

SUBSTITUTE FOR
HOUSE BILL NO. 4210

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 204a, 322, 625b, 625k, and 625l (MCL 257.204a, 257.322, 257.625b, 257.625k, and 257.625l), section 204a as amended by 1996 PA 102 and sections 625b, 625k, and 625l as amended by 1994 PA 450, and by adding sections 622a, 625o, and 625p.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 204a. (1) The secretary of state shall create and
2 maintain a computerized central file that provides an individual,
3 historical driving record for a person, including a nonresident,
4 with respect to all of the following:

5 (a) A license issued to the person under chapter 3.

6 (b) A conviction or civil infraction determination entered
7 against the person for a violation of this act or a local

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1 ordinance substantially corresponding to a provision of this
2 act. UNTIL [JUNE 30, 2003], IF THE CONVICTION IS FOR A VIOLA-
3 TION OF SECTION 625 OR 625M OR A LOCAL ORDINANCE SUBSTANTIALLY
4 CORRESPONDING TO SECTION 625 OR 625M, THE SECTION 625G PERMIT
5 REPORT SHALL INCLUDE THE LOWEST BLOOD, BREATH, OR URINE ALCOHOL
6 CONTENT SAMPLE FOR EACH ARREST AS RECORDED ON AN EVIDENTIAL
7 BLOOD, BREATH, OR URINE ALCOHOL TEST ADMINISTERED TO THE PERSON
8 PURSUANT TO RULES PROMULGATED BY THE DEPARTMENT OF STATE POLICE
9 UNDER SECTION 625A(6)(G) OR NOTICE THAT A CHEMICAL TEST WAS NOT
10 ADMINISTERED. THE RESULTS OF A BLOOD, BREATH, OR URINE ALCOHOL
11 TEST THAT ARE INCLUDED IN THAT PERSON'S DRIVING RECORD UNDER THIS
12 SUBDIVISION SHALL ONLY BE USED BY THE UNIVERSITY OF MICHIGAN
13 TRANSPORTATION RESEARCH INSTITUTE TO CONDUCT THE STUDY DESCRIBED
14 IN SECTION 625P.

15 (c) A failure of the person to comply with an order or judg-
16 ment issued pursuant to section 907.

17 (d) A cancellation, denial, revocation, suspension, or
18 restriction of the person's operating privilege under this act.

19 (e) An accident in which the person is involved.

20 (f) A conviction of the person for an offense described in
21 section 319e.

22 (g) Any other information received by the secretary of state
23 regarding the person that is required to be maintained as part of
24 the person's driving record as provided by law.

25 (2) A secretary of state certified computer-generated or
26 paper copy of an order, record, or paper maintained in the
27 computerized central file of the secretary of state is admissible

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1 in evidence in the same manner as the original and is prima facie
2 proof of the contents of and the facts stated in the original.

3 (3) An order, record, or paper generated by the computerized
4 central file of the secretary of state may be certified electron-
5 ically by the generating computer. The certification shall be a
6 certification of the order, record, or paper as it appeared on a
7 specific date.

8 (4) A court or the office of the clerk of a court of this
9 state which is electronically connected by a terminal device to
10 the computerized central file of the secretary of state may
11 receive into and use as evidence in any case the
12 computer-generated certified information obtained by the terminal
13 device from the file. A duly authorized employee of a court of
14 record of this state may order a record for an individual from a
15 secretary of state computer terminal device located in, and under
16 the control of, the court, and certify in writing that the docu-
17 ment was produced from the terminal and that the document was not
18 altered in any way.

19 Sec. 322. (1) The secretary of state shall appoint a hear-
20 ing officer to hear appeals from persons aggrieved by a final
21 determination of the secretary of state denying an application
22 for an operator's or chauffeur's license, suspending,
23 RESTRICTING, or revoking an operator's or chauffeur's license, or
24 other license action. The APPEAL OF A PERSON SHALL BE IN WRITING
25 AND FILED WITH THE SECRETARY OF STATE WITHIN 14 DAYS AFTER THE
26 FINAL DETERMINATION. UPON NOTICE OF THE APPEAL, THE HEARING
27 OFFICER SHALL REQUIRE PRODUCTION OF ALL DOCUMENTS FILED IN

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1 CONNECTION WITH THE MATTER, TOGETHER WITH A TRANSCRIPT OF ANY
2 TESTIMONY WHICH MAY HAVE BEEN TAKEN AND MAY TAKE SUCH ADDITIONAL
3 TESTIMONY AS HE OR SHE CONSIDERS ADVISABLE.

4 (2) IN ANY HEARING OR MATTER PROPERLY PENDING BEFORE THE
5 HEARING OFFICER, THE hearing officer may: ~~issue~~

6 (A) ISSUE subpoenas to compel attendance of witnesses in any
7 matter or hearing properly pending before the officer. ~~, issue~~

8 (B) ISSUE process to compel attendance. ~~, and punish~~

9 (C) PUNISH for contempt any witness failing to appear or
10 testify in accordance with the rules and practice in circuit
11 courts so far as the same can be made to apply. ~~The hearing~~
12 ~~officer may swear~~

13 (D) SWEAR witnesses, ~~and~~ administer oaths, and exemplify
14 records in any matter coming before the officer. ~~The hearing~~
15 ~~officer may after~~

16 (E) AFTER hearing affirm, modify, or set aside, a final
17 determination of the secretary of state denying an application
18 for an operator's or chauffeur's license or suspending,
19 RESTRICTING, or revoking an operator's or chauffeur's license, or
20 any other license action. ~~The appeal shall be in writing and~~
21 ~~shall be filed with the secretary of state within 14 days after~~
22 ~~the final determination. The hearing officer shall thereupon~~
23 ~~require production of all documents filed in connection with the~~
24 ~~matter, together with a transcript of any testimony which may~~
25 ~~have been taken and may take such additional testimony as he may~~
26 ~~deem advisable.~~

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1 (3) EXCEPT AS PROVIDED IN SUBSECTION (4), IF A PERSON WHOSE
2 LICENSE HAS BEEN DENIED OR REVOKED UNDER SECTION 303(1)(F) OR
3 SECTION 303(2)(C), (D), OR (F) APPLIES FOR A LICENSE OR REIN-
4 STATEMENT OF A LICENSE AFTER THE TIME PERIOD SPECIFIED IN SECTION
5 303(4) HAS ELAPSED AND THE HEARING OFFICER ISSUES A RESTRICTED
6 LICENSE TO THAT PERSON, THE HEARING OFFICER SHALL ISSUE A
7 RESTRICTED LICENSE IN ACCORDANCE WITH SECTION 625B(16).

