

# HOUSE BILL No. 6264

June 22, 2006, Introduced by Reps. Acciavatti, Van Regenmorter, Schuitmaker, Taub, Emmons, Newell, Vander Veen and LaJoy and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 319, 322, 625, 625k, 625l, and 904 (MCL 257.319, 257.322, 257.625, 257.625k, 257.625l, and 257.904), sections 319 and 904 as amended by 2004 PA 362, section 322 as amended by 2001 PA 159, section 625 as amended by 2004 PA 62, and sections 625k and 625l as amended by 2003 PA 61, and by adding sections 20b and 323f.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           **SEC. 20B. "IGNITION INTERLOCK DEVICE" MEANS AN ALCOHOL**  
2           **CONCENTRATION MEASURING DEVICE THAT PREVENTS A MOTOR VEHICLE FROM**  
3           **BEING STARTED AT ANY TIME WITHOUT FIRST DETERMINING THROUGH A DEEP**  
4           **LUNG SAMPLE THE OPERATOR'S ALCOHOL LEVEL, CALIBRATED SO THAT THE**  
5           **MOTOR VEHICLE CANNOT BE STARTED IF THE BREATH ALCOHOL LEVEL OF THE**

1 OPERATOR, AS MEASURED BY THE TEST, REACHES A LEVEL OF 0.025 GRAMS  
2 PER 210 LITERS OF BREATH, AND TO WHICH ALL OF THE FOLLOWING APPLY:

3 (A) THE DEVICE IS BASED ON ALCOHOL-SPECIFIC ELECTROCHEMICAL  
4 FUEL CELL SENSOR TECHNOLOGY THAT MEETS OR EXCEEDS THE MODEL  
5 SPECIFICATIONS FOR BREATH ALCOHOL IGNITION INTERLOCK DEVICES  
6 (BAIID), 57 FR 11772 - 11787 (APRIL 7, 1992).

7 (B) THE DEVICE INCLUDES AT LEAST 1 OF THE FOLLOWING  
8 ANTICIRCUMVENTION FEATURES:

9 (i) HUM TONE.

10 (ii) BREATH PATTERN, INCLUDING, BUT NOT LIMITED TO, INHALE.

11 (iii) POSITIVE IDENTIFICATION BY PICTURE, RETINA, DNA, OR OTHER  
12 TECHNOLOGY APPROVED BY THE SECRETARY OF STATE.

13 Sec. 319. (1) The secretary of state shall immediately suspend  
14 a person's license as provided in this section upon receiving a  
15 record of the person's conviction for a crime described in this  
16 section, whether the conviction is under a law of this state, a  
17 local ordinance substantially corresponding to a law of this state,  
18 or a law of another state substantially corresponding to a law of  
19 this state.

20 (2) The secretary of state shall suspend the person's license  
21 for 1 year for any of the following crimes:

22 (a) Fraudulently altering or forging documents pertaining to  
23 motor vehicles in violation of section 257.

24 (b) A violation of section 413 of the Michigan penal code,  
25 1931 PA 328, MCL 750.413.

26 (c) A violation of section 1 of former 1931 PA 214, MCL  
27 752.191, or section 626c.

1 (d) A felony in which a motor vehicle was used. As used in  
2 this section, "felony in which a motor vehicle was used" means a  
3 felony during the commission of which the person convicted operated  
4 a motor vehicle and while operating the vehicle presented real or  
5 potential harm to persons or property and 1 or more of the  
6 following circumstances existed:

7 (i) The vehicle was used as an instrument of the felony.

8 (ii) The vehicle was used to transport a victim of the felony.

9 (iii) The vehicle was used to flee the scene of the felony.

10 (iv) The vehicle was necessary for the commission of the  
11 felony.

12 (e) A violation of section 602a(2) or (3) of this act or  
13 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL  
14 750.479a.

15 (3) The secretary of state shall suspend the person's license  
16 for 90 days for any of the following crimes:

17 (a) Failing to stop and disclose identity at the scene of an  
18 accident resulting in injury in violation of section 617a.

19 (b) A violation of section 601b(2), section 601c(1), section  
20 626, or section 653a(3).

21 (c) Malicious destruction resulting from the operation of a  
22 vehicle under section 382(1)(b), (c), or (d) of the Michigan penal  
23 code, 1931 PA 328, MCL 750.382.

24 (d) A violation of section 703(2) of the Michigan liquor  
25 control code of 1998, 1998 PA 58, MCL 436.1703.

26 (4) The secretary of state shall suspend the person's license  
27 for 30 days for malicious destruction resulting from the operation

1 of a vehicle under section 382(1)(a) of the Michigan penal code,  
2 1931 PA 328, MCL 750.382.

3 (5) For perjury or making a false certification to the  
4 secretary of state under any law requiring the registration of a  
5 motor vehicle or regulating the operation of a vehicle on a  
6 highway, or for conduct prohibited under section 324(1) or a local  
7 ordinance substantially corresponding to section 324(1), the  
8 secretary shall suspend the person's license as follows:

9 (a) If the person has no prior conviction for an offense  
10 described in this subsection within 7 years, for 90 days.

11 (b) If the person has 1 or more prior convictions for an  
12 offense described in this subsection within 7 years, for 1 year.

13 (6) For a violation of section 414 of the Michigan penal code,  
14 1931 PA 328, MCL 750.414, the secretary of state shall suspend the  
15 person's license as follows:

16 (a) If the person has no prior conviction for that offense  
17 within 7 years, for 90 days.

18 (b) If the person has 1 or more prior convictions for that  
19 offense within 7 years, for 1 year.

20 (7) For a violation of section 624a or 624b of this act or  
21 section 703(1) of the Michigan liquor control code of 1998, 1998 PA  
22 58, MCL 436.1703, the secretary of state shall suspend the person's  
23 license as follows:

24 (a) If the person has 1 prior conviction for an offense  
25 described in this subsection or section 33b(1) of former 1933 (Ex  
26 Sess) PA 8, for 90 days. The secretary of state may issue the  
27 person a restricted license after the first 30 days of suspension.

1 (b) If the person has 2 or more prior convictions for an  
2 offense described in this subsection or section 33b(1) of former  
3 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue  
4 the person a restricted license after the first 60 days of  
5 suspension.

6 (8) The secretary of state shall suspend the person's license  
7 for a violation of section 625 or 625m as follows:

8 (a) For 180 days for a violation of section 625(1) or (8) if  
9 the person has no prior convictions within 7 years. The secretary  
10 of state may issue the person a restricted license during a  
11 specified portion of the suspension, except that the secretary of  
12 state shall not issue a restricted license during the first 30 days  
13 of suspension.

14 (b) For 90 days for a violation of section 625(3) if the  
15 person has no prior convictions within 7 years. However, if the  
16 person is convicted of a violation of section 625(3), for operating  
17 a vehicle when, due to the consumption of a controlled substance or  
18 a combination of alcoholic liquor and a controlled substance, the  
19 person's ability to operate the vehicle was visibly impaired, the  
20 secretary of state shall suspend the person's license under this  
21 subdivision for 180 days. The secretary of state may issue the  
22 person a restricted license during all or a specified portion of  
23 the suspension.

