

HOUSE BILL No. 4078

January 24, 2017, Introduced by Rep. Kesto and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 304, 319, 625e, and 625f (MCL 257.304, 257.319, 257.625e, and 257.625f), sections 304 and 319 as amended by 2016 PA 32, section 625e as amended by 1991 PA 104, and section 625f as amended by 2003 PA 61.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

6 (a) Two or more convictions for violating section 625(1) or

1 (3) or a local ordinance of this state substantially corresponding
2 to section 625(1) or (3).

3 (b) One conviction for violating section 625(1) or (3) or a
4 local ordinance of this state substantially corresponding to
5 section 625(1) or (3), preceded by 1 or more convictions for
6 violating a local ordinance or law of another state substantially
7 corresponding to section 625(1), (3), or (6), or a law of the
8 United States substantially corresponding to section 625(1), (3),
9 or (6).

10 (2) A restricted license issued under subsection (1) shall not
11 be issued until after the person's operator's or chauffeur's
12 license has been suspended or revoked for 45 days and the judge
13 assigned to a DWI/sobriety court certifies to the secretary of
14 state that ~~both~~**ALL** of the following conditions have been met, **IF**
15 **APPLICABLE:**

16 (a) The person has been admitted into a DWI/sobriety court
17 program.

18 (b) An ignition interlock device approved, certified, and
19 installed as required under sections 625k and 625l has been
20 installed on each motor vehicle ~~owned or operated, or both,~~ by the
21 ~~individual.~~**PERSON AND THE PERSON HAS PROOF OF THE INSTALLATION AND**
22 **MAINTENANCE OF THE IGNITION INTERLOCK DEVICE ON ANY VEHICLES HE OR**
23 **SHE OPERATES.**

24 (C) **ANY ADDITIONAL RESTRICTIONS SPECIFIED BY THE COURT ON THE**
25 **PERSON'S DRIVING PRIVILEGE, INCLUDING, BUT NOT LIMITED TO, THE**
26 **CONDITIONS LISTED UNDER SUBSECTION (4) THAT THE COURT FINDS**
27 **NECESSARY TO ENHANCE PUBLIC SAFETY.**

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

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

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

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

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

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

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

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

12 (h) Section 323c.

13 (i) Section 625f.

14 (j) Section 732a(5).

15 (k) Section 904(10).

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

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

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

22 (4) A restricted license issued under subsection (1) permits
23 the person to whom it is issued to operate only the vehicle
24 equipped with an ignition interlock device described in subsection
25 (2)(b), to take any driving skills test required by the secretary
26 of state, and, **IF REQUIRED BY THE COURT UNDER SUBSECTION (2)(C)**, to
27 **ONLY** drive to and from any combination of the following locations

1 or events:

2 (a) In the course of the person's employment or occupation if
3 the employment or occupation does not require a commercial driver
4 license.

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

6 (i) The person's residence.

7 (ii) The person's work location.

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

10 (iv) Alcoholics anonymous, narcotics anonymous, or other
11 court-ordered self-help programs.

12 (v) Court hearings and probation appointments.

13 (vi) Court-ordered community service.

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

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

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

20 (x) Ignition interlock service provider as required.

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

25 (6) Except as otherwise provided in this section, a restricted
26 license issued under subsection (1) is effective until a hearing
27 officer orders an unrestricted license under section 322. Subject

1 to subsection ~~(7)~~, **(8)**, the hearing officer shall not order an
2 unrestricted license until the later of the following events
3 occurs:

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

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

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

11 (d) The person satisfies the requirements of section 303 and R
12 257.313 of the Michigan administrative code.

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

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

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

25 ~~—— (8) In determining whether to order an unrestricted license~~
26 ~~under subsection (6), the successful completion of the DWI/sobriety~~
27 ~~court program and a certificate from the DWI/sobriety court judge~~

~~1 shall be considered positive evidence of the petitioner's
2 abstinence while the petitioner participated in the DWI/sobriety
3 court program. This subsection does not apply to a determination
4 made under subsection (7). As used in this subsection,
5 "certificate" includes, but is not limited to, a statement that the
6 participant has maintained a period of abstinence from alcohol for
7 not less than 6 months at the time the participant completed the
8 DWI/sobriety court program.~~