8 (4) IF THE HEARING OFFICER ISSUES A RESTRICTED LICENSE TO A
9 PERSON WHO INTENDS TO OPERATE A VEHICLE OWNED BY HIS OR HER
10 EMPLOYER, THE SECRETARY OF STATE SHALL NOTIFY THE EMPLOYER OF THE
11 EMPLOYEE'S LICENSE RESTRICTION THAT REQUIRES THE INSTALLATION OF
12 AN IGNITION INTERLOCK DEVICE. AN EMPLOYER WHO RECEIVES NOTICE
13 UNDER THIS SUBSECTION IS NOT REQUIRED TO INSTALL AN IGNITION
14 INTERLOCK DEVICE ON THE EMPLOYER-OWNED VEHICLE. THIS SUBSECTION
15 DOES NOT APPLY TO A VEHICLE THAT IS OPERATED BY A SELF-EMPLOYED
16 INDIVIDUAL WHO USES THE VEHICLE FOR BOTH BUSINESS AND PERSONAL
17 USE.

18 (5) IF THE HEARING OFFICER ISSUES A RESTRICTED LICENSE UNDER
19 SUBSECTION (3), THE INITIAL PERIOD OF RESTRICTION SHALL BE FOR 6
20 MONTHS. AFTER THE INITIAL 6 MONTHS, THE HEARING OFFICER MAY CON-
21 TINUE THE RESTRICTION FOR ANY LENGTH OF TIME.

22 (6) SUBSECTIONS (3), (4), AND (5) APPLY UNTIL [JUNE 30, 2003
23].

24 SEC. 622A. THE ACCIDENT REPORT FORM REQUIRED BY THIS CHAP-
25 TER SHALL INCLUDE, WHEN APPLICABLE, WHETHER AN IGNITION INTERLOCK
26 DEVICE WAS INSTALLED IN A VEHICLE INVOLVED IN AN ACCIDENT. THIS
27 SECTION APPLIES UNTIL DECEMBER 31, 2002.

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1 Sec. 625b. (1) A person arrested for a misdemeanor
2 violation of section 625(1), (3), or (6) or section 625m or a
3 local ordinance substantially corresponding to section 625(1),
4 (3), or (6) or section 625m shall be arraigned on the citation,
5 complaint, or warrant not more than 14 days after the arrest for
6 the violation or, if an arrest warrant is issued or reissued, not
7 more than 14 days after the issued or reissued arrest warrant is
8 served, whichever is later. The court shall not dismiss a case
9 or impose any other sanction for a failure to comply with this
10 time limit. The time limit does not apply to a violation of
11 section 625(1) punishable under section 625(7)(d) or a violation
12 of section 625(1), (3), or (6) or section 625m joined with a
13 felony charge.

14 (2) The court shall schedule a pretrial conference between
15 the prosecuting attorney, the defendant, and the defendant's
16 attorney in each case in which the defendant is charged with a
17 misdemeanor violation of section 625(1), (3), or (6) or
18 section 625m or a local ordinance substantially corresponding to
19 section 625(1), (3), or (6) or section 625m. The pretrial con-
20 ference shall be held not more than 35 days after the person's
21 arrest for the violation or, if an arrest warrant is issued or
22 reissued, not more than 35 days after the issued or reissued
23 arrest warrant is served, whichever is later. If the court has
24 only 1 judge who sits in more than 1 location in that district,
25 the pretrial conference shall be held not more than 42 days after
26 the person's arrest for the violation or, if an arrest warrant is
27 issued or reissued, not more than 42 days after the date the

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1 issued or reissued arrest warrant is served, whichever is later.
2 The court shall not dismiss a case or impose any other sanction
3 for a failure to comply with the applicable time limit. The 35-
4 and 42-day time limits do not apply to a violation of
5 section 625(1) punishable under section 625(7)(d) or a violation
6 of section 625(1), (3), or (6) or section 625m joined with a
7 felony charge. The court shall order the defendant to attend the
8 pretrial conference and may accept a plea by the defendant at the
9 conclusion of the pretrial conference. The court may adjourn the
10 pretrial conference upon the motion of a party for good cause
11 shown. Not more than 1 adjournment shall be granted to a party,
12 and the length of an adjournment shall not exceed 14 days.

13 (3) Except for delay attributable to the unavailability of
14 the defendant, a witness, or material evidence or due to an
15 interlocutory appeal or exceptional circumstances, but not a
16 delay caused by docket congestion, the court shall finally adju-
17 dicate, by a plea of guilty or nolo contendere, entry of a ver-
18 dict, or other final disposition, a case in which the defendant
19 is charged with a misdemeanor violation of section 625(1), (3),
20 or (6) or section 625m or a local ordinance substantially corre-
21 sponding to section 625(1), (3), or (6) or section 625m, within
22 77 days after the person is arrested for the violation or, if an
23 arrest warrant is issued or reissued, not more than 77 days after
24 the date the issued or reissued arrest warrant is served, which-
25 ever is later. The court shall not dismiss a case or impose any
26 other sanction for a failure to comply with this time limit. The
27 77-day time limit does not apply to a violation of section 625(1)

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1 punishable under section 625(7)(d) or a violation of
2 section 625(1), (3), or (6) or section 625m joined with a felony
3 charge.

