

SUBSTITUTE FOR
SENATE BILL NO. 1134

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 303, 319, 322, 625, and 625b (MCL 257.303,
257.319, 257.322, 257.625, and 257.625b), section 303 as amended by
2008 PA 7, section 319 as amended by 2004 PA 362, section 322 as
amended by 2001 PA 159, section 625 as amended by 2006 PA 564, and
section 625b as amended by 2004 PA 62, and by adding sections 20b
and 322a.

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 MEETS OR EXCEEDS THE MODEL SPECIFICATIONS FOR
4 BREATH ALCOHOL IGNITION INTERLOCK DEVICES (BAIID), 57 FR 11772 -
5 11787 (APRIL 7, 1992).

6 (B) THE DEVICE UTILIZES ALCOHOL-SPECIFIC ELECTROCHEMICAL FUEL
7 SENSOR TECHNOLOGY.

8 (C) AS ITS ANTICIRCUMVENTION METHOD, THE DEVICE INSTALLATION
9 USES A POSITIVE-NEGATIVE-POSITIVE AIR PRESSURE TEST REQUIREMENT, A
10 MIDTEST HUM TONE REQUIREMENT, OR ANY OTHER ANTICIRCUMVENTION METHOD
11 OR TECHNOLOGY THAT FIRST BECOMES COMMERCIALY AVAILABLE AFTER JULY
12 31, 2007 AND THAT IS APPROVED BY THE DEPARTMENT AS EQUALLY OR MORE
13 EFFECTIVE.

14 Sec. 303. (1) The secretary of state shall not issue a license
15 under this act to any of the following persons:

16 (a) A person, as an operator, who is less than 18 years of
17 age, except as otherwise provided in this act.

18 (b) A person, as a chauffeur, who is less than 18 years of
19 age, except as otherwise provided in this act.

20 (c) A person whose license is suspended, revoked, denied, or
21 canceled in any state. If the suspension, revocation, denial, or
22 cancellation is not from the jurisdiction that issued the last
23 license to the person, the secretary of state may issue a license
24 after the expiration of 5 years from the effective date of the most
25 recent suspension, revocation, denial, or cancellation.

26 (d) A person who in the opinion of the secretary of state is
27 afflicted with or suffering from a physical or mental disability or

1 disease preventing that person from exercising reasonable and
2 ordinary control over a motor vehicle while operating the motor
3 vehicle upon the highways.

4 (e) A person who is unable to understand highway warning or
5 direction signs in the English language.

6 (f) A person who is unable to pass a knowledge, skill, or
7 ability test administered by the secretary of state in connection
8 with the issuance of an original operator's or chauffeur's license,
9 original motorcycle indorsement, or an original or renewal of a
10 vehicle group designation or vehicle indorsement.

11 (g) A person who has been convicted of, has received a
12 juvenile disposition for, or has been determined responsible for 2
13 or more moving violations under a law of this state, a local
14 ordinance substantially corresponding to a law of this state, or a
15 law of another state substantially corresponding to a law of this
16 state within the preceding 3 years, if the violations occurred
17 before issuance of an original license to the person in this state,
18 another state, or another country.

19 (h) A nonresident, including, but not limited to, a foreign
20 exchange student.

21 (i) A person who has failed to answer a citation or notice to
22 appear in court or for any matter pending or fails to comply with
23 an order or judgment of the court, including, but not limited to,
24 paying all fines, costs, fees, and assessments, in violation of
25 section 321a, until that person answers the citation or notice to
26 appear in court or for any matter pending or complies with an order
27 or judgment of the court, including, but not limited to, paying all

1 fines, costs, fees, and assessments, as provided under section
2 321a.

3 (j) A person not licensed under this act who has been
4 convicted of, has received a juvenile disposition for, or has been
5 determined responsible for a crime or civil infraction described in
6 section 319, 324, or 904. A person shall be denied a license under
7 this subdivision for the length of time corresponding to the period
8 of the licensing sanction that would have been imposed under
9 section 319, 324, or 904 if the person had been licensed at the
10 time of the violation.

11 (k) A person not licensed under this act who has been
12 convicted of or received a juvenile disposition for committing a
13 crime described in section 319e. A person shall be denied a license
14 under this subdivision for the length of time that corresponds to
15 the period of the licensing sanction that would have been imposed
16 under section 319e if the person had been licensed at the time of
17 the violation.

18 (l) A person not licensed under this act who is determined to
19 have violated section 33b(1) of former 1933 (Ex Sess) PA 8, section
20 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL
21 436.1703, or section 624a or 624b of this act. The person shall be
22 denied a license under this subdivision for a period of time that
23 corresponds to the period of the licensing sanction that would have
24 been imposed under those sections had the person been licensed at
25 the time of the violation.