24 (c) For 30 days for a violation of section 625(6) if the  
25 person has no prior convictions within 7 years. The secretary of  
26 state may issue the person a restricted license during all or a  
27 specified portion of the suspension.

1 (d) For 90 days for a violation of section 625(6) if the  
2 person has 1 or more prior convictions for that offense within 7  
3 years.

4 (e) For 180 days for a violation of section 625(7) if the  
5 person has no prior convictions within 7 years. The secretary of  
6 state may issue the person a restricted license after the first 90  
7 days of suspension.

8 (f) For 90 days for a violation of section 625m if the person  
9 has no prior convictions within 7 years. The secretary of state may  
10 issue the person a restricted license during all or a specified  
11 portion of the suspension.

12 **(G) FOR 1 YEAR FOR A VIOLATION OF SECTION 625(1)(C) IF THE**  
13 **PERSON HAS NO PRIOR CONVICTIONS WITHIN 7 YEARS. THE SECRETARY OF**  
14 **STATE SHALL ISSUE THE PERSON A RESTRICTED LICENSE DURING A**  
15 **SPECIFIED PORTION OF THE SUSPENSION, EXCEPT THAT THE SECRETARY OF**  
16 **STATE SHALL NOT ISSUE A RESTRICTED LICENSE DURING THE FIRST 45 DAYS**  
17 **OF SUSPENSION.**

18 (9) For a violation of section 367c of the Michigan penal  
19 code, 1931 PA 328, MCL 750.367c, the secretary of state shall  
20 suspend the person's license as follows:

21 (a) If the person has no prior conviction for an offense  
22 described in this subsection within 7 years, for 6 months.

23 (b) If the person has 1 or more convictions for an offense  
24 described in this subsection within 7 years, for 1 year.

25 (10) For a violation of section 315(4), the secretary of state  
26 may suspend the person's license for 6 months.

27 (11) For a violation or attempted violation of section 411a(2)

1 of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a  
2 school, the secretary of state shall suspend the license of a  
3 person 14 years of age or over but less than 21 years of age until  
4 3 years after the date of the conviction or juvenile disposition  
5 for the violation. The secretary of state may issue the person a  
6 restricted license after the first 365 days of suspension.

7 (12) Except as provided in subsection (14), a suspension under  
8 this section shall be imposed notwithstanding a court order unless  
9 the court order complies with section 323.

10 (13) If the secretary of state receives records of more than 1  
11 conviction of a person resulting from the same incident, a  
12 suspension shall be imposed only for the violation to which the  
13 longest period of suspension applies under this section.

14 (14) The secretary of state may waive a restriction,  
15 suspension, or revocation of a person's license imposed under this  
16 act if the person submits proof that a court in another state  
17 revoked, suspended, or restricted his or her license for a period  
18 equal to or greater than the period of a restriction, suspension,  
19 or revocation prescribed under this act for the violation and that  
20 the revocation, suspension, or restriction was served for the  
21 violation, or may grant a restricted license.

22 (15) The secretary of state shall not issue a restricted  
23 license to a person whose license is suspended under this section  
24 unless a restricted license is authorized under this section and  
25 the person is otherwise eligible for a license.

26 (16) The secretary of state shall not issue a restricted  
27 license to a person under subsection (8) that would permit the

1 person to operate a commercial motor vehicle.

2 (17) A restricted license issued under this section shall  
3 permit the person to whom it is issued to take any driving skills  
4 test required by the secretary of state and to drive under 1 or  
5 more of the following circumstances:

6 (a) In the course of the person's employment or occupation.

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

8 (i) The person's residence.

9 (ii) The person's work location.

10 (iii) An alcohol or drug education or treatment program as  
11 ordered by the court.

12 (iv) The court probation department.

13 (v) A court-ordered community service program.

14 (vi) An educational institution at which the person is enrolled  
15 as a student.

16 (vii) A place of regularly occurring medical treatment for a  
17 serious condition for the person or a member of the person's  
18 household or immediate family.

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

23 (19) Subject to subsection (21), as used in subsection (8),  
24 "prior conviction" means a conviction for any of the following,  
25 whether under a law of this state, a local ordinance substantially  
26 corresponding to a law of this state, or a law of another state  
27 substantially corresponding to a law of this state:

1 (a) Except as provided in subsection (20), a violation or  
2 attempted violation of any of the following:

3 (i) Section 625, except a violation of section 625(2), or a  
4 violation of any prior enactment of section 625 in which the  
5 defendant operated a vehicle while under the influence of  
6 intoxicating or alcoholic liquor or a controlled substance, or a  
7 combination of intoxicating or alcoholic liquor and a controlled  
8 substance, or while visibly impaired, or with an unlawful bodily  
9 alcohol content.

10 (ii) Section 625m.

11 (iii) Former section 625b.

12 (b) Negligent homicide, manslaughter, or murder resulting from  
13 the operation of a vehicle or an attempt to commit any of those  
14 crimes.

15 (20) Except for purposes of the suspensions described in  
16 subsection (8)(c) and (d), only 1 violation or attempted violation  
17 of section 625(6), a local ordinance substantially corresponding to  
18 section 625(6), or a law of another state substantially  
19 corresponding to section 625(6) may be used as a prior conviction.

20 (21) If 2 or more convictions described in subsection (19) are  
21 convictions for violations arising out of the same transaction,  
22 only 1 conviction shall be used to determine whether the person has  
23 a prior conviction.

24 Sec. 322. (1) The secretary of state shall appoint a hearing  
25 officer to hear appeals from persons aggrieved by a final  
26 determination of the secretary of state denying an application for  
27 an operator's or chauffeur's license, suspending, restricting, or

1 revoking an operator's or chauffeur's license, or other license  
2 action.

3 (2) The appeal shall be in writing and filed with the  
4 secretary of state within 14 days after the final determination.  
5 Upon notice of the appeal, the hearing officer shall require  
6 production of all documents filed in the matter, together with a  
7 transcript of any testimony taken.

8 (3) In a hearing or matter properly before the hearing  
9 officer, he or she may do any of the following:

10 (a) Issue subpoenas to compel attendance of witnesses.

11 (b) Issue process to compel attendance.

12 (c) Punish for contempt any witness failing to appear or  
13 testify in the same manner as provided by the rules and practice in  
14 the circuit court.

15 (d) Swear witnesses, administer oaths, and exemplify records  
16 in any matter before the officer.

17 (e) Take additional testimony he or she considers appropriate.

18 (4) A verbatim record shall be made of the hearing.

19 (5) After a hearing, the hearing officer may affirm, modify,  
20 or set aside a final determination of the secretary of state  
21 denying an application for an operator's or chauffeur's license,  
22 suspending, restricting, or revoking an operator's or chauffeur's  
23 license, or any other license action. The hearing officer shall  
24 include his or her findings of fact and conclusions of law in the  
25 record.