4 (4) Before accepting a plea of guilty or nolo contendere
5 under section 625 or a local ordinance substantially correspond-
6 ing to section 625(1), (2), (3), or (6), the court shall advise
7 the accused of the maximum possible term of imprisonment and the
8 maximum possible fine that may be imposed for the violation, and
9 shall advise the defendant that the maximum possible license
10 sanctions that may be imposed will be based upon the master driv-
11 ing record maintained by the secretary of state pursuant to
12 section 204a.

13 (5) Before imposing sentence, other than court-ordered
14 license sanctions, for a violation of section 625(1), (3), (4),
15 (5), or (6) or a local ordinance substantially corresponding to
16 section 625(1), (3), or (6), the court shall order the person to
17 undergo screening and assessment by a person or agency designated
18 by the office of substance abuse services to determine whether
19 the person is likely to benefit from rehabilitative services,
20 including alcohol or drug education and alcohol or drug treatment
21 programs. As part of the sentence, the court may order the
22 person to participate in and successfully complete 1 or more
23 appropriate rehabilitative programs. The person shall pay for
24 the costs of the screening, reassessment, and rehabilitative
25 services.

26 (6) Immediately upon acceptance by the court of a plea of
27 guilty or nolo contendere or upon entry of a verdict of guilty

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1 for a violation of section 625(1), (3), (4), (5), or (6) or a
2 local ordinance substantially corresponding to section 625(1),
3 (3), or (6), whether or not the person is eligible to be sen-
4 tenced as a multiple offender, the court shall consider all prior
5 convictions currently entered upon the person's Michigan driving
6 record, except convictions the court determines upon the
7 defendant's motion to be constitutionally invalid, and shall
8 impose the following licensing sanctions:

9 (a) For a conviction under section 625(4) or (5), the court
10 shall order the secretary of state to revoke the person's
11 operator's or chauffeur's license and shall not order the secre-
12 tary of state to issue a restricted license to the person.

13 (b) For a conviction under section 625(1) or a local ordi-
14 nance substantially corresponding to section 625(1):

15 (i) If the court finds that the person has no prior convic-
16 tions within 7 years for a violation of section 625(1), (3), (4),
17 or (5), former section 625(1) or (2), or former section 625b, a
18 local ordinance substantially corresponding to section 625(1) or
19 (3), former section 625(1) or (2) or former section 625b, or a
20 law of another state substantially corresponding to section
21 625(1), (3), (4), or (5), former section 625(1) or (2), or former
22 section 625b, the court shall order the secretary of state to
23 suspend the person's operator's or chauffeur's license for not
24 less than 6 months or more than 2 years. If the court finds com-
25 pelling circumstances under subsection (10) sufficient to warrant
26 the issuance of a restricted license to a person, the court may
27 order the secretary of state to issue to the person a restricted

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1 license during all or a specified portion of the suspension,
2 except that a restricted license shall not be issued during the
3 first 30 days of the suspension.

4 (ii) If the court finds that the person has 1 prior convic-
5 tion within 7 years for a violation of section 625(3) or former
6 section 625b, a local ordinance substantially corresponding to
7 section 625(3) or former section 625b, or a law of another state
8 substantially corresponding to section 625(3) or former
9 section 625b, the court shall order the secretary of state to
10 suspend the person's operator's or chauffeur's license for not
11 less than 6 months or more than 2 years. If the court finds com-
12 pelling circumstances under subsection (10) sufficient to warrant
13 the issuance of a restricted license to a person, the court may
14 order the secretary of state to issue to the person a restricted
15 license during all or any portion of the suspension, except that
16 a restricted license shall not be issued during the first 60 days
17 of the suspension.

18 (iii) If the court finds that the person has 1 or more prior
19 convictions within 7 years for a violation of section 625(1),
20 (4), or (5) or former section 625(1) or (2), a local ordinance
21 substantially corresponding to section 625(1) or former section
22 625(1) or (2), or a law of another state substantially corre-
23 sponding to section 625(1), (4), or (5) or former section 625(1)
24 or (2), or that the person has 2 or more prior convictions within
25 10 years for a violation of section 625(1), (3), (4), or (5),
26 former section 625(1) or (2), or former section 625b, a local
27 ordinance substantially corresponding to section 625(1) or (3),

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1 former section 625(1) or (2), or former section 625b, or a law of
2 another state substantially corresponding to section 625(1), (3),
3 (4), or (5), former section 625(1) or (2), or former section
4 625b, the court shall order the secretary of state to revoke the
5 person's operator's or chauffeur's license and shall not order
6 the secretary of state to issue a restricted license to the
7 person.

8 (c) For a conviction under section 625(3) or a local ordi-
9 nance substantially corresponding to section 625(3):

10 (i) If the court finds that the convicted person has no
11 prior conviction within 7 years for a violation of section
12 625(1), (3), (4), or (5), former section 625(1) or (2), or former
13 section 625b, a local ordinance substantially corresponding to
14 section 625(1) or (3), former section 625(1) or (2), or former
15 section 625b, or a law of another state substantially correspond-
16 ing to section 625(1), (3), (4), or (5), former section 625(1) or
17 (2), or former section 625b, the court shall order the secretary
18 of state to suspend the person's operator's or chauffeur's
19 license for not less than 90 days or more than 1 year. However,
20 if the person is convicted of a violation of section 625(3) or a
21 local ordinance substantially corresponding to section 625(3) for
22 operating a vehicle when, due to the consumption of a controlled
23 substance or a combination of intoxicating liquor and a con-
24 trolled substance, the person's ability to operate the vehicle
25 was visibly impaired, the court shall order the secretary of
26 state to suspend the operator's or chauffeur's license of the
27 person for not less than 6 months or more than 1 year. If the

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1 court finds compelling circumstances under subsection (10)
2 sufficient to warrant the issuance of a restricted license to a
3 person, the court may order the secretary of state to issue to
4 the person a restricted license during all or a specified portion
5 of the suspension.