26 (m) A person whose commercial driver license application is
27 canceled under section 324(2).

1 (n) Unless otherwise eligible under section 307(1), a person
2 who is not a citizen of the United States.

3 (2) Upon receiving the appropriate records of conviction, the
4 secretary of state shall revoke the operator's or chauffeur's
5 license of a person and deny issuance of an operator's or
6 chauffeur's license to a person having any of the following,
7 whether under a law of this state, a local ordinance substantially
8 corresponding to a law of this state, ~~or~~a law of another state
9 substantially corresponding to a law of this state, **OR A LAW OF THE**
10 **UNITED STATES SUBSTANTIALLY CORRESPONDING TO A LAW OF THIS STATE:**

11 (a) Any combination of 2 convictions within 7 years for
12 reckless driving in violation of section 626.

13 (b) Any combination of 2 or more convictions within 7 years
14 for any of the following:

15 (i) A felony in which a motor vehicle was used.

16 (ii) A violation or attempted violation of section 601b(2) or
17 (3), section 601c(1) or (2), section 602a(4) or (5), section 617,
18 section 653a(3) or (4), or section 904(4) or (5).

19 (iii) Negligent homicide, manslaughter, or murder resulting from
20 the operation of a vehicle or an attempt to commit any of those
21 crimes.

22 (iv) A violation or attempted violation of section 479a(4) or
23 (5) of the Michigan penal code, 1931 PA 328, MCL 750.479a.

24 (c) Any combination of 2 convictions within 7 years for any of
25 the following or a combination of 1 conviction for a violation or
26 attempted violation of section 625(6) and 1 conviction for any of
27 the following within 7 years:

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

8 (ii) A violation or attempted violation of section 625m.

9 (iii) ~~Former~~ **A VIOLATION OR ATTEMPTED VIOLATION OF FORMER**
10 section 625b.

11 (d) One conviction for a violation or attempted violation of
12 section 315(5), section 601b(3), section 601c(2), section 602a(4)
13 or (5), section 617, section 625(4) or (5), section 653a(4), or
14 section 904(4) or (5).

15 (e) One conviction of negligent homicide, manslaughter, or ~~±~~
16 murder resulting from the operation of a vehicle or an attempt to
17 commit any of those crimes.

18 (f) One conviction for a violation or attempted violation of
19 section 479a(4) or (5) of the Michigan penal code, 1931 PA 328, MCL
20 750.479a.

21 (g) Any combination of 3 convictions within 10 years for any
22 of the following or 1 conviction for a violation or attempted
23 violation of section 625(6) and any combination of 2 convictions
24 for any of the following within 10 years, if any of the convictions
25 resulted from an arrest on or after January 1, 1992:

26 (i) A violation or attempted violation of section 625, except a
27 violation of section 625(2), or a violation of any prior enactment

1 of section 625 in which the defendant operated a vehicle while
2 under the influence of intoxicating or alcoholic liquor or a
3 controlled substance, or a combination of intoxicating or alcoholic
4 liquor and a controlled substance, or while visibly impaired, or
5 with an unlawful bodily alcohol content.

6 (ii) A violation or attempted violation of section 625m.

7 (iii) ~~Former~~ **A VIOLATION OR ATTEMPTED VIOLATION OF FORMER**
8 section 625b.

9 (3) The secretary of state shall revoke a license under
10 subsection (2) notwithstanding a court order unless the court order
11 complies with section 323.

12 (4) The secretary of state shall not issue a license under
13 this act to a person whose license has been revoked under this act
14 or revoked and denied under subsection (2) until all of the
15 following occur, as applicable:

16 (a) The later of the following:

17 (i) The expiration of not less than 1 year after the license
18 was revoked or denied.

19 (ii) The expiration of not less than 5 years after the date of
20 a subsequent revocation or denial occurring within 7 years after
21 the date of any prior revocation or denial.

22 (b) For a denial under subsection (2)(a), (b), (c), and (g),
23 the person rebuts by clear and convincing evidence the presumption
24 resulting from the prima facie evidence that he or she is a
25 habitual offender. The convictions that resulted in the revocation
26 and denial constitute prima facie evidence that he or she is a
27 habitual offender.

1 (c) The person meets the requirements of the department.

2 (5) The secretary of state may deny issuance of an operator's
3 license as follows:

4 (a) Until the age of 17, to a person not licensed under this
5 act who was convicted of or received a juvenile disposition for
6 violating or attempting to violate section 411a(2) of the Michigan
7 penal code, 1931 PA 328, MCL 750.411a, involving a school when he
8 or she was less than 14 years of age. A person not issued a license
9 under this subdivision is not eligible to begin graduated licensing
10 training until he or she attains 16 years of age.