26 (6) Except as provided in subsection (7), if a person whose  
27 license has been denied or revoked under section 303(2)(c), (d), or

1 (g) applies for a license or reinstatement of a license after the  
2 time period specified in section 303(4) has elapsed, the hearing  
3 officer may issue a restricted license to that person, setting  
4 restrictions upon operating a vehicle as the hearing officer  
5 determines are appropriate. If the hearing officer issues a  
6 restricted license following a hearing held after October 1, 1999,  
7 he or she shall do both of the following:

8 (a) Require ~~installation of~~ a **PROPERLY INSTALLED AND**  
9 functioning ignition interlock device ~~that meets or exceeds the~~  
10 ~~model specifications of the national highway traffic safety~~  
11 ~~administration set forth in 57 F.R. p.11772, April 7, 1992,~~ on  
12 each motor vehicle the person owns or intends to operate, the costs  
13 of which shall be borne by the person whose license is restricted.

14 (b) Condition issuance of a restricted license upon  
15 verification by the secretary of state that an ignition interlock  
16 device has been installed.

17 (7) The hearing officer shall not issue a restricted license  
18 under subsection (6) that would permit the person to operate a  
19 commercial motor vehicle that hauls hazardous material.

20 (8) If the hearing officer issues a restricted license to a  
21 person who intends to operate a vehicle owned by his or her  
22 employer, the secretary of state shall notify the employer of the  
23 employee's license restriction that requires the installation of an  
24 ignition interlock device. An employer who receives notice under  
25 this subsection is not required to install an ignition interlock  
26 device on the employer-owned vehicle. This subsection does not  
27 apply to a vehicle that is operated by a self-employed individual

1 who uses the vehicle for both business and personal use.

2 (9) If the hearing officer issues a restricted license  
3 requiring an ignition interlock device, the initial period for  
4 requiring the device shall be **NOT LESS THAN** 1 year. ~~After that~~  
5 ~~time,~~ **THE DEVICE SHALL NOT BE REMOVED UNTIL** the hearing officer  
6 ~~may continue~~ **ORDERS** the ignition interlock device ~~requirement for~~  
7 ~~any length of time~~ **REMOVED**.

8 **SEC. 323F. WHEN THE HEARING OFFICER ISSUES A RESTRICTED**  
9 **LICENSE TO A PERSON WHO WAS CONVICTED OF VIOLATING SECTION**  
10 **625(1)(C), ALL OF THE FOLLOWING APPLY:**

11 (A) THE IGNITION INTERLOCK DEVICE SHALL NOT BE REMOVED UNTIL  
12 THE PERSON HAS OPERATED A MOTOR VEHICLE FOR A PERIOD OF NOT LESS  
13 THAN 6 CONTINUOUS MONTHS WITH NO INSTANCES OF REACHING OR EXCEEDING  
14 AN ALCOHOL LEVEL OF 0.025 GRAMS PER 210 LITERS OF BREATH.

15 (B) UNLESS THE PERSON PROVIDES THE SECRETARY OF STATE WITH  
16 VERIFICATION THAT THE PERSON HAS OPERATED A MOTOR VEHICLE FOR THE  
17 PERIOD OF NOT LESS THAN 6 CONTINUOUS MONTHS AS DESCRIBED IN  
18 SUBDIVISION (A), THE IGNITION INTERLOCK DEVICE SHALL BE CONTINUED,  
19 ALONG WITH ANY OTHER TREATMENT ORDERED UNDER SUBDIVISION (C), FOR 6  
20 ADDITIONAL MONTHS.

21 (C) THE HEARING OFFICER SHALL ORDER THE INDIVIDUAL TO  
22 PARTICIPATE IN AND COMPLETE AN ASSESSMENT AND A TREATMENT PROGRAM.  
23 AN INDIVIDUAL ORDERED TO COMPLETE AN ASSESSMENT AND A TREATMENT  
24 PROGRAM UNDER THIS SUBDIVISION SHALL PAY ALL PROGRAM FEES.

25 Sec. 625. (1) A person, whether licensed or not, shall not  
26 operate a vehicle upon a highway or other place open to the general  
27 public or generally accessible to motor vehicles, including an area

1 designated for the parking of vehicles, within this state if the  
2 person is operating while intoxicated. As used in this section,  
3 "operating while intoxicated" means either of the following  
4 applies:

5 (a) The person is under the influence of alcoholic liquor, a  
6 controlled substance, or a combination of alcoholic liquor and a  
7 controlled substance.

8 (b) The person has an alcohol content of 0.08 grams or more  
9 per 100 milliliters of blood, per 210 liters of breath, or per 67  
10 milliliters of urine, or, beginning October 1, 2013, the person has  
11 an alcohol content of 0.10 grams or more per 100 milliliters of  
12 blood, per 210 liters of breath, or per 67 milliliters of urine.

13 **(C) THE PERSON HAS AN ALCOHOL CONTENT OF 0.15 GRAMS OR MORE**  
14 **PER 100 MILLILITERS OF BLOOD, PER 210 LITERS OF BREATH, OR PER 67**  
15 **MILLILITERS OF URINE.**

16 (2) The owner of a vehicle or a person in charge or in control  
17 of a vehicle shall not authorize or knowingly permit the vehicle to  
18 be operated upon a highway or other place open to the general  
19 public or generally accessible to motor vehicles, including an area  
20 designated for the parking of motor vehicles, within this state by  
21 a person if any of the following apply:

22 (a) The person is under the influence of alcoholic liquor, a  
23 controlled substance, or a combination of alcoholic liquor and a  
24 controlled substance.

25 (b) The person has an alcohol content of 0.08 grams or more  
26 per 100 milliliters of blood, per 210 liters of breath, or per 67  
27 milliliters of urine or, beginning October 1, 2013, the person has

1 an alcohol content of 0.10 grams or more per 100 milliliters of  
2 blood, per 210 liters of breath, or per 67 milliliters of urine.

3 (c) The person's ability to operate the motor vehicle is  
4 visibly impaired due to the consumption of alcoholic liquor, a  
5 controlled substance, or a combination of alcoholic liquor and a  
6 controlled substance.

7 (3) A person, whether licensed or not, shall not operate a  
8 vehicle upon a highway or other place open to the general public or  
9 generally accessible to motor vehicles, including an area  
10 designated for the parking of vehicles, within this state when, due  
11 to the consumption of alcoholic liquor, a controlled substance, or  
12 a combination of alcoholic liquor and a controlled substance, the  
13 person's ability to operate the vehicle is visibly impaired. If a  
14 person is charged with violating subsection (1), a finding of  
15 guilty under this subsection may be rendered.

16 (4) A person, whether licensed or not, who operates a motor  
17 vehicle in violation of subsection (1), (3), or (8) and by the  
18 operation of that motor vehicle causes the death of another person  
19 is guilty of a crime as follows:

20 (a) Except as provided in subdivision (b), the person is  
21 guilty of a felony punishable by imprisonment for not more than 15  
22 years or a fine of not less than \$2,500.00 or more than \$10,000.00,  
23 or both. The judgment of sentence may impose the sanction permitted  
24 under section 625n. If the vehicle is not ordered forfeited under  
25 section 625n, the court shall order vehicle immobilization under  
26 section 904d in the judgment of sentence.