6 (ii) If the court finds that the person has 1 prior convic-
7 tion within 7 years for a violation of section 625(1), (3), (4),
8 or (5), former section 625(1) or (2), or former section 625b, a
9 local ordinance substantially corresponding to section 625(1) or
10 (3), former section 625(1) or (2), or former section 625b, or a
11 law of another state substantially corresponding to section
12 625(1), (3), (4), or (5), former section 625(1) or (2), or former
13 section 625b, the court shall order the secretary of state to
14 suspend the person's operator's or chauffeur's license for not
15 less than 6 months or more than 2 years. If the court finds com-
16 pelling circumstances under subsection (10) sufficient to warrant
17 the issuance of a restricted license to a person, the court may
18 order the secretary of state to issue to the person a restricted
19 license during all or any portion of the suspension, except that
20 a restricted license shall not be issued during the first 60 days
21 of the suspension.

22 (iii) If the court finds that the person has 2 or more prior
23 convictions within 10 years for a violation of section 625(1),
24 (3), (4), or (5), former section 625(1) or (2), or former section
25 625b, a local ordinance substantially corresponding to section
26 625(1) or (3), former section 625(1) or (2), or former section
27 625b, or a law of another state substantially corresponding to

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1 section 625(1), (3), (4), or (5), former section 625(1) or (2),
2 or former section 625b, the court shall order the secretary of
3 state to revoke the person's operator's or chauffeur's license
4 and shall not order the secretary of state to issue a restricted
5 license to the person.

6 (d) For a conviction under section 625(6) or a local ordi-
7 nance substantially corresponding to section 625(6):

8 (i) If the court finds that the convicted person has no
9 prior conviction within 7 years for a violation of section
10 625(1), (3), (4), (5), or (6), former section 625(1) or (2), or
11 former section 625b, a local ordinance substantially correspond-
12 ing to section 625(1), (3), or (6), former section 625(1) or (2),
13 or former section 625b, or a law of another state substantially
14 corresponding to section 625(1), (3), (4), (5), or (6), former
15 section 625(1) or (2), or former section 625b, the court shall
16 order the secretary of state to suspend the operator's or
17 chauffeur's license of the person for not less than 30 days or
18 more than 90 days. The court may order the secretary of state to
19 issue to the person a restricted license during all or a speci-
20 fied portion of the suspension.

21 (ii) If the court finds that the person has 1 or more prior
22 convictions within 7 years for a violation of section 625(1),
23 (3), (4), (5), or (6), former section 625(1) or (2), or former
24 section 625b, a local ordinance substantially corresponding to
25 section 625(1), (3), or (6), former section 625(1) or (2), or
26 former section 625b, or a law of another state substantially
27 corresponding to section 625(1), (3), (4), (5), or (6), former

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1 section 625(1) or (2), or former section 625b, the court shall
2 order the secretary of state to suspend the operator's or
3 chauffeur's license of the person for not less than 90 days or
4 more than 1 year. The court may order the secretary of state to
5 issue to the person a restricted license during all or any por-
6 tion of the suspension, except that a restricted license shall
7 not be issued during the first 90 days of the suspension.

8 (7) A restricted license issued pursuant to an order under
9 subsection (6) shall permit the person to whom it is issued to
10 drive under 1 or more of the following circumstances:

11 (a) To and from the person's residence and work location.

12 (b) In the course of the person's employment or occupation.

13 (c) To and from the person's residence and an alcohol or
14 drug education or treatment program as ordered by the court.

15 (d) To and from the person's residence and the court proba-
16 tion department or a court-ordered community service program, or
17 both.

18 (e) To and from the person's residence and an educational
19 institution at which the person is enrolled as a student.

20 (f) To and from the person's residence or work location and
21 a place of regularly occurring medical treatment for a serious
22 condition for the person or a member of the person's household or
23 immediate family.

24 (G) TO AND FROM THE PERSON'S RESIDENCE AND THE SITE WHERE
25 MONITORING OF THE IGNITION INTERLOCK DEVICE TAKES PLACE, IF AN
26 IGNITION INTERLOCK DEVICE WAS INSTALLED ON THE PERSON'S VEHICLE
27 UNDER SUBSECTION (16).

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1 (8) The court may order that the restricted license issued
2 ~~pursuant to~~ UNDER subsection (6) include the requirement that
3 the person shall not operate a motor vehicle unless the vehicle
4 is equipped with a functioning ignition interlock device. The
5 device shall be set to render the motor vehicle [~~inoperable~~
INCAPABLE OF BEING STARTED] if the
6 device detects an alcohol content of 0.02 grams or more per 210
7 liters of breath of the person who offers a breath sample. The
8 court may order installation of an ignition interlock device on
9 any motor vehicle that the person owns or operates, the costs of
10 which the person whose license is restricted shall bear. THE
11 COURT SHALL ONLY ORDER THE INSTALLATION OF A CERTIFIED IGNITION
12 INTERLOCK DEVICE APPROVED UNDER SECTION 625K.

13 (9) The court shall not order the secretary of state under
14 subsection (6) to issue a restricted license that would permit a
15 person to operate a commercial motor vehicle that hauls hazardous
16 materials.

17 (10) The court shall not order the secretary of state to
18 issue a restricted license unless the person states under oath,
19 and the court finds pursuant to testimony taken in open court or
20 pursuant to statements contained in a sworn affidavit on a form
21 prescribed by the state court administrator, that both of the
22 following are true:

23 (a) The person needs vehicular transportation to and from
24 his or her work location, SITE WHERE MONITORING OF THE IGNITION
25 INTERLOCK DEVICE TAKES PLACE, place of alcohol or drug education
26 treatment, court probation department, court-ordered community
27 service program, or educational institution, or a place of

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1 regularly occurring medical treatment for a serious condition, or
2 in the course of the person's employment or occupation.