9 **(7) IN DETERMINING WHETHER TO ORDER AN UNRESTRICTED LICENSE
10 UNDER SUBSECTION (6), THE SUCCESSFUL COMPLETION OF THE DWI/SOBRIETY
11 COURT PROGRAM AND A CERTIFICATE FROM THE DWI/SOBRIETY COURT JUDGE
12 SHALL BE CONSIDERED POSITIVE EVIDENCE OF THE PETITIONER'S
13 ABSTINENCE WHILE THE PETITIONER PARTICIPATED IN THE DWI/SOBRIETY
14 COURT PROGRAM. AS USED IN THIS SUBSECTION, "CERTIFICATE" INCLUDES,
15 BUT IS NOT LIMITED TO, A STATEMENT THAT THE PARTICIPANT HAS
16 MAINTAINED A PERIOD OF ABSTINENCE FROM ALCOHOL FOR NOT LESS THAN 6
17 MONTHS AT THE TIME THE PARTICIPANT COMPLETED THE DWI/SOBRIETY COURT
18 PROGRAM.**

19 **(8) A HEARING OFFICER SHALL NOT ISSUE AN UNRESTRICTED LICENSE
20 TO A PERSON WHO HAS NOT PARTICIPATED IN A DWI/SOBRIETY COURT
21 PROGRAM OR TO A PERSON WHO HAS PARTICIPATED IN A DWI/SOBRIETY COURT
22 PROGRAM WHO DOES NOT PROVIDE THE CERTIFICATE DESCRIBED IN
23 SUBSECTION (7) FROM THE DWI/SOBRIETY COURT JUDGE STATING THAT HE OR
24 SHE SUCCESSFULLY COMPLETED THE DWI/SOBRIETY COURT PROGRAM FOR 1
25 YEAR IF EITHER OF THE FOLLOWING APPLIES:**

26 **(A) THE HEARING OFFICER DETERMINES THAT AN IGNITION INTERLOCK
27 DEVICE INSTALLED IN THE PERSON'S VEHICLE RECORDED 1 OR MORE BREATH**

1 ALCOHOL TESTS WITH RESULTS ABOVE THE LEVEL OF 0.025 GRAMS PER 210
2 LITERS OF BREATH DURING THE PERIOD THAT HIS OR HER LICENSE WAS
3 RESTRICTED UNDER THIS SECTION, UNLESS A SECOND TEST, TAKEN WITHIN 5
4 MINUTES AFTER THE ADMINISTERING OF THE FIRST TEST, RECORDED A
5 BREATH TEST RESULT BELOW THE LEVEL OF 0.025 GRAMS PER 210 LITERS OF
6 BREATH.

7 (B) THE HEARING OFFICER DETERMINES THAT THE PERSON CONSUMED OR
8 OTHERWISE USED ANY CONTROLLED SUBSTANCE DURING THE PERIOD THAT HIS
9 OR HER LICENSE WAS RESTRICTED UNDER THIS SECTION, EXCEPT AS
10 LAWFULLY PRESCRIBED.

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

16 (a) Suspension for the full length of time provided under
17 section 319(8). However, a restricted license shall not be issued
18 as provided under section 319(8). This subdivision applies if the
19 underlying conviction or convictions would have subjected the
20 person to a license sanction under section 319(8) if this section
21 did not apply.

22 (b) A license revocation and denial for the full length of
23 time provided under section 303. The minimum period of license
24 revocation and denial imposed shall be the same as if this section
25 did not apply. This subdivision applies if the underlying
26 conviction or convictions would have caused a license revocation
27 and denial under section 303 if this section did not apply.

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

3 (a) The secretary of state shall postpone considering the
4 issuance of an unrestricted license under section 322 for a period
5 of 3 months for each act that would be a minor violation if the
6 person's license had been issued under section 322(6). As used in
7 this subdivision, "minor violation" means that term as defined in R
8 257.301a of the Michigan administrative code.

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

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

15 (ii) The person removes, or causes to be removed, an ignition
16 interlock device from a vehicle he or she owns or operates unless
17 the secretary of state has authorized its removal under section
18 322a.

19 (iii) The person commits any other act that would be a major
20 violation if the person's license had been issued under section
21 322(6). As used in this subparagraph, "major violation" means that
22 term as defined in R 257.301a of the Michigan administrative code.

23 (iv) The person is arrested for a violation of any of the
24 following:

25 (A) Section 625.