27 (b) If, at the time of the violation, the person is operating

1 a motor vehicle in a manner proscribed under section 653a and  
2 causes the death of a police officer, firefighter, or other  
3 emergency response personnel, the person is guilty of a felony  
4 punishable by imprisonment for not more than 20 years or a fine of  
5 not less than \$2,500.00 or more than \$10,000.00, or both. This  
6 subdivision applies regardless of whether the person is charged  
7 with the violation of section 653a. The judgment of sentence may  
8 impose the sanction permitted under section 625n. If the vehicle is  
9 not ordered forfeited under section 625n, the court shall order  
10 vehicle immobilization under section 904d in the judgment of  
11 sentence.

12 (5) A person, whether licensed or not, who operates a motor  
13 vehicle in violation of subsection (1), (3), or (8) and by the  
14 operation of that motor vehicle causes a serious impairment of a  
15 body function of another person is guilty of a felony punishable by  
16 imprisonment for not more than 5 years or a fine of not less than  
17 \$1,000.00 or more than \$5,000.00, or both. The judgment of sentence  
18 may impose the sanction permitted under section 625n. If the  
19 vehicle is not ordered forfeited under section 625n, the court  
20 shall order vehicle immobilization under section 904d in the  
21 judgment of sentence.

22 (6) A person who is less than 21 years of age, whether  
23 licensed or not, shall not operate a vehicle upon a highway or  
24 other place open to the general public or generally accessible to  
25 motor vehicles, including an area designated for the parking of  
26 vehicles, within this state if the person has any bodily alcohol  
27 content. As used in this subsection, "any bodily alcohol content"

1 means either of the following:

2 (a) An alcohol content of 0.02 grams or more but less than  
3 0.08 grams per 100 milliliters of blood, per 210 liters of breath,  
4 or per 67 milliliters of urine, or, beginning October 1, 2013, the  
5 person has an alcohol content of 0.02 grams or more but less than  
6 0.10 grams per 100 milliliters of blood, per 210 liters of breath,  
7 or per 67 milliliters of urine.

8 (b) Any presence of alcohol within a person's body resulting  
9 from the consumption of alcoholic liquor, other than consumption of  
10 alcoholic liquor as a part of a generally recognized religious  
11 service or ceremony.

12 (7) A person, whether licensed or not, is subject to the  
13 following requirements:

14 (a) He or she shall not operate a vehicle in violation of  
15 subsection (1), (3), (4), (5), or (8) while another person who is  
16 less than 16 years of age is occupying the vehicle. A person who  
17 violates this subdivision is guilty of a crime punishable as  
18 follows:

19 (i) Except as provided in subparagraph (ii), a person who  
20 violates this subdivision is guilty of a misdemeanor and shall be  
21 sentenced to pay a fine of not less than \$200.00 or more than  
22 \$1,000.00 and to 1 or more of the following:

23 (A) Imprisonment for not less than 5 days or more than 1 year.  
24 Not less than 48 hours of this imprisonment shall be served  
25 consecutively. This term of imprisonment shall not be suspended.

26 (B) Community service for not less than 30 days or more than  
27 90 days.

1           (ii) If the violation occurs within 7 years of a prior  
2 conviction or within 10 years of 2 or more prior convictions, a  
3 person who violates this subdivision is guilty of a felony and  
4 shall be sentenced to pay a fine of not less than \$500.00 or more  
5 than \$5,000.00 and to either of the following:

6           (A) Imprisonment under the jurisdiction of the department of  
7 corrections for not less than 1 year or more than 5 years.

8           (B) Probation with imprisonment in the county jail for not  
9 less than 30 days or more than 1 year and community service for not  
10 less than 60 days or more than 180 days. Not less than 48 hours of  
11 this imprisonment shall be served consecutively. This term of  
12 imprisonment shall not be suspended.

13           (b) He or she shall not operate a vehicle in violation of  
14 subsection (6) while another person who is less than 16 years of  
15 age is occupying the vehicle. A person who violates this  
16 subdivision is guilty of a misdemeanor punishable as follows:

17           (i) Except as provided in subparagraph (ii), a person who  
18 violates this subdivision may be sentenced to 1 or more of the  
19 following:

20           (A) Community service for not more than 60 days.

21           (B) A fine of not more than \$500.00.

22           (C) Imprisonment for not more than 93 days.

23           (ii) If the violation occurs within 7 years of a prior  
24 conviction or within 10 years of 2 or more prior convictions, a  
25 person who violates this subdivision shall be sentenced to pay a  
26 fine of not less than \$200.00 or more than \$1,000.00 and to 1 or  
27 more of the following:

1 (A) Imprisonment for not less than 5 days or more than 1 year.  
2 Not less than 48 hours of this imprisonment shall be served  
3 consecutively. This term of imprisonment shall not be suspended.

4 (B) Community service for not less than 30 days or more than  
5 90 days.

6 (c) In the judgment of sentence under subdivision (a)(i) or  
7 (b)(i), the court may, unless the vehicle is ordered forfeited under  
8 section 625n, order vehicle immobilization as provided in section  
9 904d. In the judgment of sentence under subdivision (a)(ii) or  
10 (b)(ii), the court shall, unless the vehicle is ordered forfeited  
11 under section 625n, order vehicle immobilization as provided in  
12 section 904d.

13 (d) This subsection does not prohibit a person from being  
14 charged with, convicted of, or punished for a violation of  
15 subsection (4) or (5) that is committed by the person while  
16 violating this subsection. However, points shall not be assessed  
17 under section 320a for both a violation of subsection (4) or (5)  
18 and a violation of this subsection for conduct arising out of the  
19 same transaction.

20 (8) A person, whether licensed or not, shall not operate a  
21 vehicle upon a highway or other place open to the general public or  
22 generally accessible to motor vehicles, including an area  
23 designated for the parking of vehicles, within this state if the  
24 person has in his or her body any amount of a controlled substance  
25 listed in schedule 1 under section 7212 of the public health code,  
26 1978 PA 368, MCL 333.7212, or a rule promulgated under that  
27 section, or of a controlled substance described in section

1 7214(a)(iv) of the public health code, 1978 PA 368, MCL 333.7214.

2 (9) If a person is convicted of violating subsection (1) or  
3 (8), all of the following apply:

4 (a) Except as otherwise provided in subdivisions (b) and (c),  
5 the person is guilty of a misdemeanor punishable by 1 or more of  
6 the following:

7 (i) Community service for not more than 360 hours.

8 (ii) Imprisonment for not more than 93 days.

9 (iii) A fine of not less than \$100.00 or more than \$500.00.

10 (b) If the violation occurs within 7 years of a prior  
11 conviction, the person shall be sentenced to pay a fine of not less  
12 than \$200.00 or more than \$1,000.00 and 1 or more of the following:

13 (i) Imprisonment for not less than 5 days or more than 1 year.  
14 Not less than 48 hours of the term of imprisonment imposed under  
15 this subparagraph shall be served consecutively.

