

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5046**

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending section 304 (MCL 257.304), as amended by 2017 PA 162.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 304. (1) Except as provided in subsection (3), the
2 secretary of state shall issue a restricted license to a person
3 whose license was suspended or restricted under section 319 or
4 revoked or denied under section 303 based on either of the
5 following:

6 (a) Two or more convictions for violating section 625(1) or
7 (3) or a local ordinance of this state substantially corresponding
8 to section 625(1) or (3).

9 (b) One conviction for violating section 625(1) or (3) or a
10 local ordinance of this state substantially corresponding to

1 section 625(1) or (3), preceded by 1 or more convictions for
2 violating a local ordinance or law of another state substantially
3 corresponding to section 625(1), (3), or (6), or a law of the
4 United States substantially corresponding to section 625(1), (3),
5 or (6).

6 (2) A restricted license issued under subsection (1) must not
7 be issued until after the person's operator's or chauffeur's
8 license has been suspended or revoked for 45 days and the judge
9 assigned to a DWI/sobriety court certifies to the secretary of
10 state that both of the following conditions have been met:

11 (a) The person has been admitted into a DWI/sobriety court
12 program.

13 (b) An ignition interlock device approved, certified, and
14 installed as required under sections 625k and 625/ has been
15 installed on each motor vehicle owned or operated, or both, by the
16 individual.

17 (3) A restricted license must not be issued under subsection
18 (1) if the person is otherwise ineligible for an operator's or
19 chauffeur's license under this act, unless the person's
20 ineligibility is based on 1 or more of the following:

21 (a) Section 303(1)(i) or (l).

22 (b) Section 303(2)(c)(i) or (iii).

23 (c) Section 303(2)(g)(i) or (iii).

24 (d) Section 319(4), (5), (6), (7), (8)(a) to (e), or (9).

25 (e) Section 319e(2)(a) or (b).

26 (f) Section 320(1)(d).

27 (g) Section 321a(1), (2), or (3).

1 (h) Section 323c.

2 (i) Section 625f.

3 (j) Section 732a(5).

4 (k) Section 904(10).

5 (l) Section 82105a(2) of the natural resources and
6 environmental protection act, 1994 PA 451, MCL 324.82105a.

7 (m) Section 3177 of the insurance code of 1956, 1956 PA 218,
8 MCL 500.3177.

9 (n) Section 10 of the motor vehicle claims act, 1965 PA 198,
10 MCL 257.1110.

11 (4) A restricted license issued under subsection (1) permits
12 the person to whom it is issued to operate only the vehicle
13 equipped with an ignition interlock device described in subsection
14 (2)(b), to take any driving skills test required by the secretary
15 of state, and to drive to and from any combination of the following
16 locations or events:

17 (a) In the course of the person's employment or occupation if
18 the employment or occupation does not require a commercial driver
19 license.

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

21 (i) The person's residence.

22 (ii) The person's work location.

23 (iii) An alcohol, drug, or mental health education and
24 treatment as ordered by the court.

25 (iv) Alcoholics Anonymous, Narcotics Anonymous, or other
26 court-ordered self-help programs.

27 (v) Court hearings and probation appointments.

1 (vi) Court-ordered community service.

2 (vii) An educational institution at which the person is
3 enrolled as a student.

4 (viii) A place of regularly occurring medical treatment for a
5 serious condition or medical emergency for the person or a member
6 of the person's household or immediate family.

7 (ix) Alcohol or drug testing as ordered by the court.

8 (x) An ignition interlock service provider as required.

9 (xi) At the discretion of the judge, the custodian of a minor
10 child may drive to and from the facilities of a provider of day
11 care services at which the custodian's minor child is enrolled, or
12 an educational institution at which the custodian's minor child is
13 enrolled as a student for the purposes of classes, academic
14 meetings or conferences, and athletic or other extracurricular
15 activities sanctioned by the educational institution in which the
16 minor child is a participant. As used in this subparagraph, "minor
17 child" means an individual who is less than 18 years of age.

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

22 (6) Except as otherwise provided in this section, a restricted
23 license issued under subsection (1) is effective until a hearing
24 officer orders an unrestricted license under section 322. Subject
25 to subsection (7), the hearing officer shall not order an
26 unrestricted license until the later of the following events
27 occurs:

1 (a) The court notifies the secretary of state that the person
2 has successfully completed the DWI/sobriety court program.

3 (b) The minimum period of license sanction that would have
4 been imposed under section 303 or 319 but for this section has been
5 completed.

6 (c) The person demonstrates that he or she has operated with
7 an ignition interlock device for not less than 1 year.

8 (d) The person satisfies the requirements of section 303 and R
9 257.313 of the Michigan Administrative Code.

10 (7) A hearing officer shall not issue an unrestricted license
11 for at least 1 year if either of the following applies:

12 (a) The hearing officer determines that the person consumed
13 any alcohol during the period that his or her license was
14 restricted under this section, as determined by breath, blood,
15 urine, or transdermal testing unless a second test, administered
16 within 5 minutes after administering the first test, showed an
17 absence of alcohol.

18 (b) The hearing officer determines that the person consumed or
19 otherwise used any controlled substance during the period that his
20 or her license was restricted under this section, except as
21 lawfully prescribed.