11 (b) To a person less than 21 years of age not licensed under
12 this act who was convicted of or received a juvenile disposition
13 for violating or attempting to violate section 411a(2) of the
14 Michigan penal code, 1931 PA 328, MCL 750.411a, involving a school
15 when he or she was ~~less than~~ 14 years of age or older, until 3
16 years after the date of the conviction or juvenile disposition. A
17 person not issued a license under this subdivision is not eligible
18 to begin graduated licensing training or otherwise obtain an
19 original operator's or chauffeur's license until 3 years after the
20 date of the conviction or juvenile disposition.

21 (6) The secretary of state shall deny issuance of a vehicle
22 group designation to a person if the person has been disqualified
23 by the United States secretary of transportation from operating a
24 commercial motor vehicle.

25 (7) Multiple convictions or civil infraction determinations
26 resulting from the same incident shall be treated as a single
27 violation for purposes of denial or revocation of a license under

1 this section.

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

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

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

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

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

12 Sec. 319. (1) The secretary of state shall immediately suspend
13 a person's license as provided in this section upon receiving a
14 record of the person's conviction for a crime described in this
15 section, whether the conviction is under a law of this state, a
16 local ordinance substantially corresponding to a law of this state,
17 ~~or~~ a law of another state substantially corresponding to a law of
18 this state, **OR A LAW OF THE UNITED STATES SUBSTANTIALLY**
19 **CORRESPONDING TO A LAW OF 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)~~**625(1) (A)**
9 **OR (B)** or (8) if the person has no prior convictions within 7
10 years. The secretary of state may issue the person a restricted
11 license during a specified portion of the suspension, except that
12 the secretary of state shall not issue a restricted license during
13 the first 30 days 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 OR NOT MORE THAN 2
14 CONVICTIONS WITHIN 10 YEARS. THE SECRETARY OF STATE SHALL ISSUE THE
15 PERSON A RESTRICTED LICENSE, EXCEPT THAT THE SECRETARY OF STATE
16 SHALL NOT ISSUE A RESTRICTED LICENSE DURING THE FIRST 45 DAYS OF
17 SUSPENSION.

18 (H) THE DEPARTMENT SHALL ORDER A PERSON CONVICTED OF VIOLATING
19 SECTION 625(1)(C) NOT TO OPERATE A MOTOR VEHICLE UNDER A RESTRICTED
20 LICENSE ISSUED UNDER SUBDIVISION (G) UNLESS THE VEHICLE IS EQUIPPED
21 WITH AN IGNITION INTERLOCK DEVICE APPROVED, CERTIFIED, AND
22 INSTALLED AS REQUIRED UNDER SECTIONS 625K AND 625/. THE IGNITION
23 INTERLOCK DEVICE MAY BE REMOVED AFTER THE INTERLOCK DEVICE PROVIDER
24 PROVIDES THE DEPARTMENT WITH VERIFICATION THAT THE PERSON HAS
25 OPERATED THE VEHICLE WITH NO INSTANCES OF REACHING OR EXCEEDING A
26 BLOOD ALCOHOL LEVEL OF 0.025 GRAMS PER 210 LITERS OF BREATH.

27 (I) IF AN INDIVIDUAL VIOLATES THE CONDITIONS OF THE RESTRICTED

1 LICENSE ISSUED UNDER SUBDIVISION (G) OR OPERATES OR ATTEMPTS TO
2 OPERATE A MOTOR VEHICLE WITH A BLOOD ALCOHOL LEVEL OF 0.025 GRAMS
3 PER 210 LITERS OF BREATH, THE SECRETARY OF STATE SHALL IMPOSE AN
4 ADDITIONAL LIKE PERIOD OF SUSPENSION AND RESTRICTION AS PRESCRIBED
5 UNDER SUBDIVISION (G). THIS SUBDIVISION DOES NOT APPLY TO A START-
6 UP TEST FAILURE WITHIN THE FIRST 2 MONTHS AFTER INSTALLATION OF THE
7 IGNITION INTERLOCK DEVICE. AS USED IN THIS SUBDIVISION, "START-UP
8 TEST FAILURE" MEANS THAT TERM AS DEFINED IN R 257.313A OF THE
9 MICHIGAN ADMINISTRATIVE CODE.

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

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

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

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

19 (11) For a violation or attempted violation of section 411a(2)
20 of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a
21 school, the secretary of state shall suspend the license of a
22 person 14 years of age or over but less than 21 years of age until
23 3 years after the date of the conviction or juvenile disposition
24 for the violation. The secretary of state may issue the person a
25 restricted license after the first 365 days of suspension.