16 (ii) Community service for not less than 30 days or more than  
17 90 days.

18 (c) If the violation occurs within 10 years of 2 or more prior  
19 convictions, the person is guilty of a felony and shall be  
20 sentenced to pay a fine of not less than \$500.00 or more than  
21 \$5,000.00 and to either of the following:

22 (i) Imprisonment under the jurisdiction of the department of  
23 corrections for not less than 1 year or more than 5 years.

24 (ii) Probation with imprisonment in the county jail for not  
25 less than 30 days or more than 1 year and community service for not  
26 less than 60 days or more than 180 days. Not less than 48 hours of  
27 the imprisonment imposed under this subparagraph shall be served

1 consecutively.

2 (d) A term of imprisonment imposed under subdivision (b) or  
3 (c) shall not be suspended.

4 (e) In the judgment of sentence under subdivision (a), the  
5 court may order vehicle immobilization as provided in section 904d.  
6 In the judgment of sentence under subdivision (b) or (c), the court  
7 shall, unless the vehicle is ordered forfeited under section 625n,  
8 order vehicle immobilization as provided in section 904d.

9 (f) In the judgment of sentence under subdivision (b) or (c),  
10 the court may impose the sanction permitted under section 625n.

11 (10) A person who is convicted of violating subsection (2) is  
12 guilty of a crime as follows:

13 (a) Except as provided in subdivisions (b) and (c), a  
14 misdemeanor punishable by imprisonment for not more than 93 days or  
15 a fine of not less than \$100.00 or more than \$500.00, or both.

16 (b) If the person operating the motor vehicle violated  
17 subsection (4), a felony punishable by imprisonment for not more  
18 than 5 years or a fine of not less than \$1,500.00 or more than  
19 \$10,000.00, or both.

20 (c) If the person operating the motor vehicle violated  
21 subsection (5), a felony punishable by imprisonment for not more  
22 than 2 years or a fine of not less than \$1,000.00 or more than  
23 \$5,000.00, or both.

24 (11) If a person is convicted of violating subsection (3), all  
25 of the following apply:

26 (a) Except as otherwise provided in subdivisions (b) and (c),  
27 the person is guilty of a misdemeanor punishable by 1 or more of

1 the following:

2 (i) Community service for not more than 360 hours.

3 (ii) Imprisonment for not more than 93 days.

4 (iii) A fine of not more than \$300.00.

5 (b) If the violation occurs within 7 years of 1 prior  
6 conviction, the person shall be sentenced to pay a fine of not less  
7 than \$200.00 or more than \$1,000.00, and 1 or more of the  
8 following:

9 (i) Imprisonment for not less than 5 days or more than 1 year.  
10 Not less than 48 hours of the term of imprisonment imposed under  
11 this subparagraph shall be served consecutively.

12 (ii) Community service for not less than 30 days or more than  
13 90 days.

14 (c) If the violation occurs within 10 years of 2 or more prior  
15 convictions, the person is guilty of a felony and shall be  
16 sentenced to pay a fine of not less than \$500.00 or more than  
17 \$5,000.00 and either of the following:

18 (i) Imprisonment under the jurisdiction of the department of  
19 corrections for not less than 1 year or more than 5 years.

20 (ii) Probation with imprisonment in the county jail for not  
21 less than 30 days or more than 1 year and community service for not  
22 less than 60 days or more than 180 days. Not less than 48 hours of  
23 the imprisonment imposed under this subparagraph shall be served  
24 consecutively.

25 (d) A term of imprisonment imposed under subdivision (b) or  
26 (c) shall not be suspended.

27 (e) In the judgment of sentence under subdivision (a), the

1 court may order vehicle immobilization as provided in section 904d.  
2 In the judgment of sentence under subdivision (b) or (c), the court  
3 shall, unless the vehicle is ordered forfeited under section 625n,  
4 order vehicle immobilization as provided in section 904d.

5 (f) In the judgment of sentence under subdivision (b) or (c),  
6 the court may impose the sanction permitted under section 625n.

7 (12) If a person is convicted of violating subsection (6), all  
8 of the following apply:

9 (a) Except as otherwise provided in subdivision (b), the  
10 person is guilty of a misdemeanor punishable by 1 or both of the  
11 following:

12 (i) Community service for not more than 360 hours.

13 (ii) A fine of not more than \$250.00.

14 (b) If the violation occurs within 7 years of 1 or more prior  
15 convictions, the person may be sentenced to 1 or more of the  
16 following:

17 (i) Community service for not more than 60 days.

18 (ii) A fine of not more than \$500.00.

19 (iii) Imprisonment for not more than 93 days.

20 (13) In addition to imposing the sanctions prescribed under  
21 this section, the court may order the person to pay the costs of  
22 the prosecution under the code of criminal procedure, 1927 PA 175,  
23 MCL 760.1 to 777.69.

24 (14) A person sentenced to perform community service under  
25 this section shall not receive compensation and shall reimburse the  
26 state or appropriate local unit of government for the cost of  
27 supervision incurred by the state or local unit of government as a

1 result of the person's activities in that service.

2 (15) If the prosecuting attorney intends to seek an enhanced  
3 sentence under this section or a sanction under section 625n based  
4 upon the defendant having 1 or more prior convictions, the  
5 prosecuting attorney shall include on the complaint and  
6 information, or an amended complaint and information, filed in  
7 district court, circuit court, municipal court, or family division  
8 of circuit court, a statement listing the defendant's prior  
9 convictions.

10 (16) If a person is charged with a violation of subsection  
11 (1), (3), (4), (5), (7), or (8) or section 625m, the court shall  
12 not permit the defendant to enter a plea of guilty or nolo  
13 contendere to a charge of violating subsection (6) in exchange for  
14 dismissal of the original charge. This subsection does not prohibit  
15 the court from dismissing the charge upon the prosecuting  
16 attorney's motion.

17 (17) A prior conviction shall be established at sentencing by  
18 1 or more of the following:

- 19 (a) An abstract of conviction.  
20 (b) A copy of the defendant's driving record.  
21 (c) An admission by the defendant.

22 (18) Except as otherwise provided in subsection (20), if a  
23 person is charged with operating a vehicle while under the  
24 influence of a controlled substance or a combination of alcoholic  
25 liquor and a controlled substance in violation of subsection (1) or  
26 a local ordinance substantially corresponding to subsection (1),  
27 the court shall require the jury to return a special verdict in the

1 form of a written finding or, if the court convicts the person  
2 without a jury or accepts a plea of guilty or nolo contendere, the  
3 court shall make a finding as to whether the person was under the  
4 influence of a controlled substance or a combination of alcoholic  
5 liquor and a controlled substance at the time of the violation.

6 (19) Except as otherwise provided in subsection (20), if a  
7 person is charged with operating a vehicle while his or her ability  
8 to operate the vehicle was visibly impaired due to his or her  
9 consumption of a controlled substance or a combination of alcoholic  
10 liquor and a controlled substance in violation of subsection (3) or  
11 a local ordinance substantially corresponding to subsection (3),  
12 the court shall require the jury to return a special verdict in the  
13 form of a written finding or, if the court convicts the person  
14 without a jury or accepts a plea of guilty or nolo contendere, the  
15 court shall make a finding as to whether, due to the consumption of  
16 a controlled substance or a combination of alcoholic liquor and a  
17 controlled substance, the person's ability to operate a motor  
18 vehicle was visibly impaired at the time of the violation.