3 (b) The person is unable to take public transportation and
4 does not have any family members or other individuals able to
5 provide transportation to a destination or for a purpose
6 described in subdivision (a).

7 (11) The court order issued under subsection (6) and the
8 restricted license shall indicate the permitted destinations of
9 the person or the permitted purposes for which the person may
10 operate a vehicle, the approved route or routes if specified by
11 the court, and permitted times of travel.

12 (12) Immediately upon acceptance by the court of a plea of
13 guilty or nolo contendere or upon entry of a verdict of guilty
14 for a violation of section 625(1), (3), (4), (5), or (6) or a
15 local ordinance substantially corresponding to section 625(1),
16 (3), or (6), the person shall surrender to the court his or her
17 operator's or chauffeur's license or permit. The court shall
18 immediately destroy the license or permit and forward an abstract
19 of conviction with court-ordered license sanctions to the secre-
20 tary of state. Upon receipt of, and pursuant to, the abstract of
21 conviction with court-ordered license sanctions, the secretary of
22 state shall suspend or revoke the person's license and, if
23 ordered by the court and the person is otherwise eligible for a
24 license, issue to the person a restricted license stating the
25 limited driving privileges indicated on the abstract. If the
26 judgment and sentence is appealed to circuit court, the court may
27 ex parte order the secretary of state to stay the suspension,

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1 revocation, or restricted license issued pursuant to this section
2 pending the outcome of the appeal.

3 (13) In addition to any other suspension or revocation
4 ordered under this section and as part of the sentence imposed
5 upon a person who violates section 625(1), (3), (4), or (5) or a
6 local ordinance substantially corresponding to section 625(1) or
7 (3) while operating a commercial motor vehicle, the court shall
8 order the secretary of state to suspend the vehicle group desig-
9 nations on the person's operator's or chauffeur's license in
10 accordance with section 319b(1)(c). If the vehicle was trans-
11 porting hazardous material required to have a placard pursuant to
12 49 C.F.R. parts 100 to 199, the court shall order the secretary
13 of state to suspend the vehicle group designations on the
14 person's operator's or chauffeur's license in accordance with
15 section 319b(1)(d). The court shall not order the secretary of
16 state to issue a restricted license that would permit the person
17 to operate a commercial motor vehicle.

18 (14) In addition to any other suspension or revocation
19 ordered under this section and as part of the sentence imposed
20 upon a person who is convicted of a violation of section 625(1),
21 (3), (4), or (5) or a local ordinance substantially corresponding
22 to section 625(1) or (3) while operating a commercial motor vehi-
23 cle within 10 years of a prior conviction, the court shall order
24 the secretary of state to revoke the vehicle group designations
25 on the person's operator's or chauffeur's license in accordance
26 with section 319b(1)(e). The court shall not order the secretary
27 of state to issue a restricted license that would permit the

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1 person to operate a commercial motor vehicle. As used in this
2 subsection, "prior conviction" means a conviction under section
3 625(1), (3), (4), or (5), former section 625(1) or (2), or former
4 section 625b, a local ordinance substantially corresponding to
5 section 625(1) or (3), former section 625(1) or (2), or former
6 section 625b, or a law of another state substantially correspond-
7 ing to section 625(1), (3), (4), or (5), former section 625(1) or
8 (2), or former section 625b involving the operation of a commer-
9 cial motor vehicle, or a conviction under section 625m, a local
10 ordinance substantially corresponding to section 625m, or a law
11 of another state substantially corresponding to section 625m.

12 (15) IF THE COURT ORDERS THE ISSUANCE OF A RESTRICTED
13 LICENSE UNDER THIS SECTION TO A PERSON WHO INTENDS TO OPERATE A
14 VEHICLE OWNED BY HIS OR HER EMPLOYER, THE COURT SHALL NOTIFY THE
15 EMPLOYER OF THE EMPLOYEE'S LICENSE RESTRICTION THAT REQUIRES THE
16 INSTALLATION OF AN IGNITION INTERLOCK DEVICE. AN EMPLOYER WHO
17 RECEIVES NOTICE UNDER THIS SUBSECTION IS NOT REQUIRED TO INSTALL
18 AN IGNITION INTERLOCK DEVICE ON THE EMPLOYER-OWNED VEHICLE. THIS
19 SUBSECTION DOES NOT APPLY TO A VEHICLE THAT IS OPERATED BY A
20 SELF-EMPLOYED INDIVIDUAL WHO USES THE VEHICLE FOR BOTH BUSINESS
21 AND PERSONAL USE. THIS SUBSECTION APPLIES UNTIL [JUNE 30, 2003
22].

23 (16) UNTIL DECEMBER 31, 2002, IF THE COURT OR A HEARING
24 OFFICER ORDERS THE INSTALLATION OF AN IGNITION INTERLOCK DEVICE,
25 THE COURT OR HEARING OFFICER SHALL DO ALL OF THE FOLLOWING:

26 (A) REQUIRE THAT THE ISSUANCE OF THE RESTRICTED LICENSE
27 INCLUDE THE INSTALLATION OF A FUNCTIONING IGNITION INTERLOCK

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1 DEVICE THAT MEETS OR EXCEEDS THE MODEL SPECIFICATIONS OF THE
2 NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION SET FORTH IN 57
3 F.R. p.11772, APRIL 7, 1992, ON EACH MOTOR VEHICLE THE PERSON
4 OWNS OR INTENDS TO OPERATE, THE COSTS OF WHICH SHALL BE BORNE BY
5 THE PERSON WHOSE LICENSE IS RESTRICTED.