26 (12) Except as provided in subsection (14), a suspension under
27 this section shall be imposed notwithstanding a court order unless

1 the court order complies with section 323.

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

6 (14) The secretary of state may waive a restriction,
7 suspension, or revocation of a person's license imposed under this
8 act if the person submits proof that a court in another state
9 revoked, suspended, or restricted his or her license for a period
10 equal to or greater than the period of a restriction, suspension,
11 or revocation prescribed under this act for the violation and that
12 the revocation, suspension, or restriction was served for the
13 violation, or may grant a restricted license.

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

18 (16) The secretary of state shall not issue a restricted
19 license to a person under subsection (8) that would permit the
20 person to operate a commercial motor vehicle.

21 (17) ~~A-EXCEPT AS PROVIDED IN SUBSECTION (16), A~~ restricted
22 license issued under this section shall permit the person to whom
23 it is issued to take any driving skills test required by the
24 secretary of state and to ~~drive~~**OPERATE A VEHICLE** under 1 or more
25 of the following circumstances:

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

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

1 (i) The person's residence.

2 (ii) The person's work location.

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

5 (iv) The court probation department.

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

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

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

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

16 (19) Subject to subsection (21), as used in subsection (8),
17 "prior conviction" means a conviction for any of the following,
18 whether under a law of this state, a local ordinance substantially
19 corresponding to a law of this state, or a law of another state
20 substantially corresponding to a law of this state:

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

23 (i) Section 625, except a violation of section 625(2), or a
24 violation of any prior enactment of section 625 in which the
25 defendant operated a vehicle while under the influence of
26 intoxicating or alcoholic liquor or a controlled substance, or a
27 combination of intoxicating or alcoholic liquor and a controlled

1 substance, or while visibly impaired, or with an unlawful bodily
2 alcohol content.

3 (ii) Section 625m.

4 (iii) Former section 625b.

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

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

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

17 Sec. 322. (1) The secretary of state shall appoint a hearing
18 officer to hear appeals from persons aggrieved by a final
19 determination of the secretary of state denying an application for
20 an operator's or chauffeur's license, suspending, restricting, or
21 revoking an operator's or chauffeur's license, or other license
22 action.

23 (2) The appeal shall be in writing and filed with the
24 secretary of state within 14 days after the final determination.
25 Upon notice of the appeal, the hearing officer shall require
26 production of all documents filed in the matter, together with a
27 transcript of any testimony taken.

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

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

4 (b) Issue process to compel attendance.

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

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

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

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

12 (5) After a hearing, the hearing officer may affirm, modify,
13 or set aside a final determination of the secretary of state
14 denying an application for an operator's or chauffeur's license,
15 suspending, restricting, or revoking an operator's or chauffeur's
16 license, or any other license action. The hearing officer shall
17 include his or her findings of fact and conclusions of law in the
18 record.

19 (6) Except as provided in subsection (7), if a person whose
20 license has been denied or revoked under section 303(2)(c), (d), or
21 (g) applies for a license or reinstatement of a license after the
22 time period specified in section 303(4) has elapsed, the hearing
23 officer may issue a restricted license to that person, setting
24 restrictions upon operating a vehicle as the hearing officer
25 determines are appropriate. If the hearing officer issues a
26 restricted license following a hearing held after October 1, 1999,
27 he or she shall do both of the following:

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

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

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

13 (8) If the hearing officer issues a restricted license to a
14 person who intends to operate a vehicle owned by his or her
15 employer, the secretary of state shall notify the employer of the
16 employee's license restriction that requires the installation of an
17 ignition interlock device. An employer who receives notice under
18 this subsection is not required to install an ignition interlock
19 device on the employer-owned vehicle. This subsection does not
20 apply to a vehicle that is operated by a self-employed individual
21 who uses the vehicle for both business and personal use.

22 (9) If the hearing officer issues a restricted license
23 requiring an ignition interlock device, the initial period for
24 requiring the device shall be **NOT LESS THAN** 1 year. ~~After that~~
25 ~~time, the hearing officer may continue the ignition interlock~~
26 ~~device requirement for any length of time.~~

27 **SEC. 322A. A PERSON WHO IS ISSUED A RESTRICTED LICENSE BY THE**

1 DEPARTMENT REQUIRING AN IGNITION INTERLOCK DEVICE SHALL NOT REMOVE
2 THE DEVICE OR CAUSE THE DEVICE TO BE REMOVED UNLESS THE DEPARTMENT
3 HAS ISSUED AN ORDER AUTHORIZING ITS REMOVAL.

