not
14 the operator of the vehicle at the time of the alleged violation
15 or testifies in open court under oath that he or she was not the
16 operator of the vehicle at the time of the alleged violation.
17 The presumption also may be rebutted if a certified copy of a
18 police report, showing that the vehicle was reported to the
19 police as stolen before the time of the alleged violation of this
20 section, is presented to the court before the return date
21 established on the citation issued. For purposes of this
22 subsection, the owner of a leased or rental vehicle shall provide
23 the name and address of the person to whom the vehicle was leased
24 or rented at the time of the violation.

25 (8) Notwithstanding section 742, a citation for a violation
26 of this section may be executed by mailing by first-class mail a
27 copy to the address of the owner or owners of the vehicle as

1 shown on the records of the secretary of state. If the summoned
2 person fails to appear on the date of return set out in the
3 citation previously mailed by first-class mail pursuant to this
4 subsection, a copy shall be sent by certified mail--return
5 receipt requested. If the summoned person or persons fail to
6 appear on either of the dates of return set out in the citation
7 mailed pursuant to this subsection, the citation shall be
8 executed in the manner provided by law for personal service.
9 Proceedings for contempt or arrest of a person or persons
10 summoned by mailing shall be instituted for failure to appear on
11 the return date of the citation if a sworn complaint is filed
12 with the court for that purpose as required for other civil
13 infractions under section 744.

14 (9) Points shall not be assessed for a violation of this
15 section.

16 (10) As used in this section:

17 (a) "Monitoring jurisdiction" means a local authority having
18 jurisdiction over a highway or street that has approved a traffic
19 monitoring implementation plan pursuant to subsection (1).

20 (b) "Unmanned traffic monitoring device" means a
21 photographic, video, or electronic digital camera and vehicle
22 sensors installed to work in conjunction with an official traffic
23 control device to automatically produce photographs, video, or
24 digital images of each vehicle committing a violation of this act
25 at an intersection with a traffic control signal.

26 (11) This section is repealed effective July 1, 2011.

27 Enacting section 1. This amendatory act takes effect July

1 1, 2004.