6 (B) REQUIRE THE DEVICE BE SET TO RENDER THE MOTOR VEHICLE
7 [INCAPABLE OF BEING STARTED] IF THE DEVICE DETECTS AN ALCOHOL
8 CONTENT OF 0.02 GRAMS
9 OR MORE PER 210 LITERS OF BREATH OF THE PERSON WHO OFFERS A
10 BREATH SAMPLE.

11 (C) REQUIRE THAT THE DEVICE BE SET TO PERIODICALLY TAKE SAM-
12 PLES WHILE THE VEHICLE IS IN OPERATION AND TO DO BOTH OF THE
13 FOLLOWING:

14 (i) TO EMIT A WARNING SIGNAL WHEN THE DEVICE DETECTS AN
15 ALCOHOL CONTENT OF 0.02 GRAMS OR MORE PER 210 LITERS OF BREATH IN
16 THE PERSON WHO OFFERS A BREATH SAMPLE.

17 (ii) IF IT DETECTS AN ALCOHOL CONTENT OF 0.04 GRAMS OR MORE
18 PER 210 LITERS OF BREATH OF THE PERSON WHO OFFERS THE BREATH
19 SAMPLE, TO RENDER THE VEHICLE INOPERABLE AS SOON AS THE VEHICLE
20 IS NO LONGER BEING OPERATED.

21 (D)[CONDITION ISSUANCE OF A RESTRICTED LICENSE BY THE
22 SECRETARY OF STATE UPON VERIFICATION BY THE SECRETARY
23] THAT AN IGNITION INTERLOCK DEVICE HAS BEEN INSTALLED.

24 (E) REQUIRE PERIODIC MONITORING OF AN INSTALLED IGNITION
25 INTERLOCK DEVICE BY THE MANUFACTURER OR INSTALLER.

26 (F) REQUIRE THAT IF MONITORING INDICATES THE DEVICE HAS BEEN
27 CIRCUMVENTED, THAT FACT SHALL IMMEDIATELY BE COMMUNICATED TO THE
28 COURT IF THE COURT ORDERED THE INSTALLATION OF THE DEVICE OR THE

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1 SECRETARY OF STATE IF A HEARING OFFICER ORDERED THE INSTALLATION
2 OF THE DEVICE.

3 (17) ~~(15)~~ As used in this section, "work location" means,
4 as applicable, the specific place or places of employment or the
5 territory or territories regularly visited by the person in pur-
6 suance of the person's occupation, or both.

7 Sec. 625k. (1) The department shall approve an ignition
8 interlock device certified by a department-approved laboratory as
9 complying with the national highway traffic safety
10 administration's model specifications for breath alcohol ignition
11 interlock devices (BAIID), 57 F.R. p.11772,
12 ~~(April 7, 1992.)~~ Subject to subsection (4), the department
13 shall publish a list of all manufacturers of approved certified
14 devices.

15 (2) The manufacturer of an ignition interlock device shall
16 bear the cost of that device's certification.

17 (3) A laboratory that certifies an ignition interlock device
18 as provided in this section shall immediately notify the depart-
19 ment of that certification.

20 (4) The department shall not include the manufacturer of a
21 certified ignition interlock device on the list of manufacturers
22 published pursuant to subsection (1) unless the manufacturer
23 COMPLIES WITH ALL OF THE FOLLOWING:

24 (A) THE MANUFACTURER has filed COPIES OF ALL OF THE
25 FOLLOWING with the department: ~~copies of an affidavit that the~~
26 ~~ignition interlock device is both of the following:~~

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1 (i) UNTIL [JUNE 30, 2003], A BOND EXECUTED AS PROVIDED IN
2 SECTION 6250.

3 (ii) UNTIL [JUNE 30, 2003], EVIDENCE OF INSURANCE AS
4 DESCRIBED IN SECTION 6251.

5 (iii) AN AFFIDAVIT THAT THE IGNITION INTERLOCK DEVICE IS
6 BOTH OF THE FOLLOWING:

7 (A) ~~(a)~~ An alcohol concentration measuring device that
8 prevents a motor vehicle from being started at any time without
9 first determining through a deep lung sample the operator's
10 breath alcohol level.

11 (B) ~~(b)~~ Calibrated to prevent the motor vehicle from
12 starting if the operator's breath alcohol level reaches a level
13 of 0.02 grams per 210 liters of breath as measured by the test.

14 (B) UNTIL [JUNE 30, 2003], THE MANUFACTURER OF IGNITION
15 INTERLOCK DEVICES PROVIDES A LIST OF INSTALLERS WHO ARE AUTHO-
16 RIZED TO INSTALL AND SERVICE ITS IGNITION INTERLOCK DEVICES TO
17 THE SECRETARY OF STATE.

18 (C) UNTIL [JUNE 30, 2003], AGREES TO HAVE SERVICE LOCA-
19 TIONS WITHIN 50 MILES OF ANY LOCATION WITHIN THIS STATE.

20 (D) UNTIL [JUNE 30, 2003], AGREES TO PROVIDE AN IGNITION
21 INTERLOCK DEVICE WITHOUT COST TO A PERSON WHOSE GROSS INCOME FOR
22 THE IMMEDIATELY PRECEDING TAX YEAR BASED ON HIS OR HER STATE
23 INCOME TAX RETURN WAS LESS THAN 150% OF THE OFFICIAL POVERTY LINE
24 FOR THAT SAME TAX YEAR ESTABLISHED IN THE POVERTY GUIDELINES
25 ISSUED BY THE SECRETARY OF HEALTH AND HUMAN SERVICES UNDER
26 AUTHORITY OF SECTION 673(2) OF THE COMMUNITY SERVICES BLOCK GRANT
27 ACT, SUBTITLE B OF TITLE VI OF THE OMNIBUS BUDGET RECONCILIATION

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1 ACT OF 1981, PUBLIC LAW 97-35, 42 U.S.C. 9902. A PERSON IN WHOSE
2 VEHICLE AN IGNITION INTERLOCK DEVICE IS INSTALLED WITHOUT COST
3 UNDER THIS SUBPARAGRAPH SHALL PAY A MAINTENANCE FEE TO THE
4 INSTALLER OF NOT MORE THAN \$1.00 PER DAY.