4 Sec. 625. (1) A person, whether licensed or not, shall not
5 operate a vehicle upon a highway or other place open to the general
6 public or generally accessible to motor vehicles, including an area
7 designated for the parking of vehicles, within this state if the
8 person is operating while intoxicated. As used in this section,
9 "operating while intoxicated" means ~~either~~ **ANY** of the following:
10 ~~applies:~~

11 (a) The person is under the influence of alcoholic liquor, a
12 controlled substance, or a combination of alcoholic liquor and a
13 controlled substance.

14 (b) The person has an alcohol content of 0.08 grams or more
15 per 100 milliliters of blood, per 210 liters of breath, or per 67
16 milliliters of urine, or, beginning October 1, 2013, the person has
17 an alcohol content of 0.10 grams or more per 100 milliliters of
18 blood, per 210 liters of breath, or per 67 milliliters of urine.

19 **(C) THE PERSON HAS AN ALCOHOL CONTENT OF 0.17 GRAMS OR MORE**
20 **PER 100 MILLILITERS OF BLOOD, PER 210 LITERS OF BREATH, OR PER 67**
21 **MILLILITERS OF URINE.**

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

1 (a) The person is under the influence of alcoholic liquor, a
2 controlled substance, or a combination of alcoholic liquor and a
3 controlled substance.

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

9 (c) The person's ability to operate the motor vehicle is
10 visibly impaired due to the consumption of alcoholic liquor, a
11 controlled substance, or a combination of alcoholic liquor and a
12 controlled substance.

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

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

26 (a) Except as provided in subdivision (b), the person is
27 guilty of a felony punishable by imprisonment for not more than 15

1 years or a fine of not less than \$2,500.00 or more than \$10,000.00,
2 or both. The judgment of sentence may impose the sanction permitted
3 under section 625n. If the vehicle is not ordered forfeited under
4 section 625n, the court shall order vehicle immobilization under
5 section 904d in the judgment of sentence.

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

18 (5) A person, whether licensed or not, who operates a motor
19 vehicle in violation of subsection (1), (3), or (8) and by the
20 operation of that motor vehicle causes a serious impairment of a
21 body function of another person is guilty of a felony punishable by
22 imprisonment for not more than 5 years or a fine of not less than
23 \$1,000.00 or more than \$5,000.00, or both. The judgment of sentence
24 may impose the sanction permitted under section 625n. If the
25 vehicle is not ordered forfeited under section 625n, the court
26 shall order vehicle immobilization under section 904d in the
27 judgment of sentence.

1 (6) A person who is less than 21 years of age, whether
2 licensed or not, shall not operate a vehicle upon a highway or
3 other place open to the general public or generally accessible to
4 motor vehicles, including an area designated for the parking of
5 vehicles, within this state if the person has any bodily alcohol
6 content. As used in this subsection, "any bodily alcohol content"
7 means either of the following:

8 (a) An alcohol content of 0.02 grams or more but less than
9 0.08 grams per 100 milliliters of blood, per 210 liters of breath,
10 or per 67 milliliters of urine, or, beginning October 1, 2013, the
11 person has an alcohol content of 0.02 grams or more but less than
12 0.10 grams per 100 milliliters of blood, per 210 liters of breath,
13 or per 67 milliliters of urine.

14 (b) Any presence of alcohol within a person's body resulting
15 from the consumption of alcoholic liquor, other than consumption of
16 alcoholic liquor as a part of a generally recognized religious
17 service or ceremony.

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

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

25 (i) Except as provided in subparagraph (ii), a person who
26 violates this subdivision is guilty of a misdemeanor and shall be
27 sentenced to pay a fine of not less than \$200.00 or more than

1 \$1,000.00 and to 1 or more of the following:

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

5 (B) Community service for not less than 30 days or more than
6 90 days.

7 (ii) If the violation occurs within 7 years of a prior
8 conviction or after 2 or more prior convictions, regardless of the
9 number of years that have elapsed since any prior conviction, a
10 person who violates this subdivision is guilty of a felony and
11 shall be sentenced to pay a fine of not less than \$500.00 or more
12 than \$5,000.00 and to either of the following:

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

15 (B) Probation with imprisonment in the county jail for not
16 less than 30 days or more than 1 year and community service for not
17 less than 60 days or more than 180 days. Not less than 48 hours of
18 this imprisonment shall be served consecutively. This term of
19 imprisonment shall not be suspended.

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

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

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

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

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

3 (ii) If the violation occurs within 7 years of a prior
4 conviction or after 2 or more prior convictions, regardless of the
5 number of years that have elapsed since any prior conviction, a
6 person who violates this subdivision shall be sentenced to pay a
7 fine of not less than \$200.00 or more than \$1,000.00 and to 1 or
8 more of the following:

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

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

14 (c) In the judgment of sentence under subdivision (a) (i) or
15 (b) (i), the court may, unless the vehicle is ordered forfeited under
16 section 625n, order vehicle immobilization as provided in section
17 904d. In the judgment of sentence under subdivision (a) (ii) or
18 (b) (ii), the court shall, unless the vehicle is ordered forfeited
19 under section 625n, order vehicle immobilization as provided in
20 section 904d.