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

1 (C) A law of the United States substantially corresponding to
2 section 625.

3 (c) If the person is convicted of or found responsible for any
4 offense that requires the suspension, revocation, denial, or
5 cancellation of the person's operator's or chauffeur's license, the
6 restricted license issued under this section shall be suspended
7 until the requisite period of license suspension, revocation,
8 denial, or cancellation, as appropriate, has elapsed.

9 (d) If the person has failed to pay any court-ordered fines or
10 costs that resulted from the operation of a vehicle, the restricted
11 license issued under this section shall be suspended pending
12 payment of those fines and costs.

13 (11) All driver responsibility fees required to be assessed by
14 the secretary of state under section 732a for the conviction or
15 convictions that led to the restricted license under this section
16 shall be held in abeyance as follows:

17 (a) The fees shall be held in abeyance during the time the
18 person has a restricted license under this section and is
19 participating in the DWI/sobriety court program.

20 (b) At the end of the person's participation in the
21 DWI/sobriety court program, the driver responsibility fees, **IF**
22 **APPLICABLE**, shall be assessed and paid under the payment schedule
23 described in section 732a.

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

1 of the following apply:

2 (a) The person is a DWI/sobriety court program participant in
3 good standing or the person successfully satisfactorily completes
4 the DWI/sobriety court program.

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

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

9 (14) As used in this section:

10 (a) "DWI/sobriety court" means that term as defined in section
11 1084 of the revised judicature act of 1961, 1961 PA 236, MCL
12 600.1084.

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

16 Sec. 319. (1) The secretary of state shall immediately suspend
17 a person's license as provided in this section upon receiving a
18 record of the person's conviction for a crime described in this
19 section, whether the conviction is under a law of this state, a
20 local ordinance substantially corresponding to a law of this state,
21 a law of another state substantially corresponding to a law of this
22 state, or ~~beginning October 31, 2010,~~ a law of the United States
23 substantially corresponding to a law of this state.

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

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

1 (b) A violation of section 413 of the Michigan penal code,
2 1931 PA 328, MCL 750.413.

3 (c) A violation of section 1 of former 1931 PA 214 ~~, MCL~~
4 ~~752.191,~~ or former section 626c.

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

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

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

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

14 (iv) The vehicle was necessary for the commission of the
15 felony.

16 (e) A violation of section 602a(2) or (3) of this act or
17 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL
18 750.479a.

19 (f) ~~Beginning October 31, 2010, a~~ **A** violation of section 601d.

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

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

24 (b) A violation of section 601b(2), section 601c(1), section
25 653a(3), ~~section 626 before October 31, 2010, or, beginning October~~
26 ~~31, 2010,~~ **OR** section 626(2).

27 (c) Malicious destruction resulting from the operation of a

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

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

5 (4) The secretary of state shall suspend the person's license
6 for 30 days for malicious destruction resulting from the operation
7 of a vehicle under section 382(1)(a) of the Michigan penal code,
8 1931 PA 328, MCL 750.382.

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

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

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

19 (6) For a violation of section 414 of the Michigan penal code,
20 1931 PA 328, MCL 750.414, the secretary of state shall suspend the
21 person's license as follows:

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

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

26 (7) For a violation of section 624a or 624b of this act or
27 section 703(1) of the Michigan liquor control code of 1998, 1998 PA

1 58, MCL 436.1703, the secretary of state shall suspend the person's
2 license as follows:

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

7 (b) If the person has 2 or more prior convictions for an
8 offense described in this subsection or section 33b(1) of former
9 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue
10 the person a restricted license after the first 60 days of
11 suspension.

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

14 (a) For 180 days for a violation of ~~section 625(1) or (8)~~
15 ~~before October 31, 2010 or, beginning October 31, 2010, section~~
16 ~~625(1) (a) or (b) or (8) if the person has no prior convictions~~
17 ~~within 7 years. The secretary of state may issue the person a~~
18 ~~restricted license during a specified portion~~ **UNDER SUBDIVISION (H)**
19 **UPON OR AFTER THE EFFECTIVE DATE** of the suspension, ~~except that the~~
20 ~~secretary of state shall not issue a restricted license during the~~
21 ~~first 30 days of suspension.~~ **FOR THE DURATION OF THE SUSPENSION.**

22 (b) For 90 days for a violation of section 625(3) if the
23 person has no prior convictions within 7 years. However, if the
24 person is convicted of a violation of section 625(3), for operating
25 a vehicle when, due to the consumption of a controlled substance or
26 a combination of alcoholic liquor and a controlled substance, the
27 person's ability to operate the vehicle was visibly impaired, the

1 secretary of state shall suspend the person's license under this
2 subdivision for 180 days. The secretary of state may issue the
3 person a restricted license **UNDER SUBDIVISION (H)** during all or a
4 specified portion of the suspension.