5 (5) A manufacturer that has made a filing under subsection
6 (4) shall immediately notify the department if the device no
7 longer meets the requirements of subsection (4).

8 (6) The department shall notify the courts of a notice
9 received under subsection (5). If a court receives the notifica-
10 tion required by this subsection, the court shall not order
11 installation of the ignition interlock device described in the
12 notice, and shall order the replacement or removal of any of
13 those ignition interlock devices installed pursuant to a previous
14 order.

15 (7) A manufacturer OR MANUFACTURER'S AGENT shall provide to
16 each person who has a court-ordered ignition interlock device a
17 copy of the information filed with the department under
18 subsection (4)(a) and (b). A person who violates this subsection
19 is guilty of a misdemeanor, punishable by imprisonment for not
20 more than 1 year, or a fine of not more than \$1,000.00, or both,
21 together with costs of the prosecution.

22 (8) A person who knowingly provides false information to the
23 department under subsection ~~-(2)-~~ (3) or (4) is guilty of a
24 felony, punishable by imprisonment for not less than 5 years or
25 more than 10 years, or a fine of not less than \$5,000.00 or more
26 than \$10,000.00, or both, together with costs of the
27 prosecution.

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1 (9) A person who negligently provides false information to
2 the department under subsection ~~(3)~~ (2) or (4) is guilty of a
3 misdemeanor, punishable by imprisonment for not more than 1 year,
4 or a fine of not more than \$1,000.00, or both, together with
5 costs of the prosecution.

6 (10) A person who knowingly fails to comply with
7 subsection (5) is guilty of a felony, punishable by imprisonment
8 for not less than 5 years or more than 10 years, or a fine of not
9 less than \$5,000.00 or more than \$10,000.00, or both, together
10 with costs of the prosecution.

11 (11) A person who negligently fails to comply with subsec-
12 tion (5) is guilty of a misdemeanor, punishable by imprisonment
13 for not more than 1 year, or a fine of not more than \$1,000.00,
14 or both, together with costs of the prosecution.

15 Sec. 625l. (1) The manufacturer of an ignition interlock
16 device shall design a warning label, and the person who has a
17 ~~court-ordered~~ COURT OR HEARING OFFICER ORDERED ignition inter-
18 lock device shall promptly affix that label to each ignition
19 interlock device upon installation. The label shall contain a
20 warning that any person tampering, circumventing, or otherwise
21 misusing the device is guilty of a misdemeanor punishable as pro-
22 vided by law.

23 (2) A person who has a ~~court-ordered~~ COURT OR HEARING
24 OFFICER ORDERED ignition interlock device installed and whose
25 driving privilege is restricted pursuant to section 625b OR BY A
26 HEARING OFFICER shall not request or solicit any other person to
27 blow into an ignition interlock device or to start a vehicle

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1 equipped with the device for the purpose of providing the person
2 whose driving privilege is restricted with an operable vehicle.

3 (3) A person shall not blow into an ignition interlock
4 device or start a motor vehicle equipped with the device for the
5 purpose of providing an operable vehicle to a person who has a
6 ~~court-ordered~~ COURT OR HEARING OFFICER ORDERED interlock device
7 installed and whose driving privilege is restricted pursuant to
8 section 625b OR BY A HEARING OFFICER.

9 (4) A person shall not tamper with or circumvent the opera-
10 tion of an ignition interlock device.

11 (5) A person who violates ~~this section~~ SUBSECTION (2),
12 (3), OR (4) is guilty of a misdemeanor punishable by imprisonment
13 for not more than 6 months or a fine of not more than \$5,000.00,
14 or both.

15 (6) As used in this ~~section and sections 625b and 625k~~
16 ACT, "ignition interlock device" or "device" means an alcohol
17 concentration measuring device that prevents a motor vehicle from
18 being started at any time without first determining through a
19 deep lung sample the operator's breath alcohol level. The system
20 shall be calibrated so that the motor vehicle may not be started
21 if the breath alcohol level of the operator, as measured by the
22 test, reaches a level of 0.02 grams per 210 liters of breath.

23 (7) THE STATE, OR THE DEPARTMENT, ITS OFFICERS, EMPLOYEES,
24 OR AGENTS ARE NOT LIABLE IN ANY CLAIM OR ACTION THAT MAY ARISE,
25 DIRECTLY OR INDIRECTLY, OUT OF ANY ACT OR OMISSION BY A MANUFAC-
26 TURER, INSTALLER, OR SERVICING AGENT OF AN IGNITION INTERLOCK
27 DEVICE THAT RESULTS IN DAMAGE TO PERSONS OR PROPERTY.

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1 (8) A PERSON SHALL NOT SELL, LEASE, INSTALL, OR MONITOR IN A
2 VEHICLE IN THIS STATE AN IGNITION INTERLOCK DEVICE UNLESS THE
3 IGNITION INTERLOCK DEVICE MANUFACTURER AND PROVIDER CARRIES
4 LIABILITY INSURANCE COVERING PRODUCT LIABILITY, INCLUDING, BUT
5 NOT LIMITED TO, INSURANCE TO INDEMNIFY THE DEPARTMENT AND ANY
6 PERSON INJURED AS A RESULT OF A DESIGN DEFECT OR THE CALIBRATION
7 OR REMOVAL OF THE IGNITION INTERLOCK DEVICE OR A MISREPRESENTA-
8 TION ABOUT THE IGNITION INTERLOCK DEVICE. THE INSURANCE REQUIRED
9 BY THIS SUBSECTION SHALL BE IN AN AMOUNT OF NOT LESS THAN
10 \$1,000,000.00 PER INCIDENT.