21 (d) This subsection does not prohibit a person from being
22 charged with, convicted of, or punished for a violation of
23 subsection (4) or (5) that is committed by the person while
24 violating this subsection. However, points shall not be assessed
25 under section 320a for both a violation of subsection (4) or (5)
26 and a violation of this subsection for conduct arising out of the
27 same transaction.

1 (8) A person, whether licensed or not, shall not operate a
2 vehicle upon a highway or other place open to the general public or
3 generally accessible to motor vehicles, including an area
4 designated for the parking of vehicles, within this state if the
5 person has in his or her body any amount of a controlled substance
6 listed in schedule 1 under section 7212 of the public health code,
7 1978 PA 368, MCL 333.7212, or a rule promulgated under that
8 section, or of a controlled substance described in section
9 7214(a)(iv) of the public health code, 1978 PA 368, MCL 333.7214.

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

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

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

16 (ii) Imprisonment for not more than 93 days, **OR, IF THE PERSON**
17 **IS CONVICTED OF VIOLATING SUBSECTION (1)(C), IMPRISONMENT FOR NOT**
18 **MORE THAN 180 DAYS.**

19 (iii) A fine of not less than \$100.00 or more than \$500.00, **OR,**
20 **IF THE PERSON IS GUILTY OF VIOLATING SUBSECTION (1)(C), A FINE OF**
21 **NOT LESS THAN \$200.00 OR MORE THAN \$700.00.**

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

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

1 (ii) Community service for not less than 30 days or more than
2 90 days.

3 (c) If the violation occurs after 2 or more prior convictions,
4 regardless of the number of years that have elapsed since any prior
5 conviction, the person is guilty of a felony and shall be sentenced
6 to pay a fine of not less than \$500.00 or more than \$5,000.00 and
7 to either of the following:

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

10 (ii) Probation with imprisonment in the county jail for not
11 less than 30 days or more than 1 year and community service for not
12 less than 60 days or more than 180 days. Not less than 48 hours of
13 the imprisonment imposed under this subparagraph shall be served
14 consecutively.

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

17 (e) In the judgment of sentence under subdivision (a), the
18 court may order vehicle immobilization as provided in section 904d.
19 In the judgment of sentence under subdivision (b) or (c), the court
20 shall, unless the vehicle is ordered forfeited under section 625n,
21 order vehicle immobilization as provided in section 904d.

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

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

26 (a) Except as provided in subdivisions (b) and (c), a
27 misdemeanor punishable by imprisonment for not more than 93 days or

1 a fine of not less than \$100.00 or more than \$500.00, or both.

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

6 (c) If the person operating the motor vehicle violated
7 subsection (5), a felony punishable by imprisonment for not more
8 than 2 years or a fine of not less than \$1,000.00 or more than
9 \$5,000.00, or both.

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

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

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

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

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

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

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

25 (ii) Community service for not less than 30 days or more than
26 90 days.

27 (c) If the violation occurs after 2 or more prior convictions,

1 regardless of the number of years that have elapsed since any prior
2 conviction, the person is guilty of a felony and shall be sentenced
3 to pay a fine of not less than \$500.00 or more than \$5,000.00 and
4 either of the following:

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

7 (ii) Probation with imprisonment in the county jail for not
8 less than 30 days or more than 1 year and community service for not
9 less than 60 days or more than 180 days. Not less than 48 hours of
10 the imprisonment imposed under this subparagraph shall be served
11 consecutively.

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

14 (e) In the judgment of sentence under subdivision (a), the
15 court may order vehicle immobilization as provided in section 904d.
16 In the judgment of sentence under subdivision (b) or (c), the court
17 shall, unless the vehicle is ordered forfeited under section 625n,
18 order vehicle immobilization as provided in section 904d.

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

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

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

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

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

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

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

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

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

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

11 (14) A person sentenced to perform community service under
12 this section shall not receive compensation and shall reimburse the
13 state or appropriate local unit of government for the cost of
14 supervision incurred by the state or local unit of government as a
15 result of the person's activities in that service.

16 (15) If the prosecuting attorney intends to seek an enhanced
17 sentence under this section or a sanction under section 625n based
18 upon the defendant having 1 or more prior convictions, the
19 prosecuting attorney shall include on the complaint and
20 information, or an amended complaint and information, filed in
21 district court, circuit court, municipal court, or family division
22 of circuit court, a statement listing the defendant's prior
23 convictions.