19 (20) A special verdict described in subsections (18) and (19)  
20 is not required if a jury is instructed to make a finding solely as  
21 to either of the following:

22 (a) Whether the defendant was under the influence of a  
23 controlled substance or a combination of alcoholic liquor and a  
24 controlled substance at the time of the violation.

25 (b) Whether the defendant was visibly impaired due to his or  
26 her consumption of a controlled substance or a combination of  
27 alcoholic liquor and a controlled substance at the time of the

1 violation.

2 (21) If a jury or court finds under subsection (18), (19), or  
3 (20) that the defendant operated a motor vehicle under the  
4 influence of or while impaired due to the consumption of a  
5 controlled substance or a combination of a controlled substance and  
6 an alcoholic liquor, the court shall do both of the following:

7 (a) Report the finding to the secretary of state.

8 (b) On a form or forms prescribed by the state court  
9 administrator, forward to the department of state police a record  
10 that specifies the penalties imposed by the court, including any  
11 term of imprisonment, and any sanction imposed under section 625n  
12 or 904d.

13 (22) Except as otherwise provided by law, a record described  
14 in subsection (21)(b) is a public record and the department of  
15 state police shall retain the information contained on that record  
16 for not less than 7 years.

17 (23) In a prosecution for a violation of subsection (6), the  
18 defendant bears the burden of proving that the consumption of  
19 alcoholic liquor was a part of a generally recognized religious  
20 service or ceremony by a preponderance of the evidence.

21 (24) The court may order as a condition of probation that a  
22 person convicted of violating subsection (1) or (8), or a local  
23 ordinance substantially corresponding to subsection (1) or (8),  
24 shall not operate a motor vehicle unless that vehicle is equipped  
25 with an ignition interlock device approved, certified, and  
26 installed as required under sections 625k and 625l.

27 (25) Subject to subsection (27), as used in this section,

1 "prior conviction" means a conviction for any of the following,  
2 whether under a law of this state, a local ordinance substantially  
3 corresponding to a law of this state, or a law of another state  
4 substantially corresponding to a law of this state:

5 (a) Except as provided in subsection (26), a violation or  
6 attempted violation of any of the following:

7 (i) This section, except a violation of ~~section 625(2)~~  
8 **SUBSECTION (2)**, or a violation of any prior enactment of this  
9 section in which the defendant operated a vehicle while under the  
10 influence of intoxicating or alcoholic liquor or a controlled  
11 substance, or a combination of intoxicating or alcoholic liquor and  
12 a controlled substance, or while visibly impaired, or with an  
13 unlawful bodily alcohol content.

14 (ii) Section 625m.

15 (iii) Former section 625b.

16 (b) Negligent homicide, manslaughter, or murder resulting from  
17 the operation of a vehicle or an attempt to commit any of those  
18 crimes.

19 (26) Except for purposes of the enhancement described in  
20 subsection (12)(b), only 1 violation or attempted violation of  
21 subsection (6), a local ordinance substantially corresponding to  
22 subsection (6), or a law of another state substantially  
23 corresponding to subsection (6) may be used as a prior conviction.

24 (27) If 2 or more convictions described in subsection (25) are  
25 convictions for violations arising out of the same transaction,  
26 only 1 conviction shall be used to determine whether the person has  
27 a prior conviction.

1           Sec. 625k. (1) The department shall approve an ignition  
2 interlock device certified by a department-approved laboratory as  
3 complying with the ~~national highway traffic safety~~  
4 ~~administration's~~ model specifications for breath alcohol ignition  
5 interlock devices (BAIID), ~~57 F.R. p. 11772, April 7, 1992~~ **57 FR**  
6 **11772 - 11787 (APRIL 7, 1992)**. Subject to subsection (5), the  
7 department shall publish a list of all manufacturers of approved  
8 certified devices.

9           (2) The secretary of state shall promulgate rules to implement  
10 this section in compliance with the administrative procedures act  
11 of 1969, 1969 PA 306, MCL 24.201 to 24.328.

12           (3) The manufacturer of an ignition interlock device shall  
13 bear the cost of that device's certification.

14           (4) A laboratory that certifies an ignition interlock device  
15 as provided in this section shall immediately notify the department  
16 of that certification.

17           (5) The department shall not include the manufacturer of a  
18 certified ignition interlock device on the list of manufacturers  
19 published under subsection (1) unless the manufacturer complies  
20 with all of the following:

21           (a) The manufacturer has filed copies of all of the following  
22 with the department:

23           (i) A bond executed as provided in section 625o or a letter of  
24 credit.

25           (ii) Evidence of insurance as described in section 625l.

26           (iii) An affidavit that the ignition interlock device ~~is~~ **MEETS**  
27 all of the following **CONDITIONS**:

1 ~~—— (A) An alcohol concentration measuring device that prevents a~~  
2 ~~motor vehicle from being started at any time without first~~  
3 ~~determining through a deep lung sample the operator's breath~~  
4 ~~alcohol level.~~

5 ~~—— (B) Calibrated to render the motor vehicle incapable of being~~  
6 ~~started if the device detects an alcohol content of 0.025 grams or~~  
7 ~~more per 210 liters of breath of the person who offers a breath~~  
8 ~~sample.~~

9 (A) SATISFIES THE CONDITIONS IN SECTION 20B.

10 (B) ~~—(C) Set~~ IS SET to periodically take samples while the  
11 vehicle is in operation and to do 1 or both of the following:

12 (I) Emit a warning signal when the device detects an alcohol  
13 content of 0.025 grams or more per 210 liters of breath in the  
14 person who offers a breath sample.

15 (II) If it detects an alcohol content of 0.04 grams or more  
16 per 210 liters of breath of the person who offers the breath  
17 sample, render the vehicle inoperable as soon as the vehicle is no  
18 longer being operated.

19 (b) The manufacturer of ignition interlock devices provides a  
20 list of installers who are authorized to install and service its  
21 ignition interlock devices to the secretary of state.

22 (c) Agrees to have service locations within 50 miles of any  
23 location within this state.

24 (d) Agrees to provide an ignition interlock device without  
25 cost to a person whose gross income for the immediately preceding  
26 tax year based on his or her state income tax return was less than  
27 150% of the official poverty line for that same tax year

1 established in the poverty guidelines issued by the secretary of  
2 health and human services under ~~authority of section 673(2) of the~~  
3 ~~community services block grant act, subtitle B of title VI of the~~  
4 ~~omnibus budget reconciliation act of 1981, Public Law 97-35, 42~~  
5 ~~U.S.C. 9902~~ **42 USC 9902**. A person in whose vehicle an ignition  
6 interlock device is installed without cost under this subdivision  
7 shall pay a maintenance fee to the installer of not more than  
8 ~~\$1.00~~ **\$2.00** per day.