11 (9) THE PROVIDER OF INSURANCE DESCRIBED IN THIS SECTION MAY
12 CANCEL THE INSURANCE UPON 30 DAYS' WRITTEN NOTICE TO THE DEPART-
13 MENT AND IS NOT LIABLE FOR A CLAIM ARISING FROM AN EVENT THAT
14 OCCURS AFTER THE EFFECTIVE DATE OF A CANCELLATION MADE IN COMPLI-
15 ANCE WITH THIS SECTION.

16 (10) AN IGNITION INTERLOCK DEVICE SHALL BE SERVICED AT
17 INTERVALS NOT TO EXCEED 67 DAYS. SERVICE SHALL INCLUDE, BUT NOT
18 BE LIMITED TO, PHYSICAL INSPECTION OF THE DEVICE AND VEHICLE FOR
19 TAMPERING, CALIBRATION OF THE DEVICE AND MONITORING OF THE DATA
20 CONTAINED WITHIN THE DEVICE'S MEMORY. THE INSTALLER SHALL REPORT
21 WITHIN 48 HOURS TO THE APPROPRIATE COURT PERSONNEL IF THE COURT
22 ORDERED THE INSTALLATION OF THE DEVICE OR TO THE SECRETARY OF
23 STATE IF A HEARING OFFICER ORDERED INSTALLATION OF THE DEVICE IF
24 THE VEHICLE AND DEVICE ARE NOT SERVICED AS REQUIRED OR IF THE
25 DATA CONTAINED IN THE DEVICE'S MEMORY INDICATES NONCOMPLIANCE
26 WITH THE PARAMETERS ESTABLISHED IN THE RESTRICTED LICENSE ISSUED
27 BY THE COURT OR THE HEARING OFFICER. ONLY AUTHORIZED EMPLOYEES

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1 OF THE MANUFACTURER OR THE DEPARTMENT MAY OBSERVE THE
2 INSTALLATION OF A DEVICE. REASONABLE SECURITY MEASURES MUST BE
3 TAKEN TO PREVENT THE CUSTOMER FROM OBSERVING THE INSTALLATION OF
4 A DEVICE OR OBTAINING ACCESS TO INSTALLATION MATERIALS.

5 (11) SUBSECTIONS (7), (8), (9), AND (10) APPLY UNTIL
6 DECEMBER 31, 2002.

7 SEC. 6250. (1) A PERSON SHALL NOT SELL, LEASE, OR INSTALL
8 IN A VEHICLE IN THIS STATE AN IGNITION INTERLOCK DEVICE UNLESS
9 THE MANUFACTURER OF THE DEVICE HAS OBTAINED AN EXECUTED BOND
10 DESCRIBED IN SUBSECTION (2) OR A RENEWAL CERTIFICATE FOR THAT
11 BOND.

12 (2) THE BOND REQUIRED UNDER SUBSECTION (1) SHALL BE IN THE
13 AMOUNT OF \$50,000.00 WITH A SURETY APPROVED BY THE DEPARTMENT AND
14 SHALL BE CONDITIONED TO INDEMNIFY OR REIMBURSE A PERSON WHO HAS
15 AN IGNITION INTERLOCK DEVICE INSTALLED ON HIS OR HER VEHICLE FOR
16 MONETARY LOSS CAUSED BY THE MANUFACTURER'S FRAUD, CHEATING, MIS-
17 REPRESENTATION, OR DEFAULTING ON A CONTRACTUAL OBLIGATION,
18 WHETHER THE FRAUD, CHEATING, MISREPRESENTATION, OR DEFAULTING WAS
19 DONE BY THE MANUFACTURER OR BY AN EMPLOYEE OR AGENT OF THE
20 MANUFACTURER.

21 (3) THE SURETY ON THE BOND DESCRIBED IN SUBSECTION (2) IS
22 REQUIRED TO MAKE INDEMNIFICATION OR REIMBURSEMENT FOR A MONETARY
23 LOSS ONLY AFTER FINAL JUDGMENT HAS BEEN ENTERED IN A COURT OF
24 RECORD AGAINST THE MANUFACTURER OR AN EMPLOYEE OR AGENT OF THE
25 MANUFACTURER. THE SURETY ON THE BOND MAY CANCEL THE BOND UPON 30
26 DAYS' WRITTEN NOTICE TO THE DEPARTMENT AND IS NOT LIABLE FOR A

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1 LOSS ARISING FROM AN EVENT THAT OCCURS AFTER THE EFFECTIVE DATE
2 OF THE CANCELLATION.

3 (4) THIS SECTION APPLIES UNTIL [JUNE 30, 2003].

4 SEC. 625P. THE SECRETARY OF STATE SHALL ENTER INTO A CON-
5 TRACT WITH THE UNIVERSITY OF MICHIGAN TRANSPORTATION RESEARCH
6 INSTITUTE, IN WHICH THE UNIVERSITY OF MICHIGAN TRANSPORTATION
7 RESEARCH INSTITUTE SHALL EVALUATE THE EFFECT AND IMPACT OF THE
8 1997 AMENDATORY ACT THAT ADDED THIS SECTION ADDRESSING DRIVING ON
9 A RESTRICTED LICENSE WITH AN IGNITION INTERLOCK DEVICE IN THIS
10 STATE AND REPORT ITS FINDINGS TO THE GOVERNOR AND THE LEGISLATURE
11 NOT LATER THAN [JUNE 30, 2003]. THE CIRCUIT [COURT], DISTRICT
12 [COURT], PROBATE [COURT], MUNICIPAL COURTS, AND LOCAL UNITS OF GOV-
13 ERNMENT IN THIS STATE SHALL COOPERATE WITH THE SECRETARY OF STATE
14 TO PROVIDE INFORMATION NECESSARY FOR THE PREPARATION OF THE
15 REPORT.

[Enacting section 1. This amendatory act shall take effect
April 1, 1998.]