5 (c) For ~~30~~**90** days for a violation of section 625(6) if the
6 person has no prior convictions within 7 years. The secretary of
7 state may issue the person a restricted license **UNDER SUBDIVISION**
8 **(H)** during all or a specified portion of the suspension.

9 (d) For ~~90~~**180** days for a violation of section 625(6) if the
10 person has 1 or more prior convictions for that offense within 7
11 years. **THE SECRETARY OF STATE MAY ISSUE THE PERSON A RESTRICTED**
12 **LICENSE UNDER SUBDIVISION (H) DURING ALL OR A SPECIFIED PORTION OF**
13 **THE SUSPENSION.**

14 (e) For 180 days for a violation of section 625(7) if the
15 person has no prior convictions within 7 years. The secretary of
16 state may issue the person a restricted license ~~after the first 90~~
17 ~~days of suspension.~~**UNDER SUBDIVISION (H) DURING ALL OR A SPECIFIED**
18 **PORTION OF THE SUSPENSION.**

19 (f) For 90 days for a violation of section 625m if the person
20 has no prior convictions within 7 years. The secretary of state may
21 issue the person a restricted license **UNDER SUBDIVISION (H)** during
22 all or a specified portion of the suspension.

23 (g) ~~Beginning October 31, 2010, for~~**FOR** 1 year for a violation
24 of section 625(1)(c) if the person has no prior convictions within
25 7 years or not more than 2 convictions within 10 years. The
26 secretary of state may issue the person a restricted license ~~7~~
27 ~~except that the secretary of state shall not issue a restricted~~

1 ~~license during the first 45 days of suspension.~~**UNDER SUBDIVISION**
2 **(H) FOR ALL OR A SPECIFIED PORTION OF THE SUSPENSION.**

3 (h) ~~Beginning October 31, 2010, the~~**THE** department shall order
4 a person convicted of violating section ~~625(1)(e)~~**625(1), (3), OR**
5 **(8)** not to operate a motor vehicle under a restricted license
6 issued under ~~subdivision (g)~~**THIS SUBDIVISION** unless the vehicle is
7 equipped with an ignition interlock device approved, certified, and
8 installed as required under sections 625k and 625l. The ignition
9 interlock device ~~may~~**SHALL NOT** be removed ~~after~~**UNTIL** the interlock
10 device provider provides the department with verification that the
11 person has operated the vehicle with no instances of reaching or
12 exceeding a blood alcohol level of 0.025 grams per 210 liters of
13 breath. This subdivision does not prohibit the removal of the
14 ignition interlock device for any of the following:

15 (i) A start-up test failure that occurs within the first 2
16 months after installation of the device. As used in this
17 subdivision, "start-up test failure" means that the ignition
18 interlock device has prevented the motor vehicle from being
19 started. Multiple unsuccessful attempts at 1 time to start the
20 vehicle shall be treated as 1 start-up test failure only under this
21 subparagraph.

22 (ii) A start-up test failure occurring more than 2 months
23 after installation of the device, if not more than 15 minutes after
24 detecting the start-up test failure the person delivers a breath
25 sample that the ignition interlock device analyzes as having an
26 alcohol level of less than 0.025 grams per 210 liters of breath.

27 (iii) A retest prompted by the device, if not more than 5

1 minutes after detecting the retest failure the person delivers a
2 breath sample that the ignition interlock device analyzes as having
3 an alcohol level of less than 0.025 grams per 210 liters of breath.