9 **(E) AGREES TO COMPLY WITH THE REPORTING REQUIREMENTS OF THE**  
10 **SECRETARY OF STATE.**

11 **(F)** ~~(e)~~ Agrees to periodically monitor installed ignition  
12 interlock devices and if monitoring indicates that the device has  
13 been circumvented, to communicate that fact to the secretary of  
14 state or to the court, **OR BOTH**, as appropriate.

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

18 (7) A person who knowingly provides false information to the  
19 department under subsection (4) or (5) is guilty of a felony  
20 punishable by imprisonment for not less than 5 years or more than  
21 10 years or a fine of not less than \$5,000.00 or more than  
22 \$10,000.00, or both, together with costs of the prosecution.

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

1           (9) A person who knowingly fails to comply with subsection (6)  
2 is guilty of a felony punishable by imprisonment for not less than  
3 5 years or more than 10 years or a fine of not less than \$5,000.00  
4 or more than \$10,000.00, or both, together with costs of the  
5 prosecution.

6           (10) A person who negligently fails to comply with subsection  
7 (6) is guilty of a misdemeanor punishable by imprisonment for not  
8 more than 1 year or a fine of not more than \$1,000.00, or both,  
9 together with costs of the prosecution.

10           **(11) BEGINNING DECEMBER 31, 2006, AND BY DECEMBER 31 EVERY**  
11 **FIFTH YEAR AFTER THAT, THE SECRETARY OF STATE SHALL CONVENE A PANEL**  
12 **TO REVIEW CURRENT TECHNOLOGY AND INVESTIGATE PROGRAM IMPROVEMENTS.**

13           Sec. 625/. (1) The manufacturer of an ignition interlock device  
14 shall design a warning label, and the person who has an ignition  
15 interlock device shall promptly affix that label to each ignition  
16 interlock device upon installation. The label shall contain a  
17 warning that any person tampering, circumventing, or otherwise  
18 misusing the device is guilty of a misdemeanor punishable as  
19 provided by law.

20           (2) A person who has an ignition interlock device installed  
21 and whose driving privilege is restricted shall not request or  
22 solicit any other person to blow into an ignition interlock device  
23 or to start a vehicle equipped with the device for the purpose of  
24 providing the person whose driving privilege is restricted with an  
25 operable vehicle.

26           (3) A person shall not blow into an ignition interlock device  
27 or start a motor vehicle equipped with the device for the purpose

1 of providing an operable vehicle to a person who has an interlock  
2 device installed and whose driving privilege is restricted.

3 (4) A person shall not tamper with or circumvent the operation  
4 of an ignition interlock device.

5 (5) A person who violates subsection (2), (3), or (4) is  
6 guilty of a misdemeanor punishable by imprisonment for not more  
7 than 6 months or a fine of not more than \$5,000.00, or both.

8 ~~—— (6) As used in this act, "ignition interlock device" or~~  
9 ~~"device" means an alcohol concentration measuring device that~~  
10 ~~prevents a motor vehicle from being started at any time without~~  
11 ~~first determining through a deep lung sample the operator's breath~~  
12 ~~alcohol level. The system shall be calibrated so that the motor~~  
13 ~~vehicle may not be started if the breath alcohol level of the~~  
14 ~~operator, as measured by the test, reaches a level of 0.025 grams~~  
15 ~~per 210 liters of breath.~~

16 (6) ~~—(7)—~~ The state, or the department, its officers,  
17 employees, or agents, or a court, its officers, employees, or  
18 agents are not liable in any claim or action that may arise,  
19 directly or indirectly, out of any act or omission by a  
20 manufacturer, installer, or servicing agent of an ignition  
21 interlock device that results in damage to persons or property.

22 (7) ~~—(8)—~~ A person shall not sell, lease, install, or monitor  
23 in a vehicle in this state an ignition interlock device unless the  
24 ignition interlock device manufacturer and provider carries  
25 liability insurance covering product liability, including, but not  
26 limited to, insurance to indemnify the department and any person  
27 injured as a result of a design defect or the calibration or

1 removal of the ignition interlock device or a misrepresentation  
2 about the ignition interlock device. The insurance required by this  
3 subsection shall be in an amount of not less than \$1,000,000.00 per  
4 incident.

5       (8) ~~-(9)-~~ The provider of insurance described in this section  
6 may cancel the insurance upon 30 days' written notice to the  
7 department and is not liable for a claim arising from an event that  
8 occurs after the effective date of a cancellation made in  
9 compliance with this section.

10       (9) ~~-(10)-~~ An ignition interlock device shall be serviced  
11 according to manufacturer's standards. Service shall include, but  
12 not be limited to, physical inspection of the device and vehicle  
13 for tampering, calibration of the device, and monitoring of the  
14 data contained within the device's memory. Only authorized  
15 employees of the manufacturer or the department, or other persons  
16 approved by the court, may observe the installation of a device.  
17 Reasonable security measures must be taken to prevent the customer  
18 from observing the installation of a device or obtaining access to  
19 installation materials.

20       Sec. 904. (1) A person whose operator's or chauffeur's license  
21 or registration certificate has been suspended or revoked and who  
22 has been notified as provided in section 212 of that suspension or  
23 revocation, whose application for license has been denied, or who  
24 has never applied for a license, shall not operate a motor vehicle  
25 upon a highway or other place open to the general public or  
26 generally accessible to motor vehicles, including an area  
27 designated for the parking of motor vehicles, within this state.

1           (2) A person shall not knowingly permit a motor vehicle owned  
2 by the person to be operated upon a highway or other place open to  
3 the general public or generally accessible to motor vehicles,  
4 including an area designated for the parking of vehicles, within  
5 this state by a person whose license or registration certificate is  
6 suspended or revoked, whose application for license has been  
7 denied, or who has never applied for a license, except as permitted  
8 under this act.

9           (3) Except as otherwise provided in this section, a person who  
10 violates subsection (1) or (2) is guilty of a misdemeanor  
11 punishable as follows:

12           (a) For a first violation, by imprisonment for not more than  
13 93 days or a fine of not more than \$500.00, or both. Unless the  
14 vehicle was stolen or used with the permission of a person who did  
15 not knowingly permit an unlicensed driver to operate the vehicle,  
16 the registration plates of the vehicle shall be canceled by the  
17 secretary of state upon notification by a peace officer.

18           (b) For a violation that occurs after a prior conviction, by  
19 imprisonment for not more than 1 year or a fine of not more than  
20 \$1,000.00, or both. Unless the vehicle was stolen, the registration  
21 plates of the vehicle shall be canceled by the secretary of state  
22 upon notification by a peace officer.

23           (4) A person who operates a motor vehicle in violation of  
24 subsection (1) and who, by operation of that motor vehicle, causes  
25 the death of another person is guilty of a felony punishable by  
26 imprisonment for not more than 15 years or a fine of not less than  
27 \$2,500.00 or more than \$10,000.00, or both. This subsection does

1 not apply to a person whose operator's or chauffeur's license was  
 2 suspended because that person failed to answer a citation or comply  
 3 with an order or judgment pursuant to section 321a.