24 (16) If a person is charged with a violation of subsection
25 (1), (3), (4), (5), (7), or (8) or section 625m, the court shall
26 not permit the defendant to enter a plea of guilty or nolo
27 contendere to a charge of violating subsection (6) in exchange for

1 dismissal of the original charge. This subsection does not prohibit
2 the court from dismissing the charge upon the prosecuting
3 attorney's motion.

4 (17) A prior conviction shall be established at sentencing by
5 1 or more of the following:

6 (a) A copy of a judgment of conviction.

7 (b) An abstract of conviction.

8 (c) A transcript of a prior trial or a plea-taking or
9 sentencing proceeding.

10 (d) A copy of a court register of actions.

11 (e) A copy of the defendant's driving record.

12 (f) Information contained in a presentence report.

13 (g) An admission by the defendant.

14 (18) Except as otherwise provided in subsection (20), if a
15 person is charged with operating a vehicle while under the
16 influence of a controlled substance or a combination of alcoholic
17 liquor and a controlled substance in violation of subsection (1) or
18 a local ordinance substantially corresponding to subsection (1),
19 the court shall require the jury to return a special verdict in the
20 form of a written finding or, if the court convicts the person
21 without a jury or accepts a plea of guilty or nolo contendere, the
22 court shall make a finding as to whether the person was under the
23 influence of a controlled substance or a combination of alcoholic
24 liquor and a controlled substance at the time of the violation.

25 (19) Except as otherwise provided in subsection (20), if a
26 person is charged with operating a vehicle while his or her ability
27 to operate the vehicle was visibly impaired due to his or her

1 consumption of a controlled substance or a combination of alcoholic
2 liquor and a controlled substance in violation of subsection (3) or
3 a local ordinance substantially corresponding to subsection (3),
4 the court shall require the jury to return a special verdict in the
5 form of a written finding or, if the court convicts the person
6 without a jury or accepts a plea of guilty or nolo contendere, the
7 court shall make a finding as to whether, due to the consumption of
8 a controlled substance or a combination of alcoholic liquor and a
9 controlled substance, the person's ability to operate a motor
10 vehicle was visibly impaired at the time of the violation.

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

14 (a) Whether the defendant was under the influence of a
15 controlled substance or a combination of alcoholic liquor and a
16 controlled substance at the time of the violation.

17 (b) Whether the defendant was visibly impaired due to his or
18 her consumption of a controlled substance or a combination of
19 alcoholic liquor and a controlled substance at the time of the
20 violation.

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

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

27 (b) On a form or forms prescribed by the state court

1 administrator, forward to the department of state police a record
2 that specifies the penalties imposed by the court, including any
3 term of imprisonment, and any sanction imposed under section 625n
4 or 904d.

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

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

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

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

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

26 (i) This section, except a violation of ~~section 625(2)~~
27 **SUBSECTION (2)**, or a violation of any prior enactment of this

1 section in which the defendant operated a vehicle while under the
2 influence of intoxicating or alcoholic liquor or a controlled
3 substance, or a combination of intoxicating or alcoholic liquor and
4 a controlled substance, or while visibly impaired, or with an
5 unlawful bodily alcohol content.

6 (ii) Section 625m.

7 (iii) Former section 625b.

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

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

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

20 Sec. 625b. (1) A person arrested for a misdemeanor violation
21 of section 625(1), (3), (6), (7), or (8) or section 625m or a local
22 ordinance substantially corresponding to section 625(1), (3), (6),
23 or (8) or section 625m shall be arraigned on the citation,
24 complaint, or warrant not more than 14 days after the arrest for
25 the violation or, if an arrest warrant is issued or reissued, not
26 more than 14 days after the issued or reissued arrest warrant is
27 served, whichever is later. The court shall not dismiss a case or

1 impose any other sanction for a failure to comply with this time
2 limit. The time limit does not apply to a violation of section
3 625(1), (3), (7), or (8) or section 625m punishable as a felony or
4 a violation of section 625(1), (3), (6), (7), or (8) or section
5 625m joined with a felony charge.