22 (8) In determining whether to order an unrestricted license
23 under subsection (6), the successful completion of the DWI/sobriety
24 court program and a certificate from the DWI/sobriety court judge
25 must be considered positive evidence of the petitioner's abstinence
26 while the petitioner participated in the DWI/sobriety court
27 program. This subsection does not apply to a determination made

1 under subsection (7). As used in this subsection, "certificate"
2 includes, but is not limited to, a statement that the participant
3 has maintained a period of abstinence from alcohol for not less
4 than 6 months at the time the participant completed the
5 DWI/sobriety court program.

6 (9) If the secretary of state receives a notification from the
7 DWI/sobriety court under section 1084(7) of the revised judicature
8 act of 1961, 1961 PA 236, MCL 600.1084, the secretary of state
9 shall summarily impose 1 of the following license sanctions, as
10 applicable:

11 (a) Suspension for the full length of time provided under
12 section 319(8). However, a restricted license must not be issued as
13 provided under section 319(8). This subdivision applies if the
14 underlying conviction or convictions would have subjected the
15 person to a license sanction under section 319(8) if this section
16 did not apply.

17 (b) A license revocation and denial for the full length of
18 time provided under section 303. The minimum period of license
19 revocation and denial imposed must be the same as if this section
20 did not apply. This subdivision applies if the underlying
21 conviction or convictions would have caused a license revocation
22 and denial under section 303 if this section did not apply.

23 (10) After the person completes the DWI/sobriety court
24 program, the following apply:

25 (a) The secretary of state shall postpone considering the
26 issuance of an unrestricted license under section 322 for a period
27 of 3 months for each act that would be a minor violation if the

1 person's license had been issued under section 322(6). As used in
2 this subdivision, "minor violation" means that term as defined in R
3 257.301a of the Michigan Administrative Code.

4 (b) The restricted license issued under this section must be
5 suspended or revoked or denied as provided in subsection (9),
6 unless set aside under section 322(5), if any of the following
7 events occur:

8 (i) The person operates a motor vehicle without an ignition
9 interlock device that meets the criteria under subsection (2)(b).

10 (ii) The person removes, or causes to be removed, an ignition
11 interlock device from a vehicle he or she owns or operates unless
12 the secretary of state has authorized its removal under section
13 322a.

14 (iii) The person commits any other act that would be a major
15 violation if the person's license had been issued under section
16 322(6). As used in this subparagraph, "major violation" means that
17 term as defined in R 257.301a of the Michigan Administrative Code.

18 (iv) The person is arrested for a violation of any of the
19 following:

20 (A) Section 625.

21 (B) A local ordinance of this state or another state
22 substantially corresponding to section 625.

23 (C) A law of the United States substantially corresponding to
24 section 625.

25 (c) If the person is convicted of or found responsible for any
26 offense that requires the suspension, revocation, denial, or
27 cancellation of the person's operator's or chauffeur's license, the

1 restricted license issued under this section must be suspended
2 until the requisite period of license suspension, revocation,
3 denial, or cancellation, as appropriate, has elapsed.

4 (d) If the person has failed to pay any court-ordered fines or
5 costs that resulted from the operation of a vehicle, the restricted
6 license issued under this section must be suspended pending payment
7 of those fines and costs.

8 (11) All driver responsibility fees required to be assessed by
9 the secretary of state under section 732a for the conviction or
10 convictions that led to the restricted license under this section
11 must be held in abeyance as follows:

12 (a) The fees must be held in abeyance during the time the
13 person has a restricted license under this section and is
14 participating in the DWI/sobriety court program.

15 (b) ~~At~~**EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, AT**
16 the end of the person's participation in the DWI/sobriety court
17 program, the driver responsibility fees must be assessed and paid
18 under the payment schedule described in section 732a. **IF THE**
19 **PERSON'S PARTICIPATION IN THE DWI/SOBRIETY COURT PROGRAM IS**
20 **COMPLETED ON OR AFTER OCTOBER 1, 2018, THE DRIVER RESPONSIBILITY**
21 **FEES ARE WAIVED AND SHALL NOT BE COLLECTED.**

22 (12) The vehicle of an individual admitted to the DWI/sobriety
23 court program whose vehicle would otherwise be subject to
24 immobilization or forfeiture under this act is exempt from both
25 immobilization and forfeiture under sections 625n and 904d if both
26 of the following apply:

27 (a) The person is a DWI/sobriety court program participant in

1 good standing or the person successfully satisfactorily completes
2 the DWI/sobriety court program.

3 (b) The person does not subsequently violate a law of this
4 state for which vehicle immobilization or forfeiture is a sanction.

5 (13) This section only applies to individuals arrested for a
6 violation of section 625 on or after January 1, 2011.

7 (14) As used in this section:

8 (a) "DWI/sobriety court" means that term as defined in section
9 1084 of the revised judicature act of 1961, 1961 PA 236, MCL
10 600.1084. Beginning January 1, 2018, DWI/sobriety court includes
11 only a DWI/sobriety court that is certified by the state court
12 administrative office as provided in section 1084(3) of the revised
13 judicature act of 1961, 1961 PA 236, MCL 600.1084.

14 (b) "DWI/sobriety court program" means "program" as that term
15 is defined in section 1084 of the revised judicature act of 1961,
16 1961 PA 236, MCL 600.1084.