4 (i) ~~Beginning October 31, 2010, if~~ **IF** an individual violates
5 the conditions of the restricted license issued under ~~subdivision~~
6 ~~(g) or operates or attempts to operate a motor vehicle with a blood~~
7 ~~alcohol level of 0.025 grams per 210 liters of breath,~~ **SUBDIVISIONS**
8 **(A) THROUGH (G), AND IF AN IGNITION INTERLOCK DEVICE INSTALLED AS A**
9 **CONDITION OF THE ISSUANCE OF A RESTRICTED LICENSE UNDER**
10 **SUBDIVISIONS (A) THROUGH (G) RECORDED 1 OR MORE INSTANCES OF THE**
11 **TEST FAILURES DESCRIBED IN SUBDIVISION (H),** the secretary of state
12 shall impose an additional like period of suspension and
13 restriction as prescribed under ~~subdivision (g).~~ **SUBDIVISIONS (A)**
14 **THROUGH (G).** This subdivision does not require an additional like
15 period of suspension and restriction for any of the following:

16 (i) A start-up test failure within the first 2 months after
17 installation of the ignition interlock device. As used in this
18 subdivision, "start-up test failure" means that the ignition
19 interlock device has prevented the motor vehicle from being
20 started. Multiple unsuccessful attempts at 1 time to start the
21 vehicle shall be treated as 1 start-up test failure only under this
22 subparagraph.

23 (ii) A start-up test failure occurring more than 2 months
24 after installation of the device, if not more than 15 minutes after
25 detecting the start-up test failure the person delivers a breath
26 sample that the ignition interlock device analyzes as having an
27 alcohol level of less than 0.025 grams per 210 liters of breath.

1 (iii) Any retest prompted by the device, if not more than 5
2 minutes after detecting the retest failure the person delivers a
3 breath sample that the ignition interlock device analyzes as having
4 an alcohol level of less than 0.025 grams per 210 liters of breath.

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

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

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

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

14 (11) For a violation or attempted violation of section 411a(2)
15 of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a
16 school, the secretary of state shall suspend the license of a
17 person 14 years of age or over but less than 21 years of age until
18 3 years after the date of the conviction or juvenile disposition
19 for the violation. The secretary of state may issue the person a
20 restricted license after the first 365 days of suspension.

21 (12) For a second or subsequent violation of section 701(1) of
22 the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701,
23 by an individual who is not a retail licensee or a retail
24 licensee's clerk, agent, or employee, the secretary of state shall
25 suspend the person's license for 180 days. The secretary of state
26 may issue a person a restricted license during all or a specified
27 portion of the suspension.

1 (13) Except as provided in subsection (15), a suspension under
2 this section shall be imposed notwithstanding a court order unless
3 the court order complies with section 323.

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

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

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

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

23 (18) Except as provided in subsection (17), a restricted
24 license issued under this section shall permit the person to whom
25 it is issued to take any driving skills test required by the
26 secretary of state and to operate a vehicle ~~under 1 or more of the~~
27 ~~following circumstances:~~ **IN ACCORDANCE WITH ANY OF THE FOLLOWING**

1 **RESTRICTIONS THAT MAY BE IMPOSED BY THE SENTENCING COURT:**

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

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

4 (i) The person's residence.

5 (ii) The person's work location.

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

8 (iv) The court probation department.

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

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

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

15 (viii) An ignition interlock service provider as required.

16 (19) While driving with a restricted license **ISSUED UNDER**
17 **SUBSECTION (8)**, the person ~~shall~~ **IS NOT REQUIRED TO** carry proof of
18 his or her destination and the hours of any employment, class, or
19 other reason for traveling ~~and~~ **UNLESS ORDERED TO DO SO BY THE**
20 **SENTENCING COURT. IF THE PERSON WAS ORDERED BY THE SENTENCING COURT**
21 **TO CARRY PROOF OF HIS OR HER DESTINATION AND THE HOURS OF ANY**
22 **EMPLOYMENT, CLASS, OR OTHER REASON FOR TRAVELING, HE OR SHE** shall
23 display that proof upon a peace officer's request.

24 (20) Subject to subsection (22), as used in subsection (8),
25 "prior conviction" means a conviction for any of the following,
26 whether under a law of this state, a local ordinance substantially
27 corresponding to a law of this state, or a law of another state

1 substantially corresponding to a law of this state:

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

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

11 (ii) Section 625m.

12 (iii) Former section 625b.

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

16 (c) ~~Beginning October 31, 2010, a~~ **A** violation of section 601d
17 or section 626(3) or (4).