6 (2) The court shall schedule a pretrial conference between the
7 prosecuting attorney, the defendant, and the defendant's attorney
8 in each case in which the defendant is charged with a misdemeanor
9 violation of section 625(1), (3), (6), (7), or (8) or section 625m
10 or a local ordinance substantially corresponding to section 625(1),
11 (3), (6), or (8) or section 625m. The pretrial conference shall be
12 held not more than 35 days after the person's arrest for the
13 violation or, if an arrest warrant is issued or reissued, not more
14 than 35 days after the issued or reissued arrest warrant is served,
15 whichever is later. If the court has only 1 judge who sits in more
16 than 1 location in that district, the pretrial conference shall be
17 held not more than 42 days after the person's arrest for the
18 violation or, if an arrest warrant is issued or reissued, not more
19 than 42 days after the date the issued or reissued arrest warrant
20 is served, whichever is later. The court shall not dismiss a case
21 or impose any other sanction for a failure to comply with the
22 applicable time limit. The 35- and 42-day time limits do not apply
23 to a violation of section 625(1), (3), (7), or (8) or section 625m
24 punishable as a felony or a violation of section 625(1), (3), (6),
25 (7), or (8) or section 625m joined with a felony charge. The court
26 shall order the defendant to attend the pretrial conference and may
27 accept a plea by the defendant at the conclusion of the pretrial

1 conference. The court may adjourn the pretrial conference upon the
2 motion of a party for good cause shown. Not more than 1 adjournment
3 shall be granted to a party, and the length of an adjournment shall
4 not exceed 14 days.

5 (3) Except for delay attributable to the unavailability of the
6 defendant, a witness, or material evidence or due to an
7 interlocutory appeal or exceptional circumstances, but not a delay
8 caused by docket congestion, the court shall finally adjudicate, by
9 a plea of guilty or nolo contendere, entry of a verdict, or other
10 final disposition, a case in which the defendant is charged with a
11 misdemeanor violation of section 625(1), (3), (6), (7), or (8) or
12 section 625m or a local ordinance substantially corresponding to
13 section 625(1), (3), (6), or (8) or section 625m, within 77 days
14 after the person is arrested for the violation or, if an arrest
15 warrant is issued or reissued, not more than 77 days after the date
16 the issued or reissued arrest warrant is served, whichever is
17 later. The court shall not dismiss a case or impose any other
18 sanction for a failure to comply with this time limit. The 77-day
19 time limit does not apply to a violation of section 625(1), (3),
20 (7), or (8) or section 625m punishable as a felony or a violation
21 of section 625(1), (3), (6), (7), or (8) or section 625m joined
22 with a felony charge.

23 (4) Before accepting a plea of guilty or nolo contendere under
24 section 625 or a local ordinance substantially corresponding to
25 section 625(1), (2), (3), (6), or (8), the court shall advise the
26 accused of the maximum possible term of imprisonment and the
27 maximum possible fine that may be imposed for the violation and

1 shall advise the defendant that the maximum possible license
2 sanctions that may be imposed will be based upon the master driving
3 record maintained by the secretary of state under section 204a.

4 (5) Before imposing sentence for a violation of section
5 625(1), (3), (4), (5), (6), (7), or (8) or a local ordinance
6 substantially corresponding to section 625(1), (3), (6), or (8),
7 the court shall order the person to undergo screening and
8 assessment by a person or agency designated by the office of
9 substance abuse services to determine whether the person is likely
10 to benefit from rehabilitative services, including alcohol or drug
11 education and alcohol or drug treatment programs. Except as
12 otherwise provided in this subsection, the court may order the
13 person to participate in and successfully complete 1 or more
14 appropriate rehabilitative programs as part of the sentence. If the
15 person **WAS CONVICTED UNDER SECTION 625(1)(C) OR** has 1 or more prior
16 convictions, the court shall order the person to participate in and
17 successfully complete 1 or more appropriate rehabilitative programs
18 as part of the sentence, **INCLUDING, BUT NOT LIMITED TO, AN ALCOHOL**
19 **TREATMENT PROGRAM OR A SELF-HELP PROGRAM FOR A PERIOD OF NOT LESS**
20 **THAN 1 YEAR. THE TREATMENT PLAN SHALL BE DEVISED FROM AN ASSESSMENT**
21 **PERFORMED BY AN APPROPRIATELY LICENSED ALCOHOL ASSESSOR AND**
22 **APPROVED BY THE COURT.** The person shall pay for the costs of the
23 screening, assessment, and rehabilitative services. **THIS SUBSECTION**
24 **DOES NOT REQUIRE THE PERSON TO SUCCESSFULLY COMPLETE AN ORDERED**
25 **REHABILITATIVE PROGRAM BEFORE DRIVING A VEHICLE WITH AN IGNITION**
26 **INTERLOCK DEVICE ON A RESTRICTED LICENSE.**

27 (6) If the judgment and sentence are appealed to circuit

1 court, the court may ex parte order the secretary of state to stay
2 the suspension, revocation, or restricted license issued by the
3 secretary of state pending the outcome of the appeal.

4 Enacting section 1. This amendatory act does not take effect
5 unless House Bill No. 4289 of the 94th Legislature is enacted into
6 law.

7 Enacting section 2. This amendatory act takes effect January
8 31, 2010.