4 (5) A person who operates a motor vehicle in violation of  
 5 subsection (1) and who, by operation of that motor vehicle, causes  
 6 the serious impairment of a body function of another person is  
 7 guilty of a felony punishable by imprisonment for not more than 5  
 8 years or a fine of not less than \$1,000.00 or more than \$5,000.00,  
 9 or both. This subsection does not apply to a person whose  
 10 operator's or chauffeur's license was suspended because that person  
 11 failed to answer a citation or comply with an order or judgment  
 12 pursuant to section 321a. ~~As used in this subsection and~~  
 13 ~~subsection (7), "serious impairment of a body function" includes,~~  
 14 ~~but is not limited to, 1 or more of the following:~~

- 15 ~~—— (a) Loss of a limb or loss of use of a limb.~~
- 16 ~~—— (b) Loss of a foot, hand, finger, or thumb or loss of use of a~~  
 17 ~~foot, hand, finger, or thumb.~~
- 18 ~~—— (c) Loss of an eye or ear or loss of use of an eye or ear.~~
- 19 ~~—— (d) Loss or substantial impairment of a bodily function.~~
- 20 ~~—— (e) Serious visible disfigurement.~~
- 21 ~~—— (f) A comatose state that lasts for more than 3 days.~~
- 22 ~~—— (g) Measurable brain or mental impairment.~~
- 23 ~~—— (h) A skull fracture or other serious bone fracture.~~
- 24 ~~—— (i) Subdural hemorrhage or subdural hematoma.~~

25 (6) In addition to being subject to any other penalty provided  
 26 for in this act, if a person is convicted under subsection (4) or  
 27 (5), the court may impose the sanction permitted under section

1 625n. If the vehicle is not ordered forfeited under section 625n,  
2 the court shall order vehicle immobilization under section 904d in  
3 the judgment of sentence.

4 (7) A person shall not knowingly permit a motor vehicle owned  
5 by the person to be operated upon a highway or other place open to  
6 the general public or generally accessible to motor vehicles,  
7 including an area designated for the parking of vehicles, within  
8 this state, by a person whose license or registration certificate  
9 is suspended or revoked, whose application for license has been  
10 denied, or who has never been licensed except as permitted by this  
11 act. If a person permitted to operate a motor vehicle in violation  
12 of this subsection causes the serious impairment of a body function  
13 of another person by operation of that motor vehicle, the person  
14 knowingly permitting the operation of that motor vehicle is guilty  
15 of a felony punishable by imprisonment for not more than 2 years,  
16 or a fine of not less than \$1,000.00 or more than \$5,000.00, or  
17 both. If a person permitted to operate a motor vehicle in violation  
18 of this subsection causes the death of another person by operation  
19 of that motor vehicle, the person knowingly permitting the  
20 operation of that motor vehicle is guilty of a felony punishable by  
21 imprisonment for not more than 5 years, or a fine of not less than  
22 \$1,000.00 or more than \$5,000.00, or both.

23 (8) If the prosecuting attorney intends to seek an enhanced  
24 sentence under this section based upon the defendant having 1 or  
25 more prior convictions, the prosecuting attorney shall include on  
26 the complaint and information, or an amended complaint and  
27 information, filed in district court, circuit court, municipal

1 court, or family division of circuit court, a statement listing the  
2 defendant's prior convictions.

3 (9) A prior conviction under this section shall be established  
4 at or before sentencing by 1 or more of the following:

5 (a) An abstract of conviction.

6 (b) A copy of the defendant's driving record.

7 (c) An admission by the defendant.

8 (10) Upon receiving a record of a person's conviction or civil  
9 infraction determination for the unlawful operation of a motor  
10 vehicle or a moving violation reportable under section 732 while  
11 the person's operator's or chauffeur's license is suspended or  
12 revoked, the secretary of state immediately shall impose an  
13 additional like period of suspension or revocation. This subsection  
14 applies only if the violation occurs during a suspension of  
15 definite length or if the violation occurs before the person is  
16 approved for a license following a revocation.

17 (11) Upon receiving a record of a person's conviction or civil  
18 infraction determination for the unlawful operation of a motor  
19 vehicle or a moving violation reportable under section 732 while  
20 the person's operator's or chauffeur's license is indefinitely  
21 suspended or whose application for a license has been denied, the  
22 secretary of state immediately shall impose a 30-day period of  
23 suspension or denial.

24 (12) Upon receiving a record of the conviction, bond  
25 forfeiture, or a civil infraction determination of a person for  
26 unlawful operation of a motor vehicle requiring a vehicle group  
27 designation while the designation is suspended or revoked pursuant

1 to section 319b, or while the person is disqualified from operating  
2 a commercial motor vehicle by the United States secretary of  
3 transportation or under 49 USC 31301 to 31317, the secretary of  
4 state immediately shall impose an additional like period of  
5 suspension or revocation. This subsection applies only if the  
6 violation occurs during a suspension of definite length or if the  
7 violation occurs before the person is approved for a license  
8 following a revocation.

9 (13) If the secretary of state receives records of more than 1  
10 conviction or civil infraction determination resulting from the  
11 same incident, all of the convictions or civil infraction  
12 determinations shall be treated as a single violation for purposes  
13 of imposing an additional period of suspension or revocation under  
14 subsection (10), (11), or (12).

15 (14) Before a person is arraigned before a district court  
16 magistrate or judge on a charge of violating this section, the  
17 arresting officer shall obtain the person's driving record from the  
18 secretary of state and shall furnish the record to the court. The  
19 driving record of the person may be obtained from the secretary of  
20 state's computer information network.

21 (15) This section does not apply to a person who operates a  
22 vehicle solely for the purpose of protecting human life or property  
23 if the life or property is endangered and summoning prompt aid is  
24 essential.

25 (16) A person whose vehicle group designation is suspended or  
26 revoked and who has been notified as provided in section 212 of  
27 that suspension or revocation, or whose application for a vehicle

1 group designation has been denied as provided in this act, or who  
2 has never applied for a vehicle group designation and who operates  
3 a commercial motor vehicle within this state, except as permitted  
4 under this act, while any of those conditions exist is guilty of a  
5 misdemeanor punishable, except as otherwise provided in this  
6 section, by imprisonment for not less than 3 days or more than 93  
7 days or a fine of not more than \$100.00, or both.

8 (17) If a person has a second or subsequent suspension or  
9 revocation under this section within 7 years as indicated on the  
10 person's Michigan driving record, the court shall proceed as  
11 provided in section 904d.

12 (18) Any period of suspension or revocation required under  
13 subsection (10), (11), or (12) does not apply to a person who has  
14 only 1 currently effective suspension or denial on his or her  
15 Michigan driving record under section 321a and was convicted of or  
16 received a civil infraction determination for a violation that  
17 occurred during that suspension or denial. This subsection may only  
18 be applied once during the person's lifetime.

19 (19) For purposes of this section, a person who never applied  
20 for a license includes a person who applied for a license, was  
21 denied, and never applied again.