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

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

27 (23) Any period of suspension or restriction required under

1 this section is not subject to appeal to the secretary of state.

2 Sec. 625e. (1) If a person refuses to submit to a chemical
3 test ~~pursuant to~~ **UNDER** section 625d, the peace officer shall
4 immediately notify the person in writing that within 14 days of the
5 date of the notice the person may request a hearing as provided in
6 section 625f. The form of the notice shall be prescribed and
7 furnished by the secretary of state.

8 (2) The notice **REQUIRED UNDER SUBSECTION (1)** shall
9 specifically state that failure to request a hearing within 14 days
10 will result in the suspension of the person's license or permit to
11 drive. The notice shall also state that there is not a requirement
12 that the person retain counsel for the hearing, though counsel
13 would be permitted to represent the person at the hearing.

14 **(3) THE NOTICE REQUIRED UNDER SUBSECTION (1) SHALL**
15 **SPECIFICALLY STATE THAT IF THE PERSON APPLIES WITHIN 14 DAYS OF THE**
16 **DATE OF THE NOTICE FOR A RESTRICTED LICENSE REQUIRING THAT HE OR**
17 **SHE ONLY OPERATE A VEHICLE PROPERLY EQUIPPED WITH AN IGNITION**
18 **INTERLOCK DEVICE UNDER SECTIONS 625K AND 625/ AND THE SECRETARY OF**
19 **STATE ISSUES THE PERSON A RESTRICTED LICENSE REQUIRING THAT HE OR**
20 **SHE ONLY OPERATE A VEHICLE PROPERLY EQUIPPED WITH AN IGNITION**
21 **INTERLOCK DEVICE UNDER SECTIONS 625K AND 625/, THEN THE PERSON**
22 **WAIVES HIS OR HER RIGHT TO A HEARING UNDER THIS SECTION.**

23 Sec. 625f. (1) If a person who refuses to submit to a chemical
24 test ~~pursuant to~~ **UNDER** section 625d does not request a hearing
25 within 14 days after the date of notice ~~pursuant to~~ **UNDER** section
26 625e, the secretary of state shall impose the following license
27 sanctions:

1 (a) If the person was operating a vehicle other than a
2 commercial motor vehicle, suspend or deny the person's operator's
3 or chauffeur's license or permit to drive, or nonresident operating
4 privilege, for 1 year or, for a second or subsequent refusal within
5 7 years, for 2 years. If the person is a resident without a license
6 or permit to operate a vehicle in the state, the secretary of state
7 shall not issue the person a license or permit for 1 year or, for a
8 second or subsequent refusal within 7 years, for 2 years.

9 (b) If the person was operating a commercial motor vehicle,
10 for the first refusal, suspend all vehicle group designations on
11 the person's operator's or chauffeur's license or permit or
12 nonresident privilege to operate a commercial motor vehicle or, if
13 the person is a resident without a license or permit to operate a
14 commercial motor vehicle in the state, not issue the person an
15 operator's or chauffeur's license with vehicle group designations,
16 for 1 year.

17 (c) If the person was operating a commercial motor vehicle,
18 for a second or subsequent refusal that occurred in a separate
19 incident from and within 10 years of a prior refusal, revoke all
20 vehicle group designations on the person's operator's or
21 chauffeur's license or permit or nonresident privilege to operate a
22 commercial motor vehicle or, if the person is a resident without a
23 license or permit to operate a commercial motor vehicle in the
24 state, not issue the person an operator's or chauffeur's license
25 with vehicle group designations, for not less than 10 years and
26 until the person is approved for the issuance of a vehicle group
27 designation.

1 (d) If the person was operating a commercial motor vehicle and
2 was arrested for an offense enumerated in section 625c other than a
3 violation of section 625a(5) or 625m, impose the license sanction
4 described in subdivision (a) and the license sanction described in
5 subdivision (b) or (c), as applicable.

6 (2) IF THE PERSON APPLIES FOR A RESTRICTED LICENSE REQUIRING
7 THAT HE OR SHE ONLY OPERATE A VEHICLE PROPERLY EQUIPPED WITH AN
8 IGNITION INTERLOCK DEVICE UNDER SECTIONS 625K AND 625/ WITHIN 14
9 DAYS AFTER THE DATE OF NOTICE UNDER SECTION 625E, THE PERSON WAIVES
10 HIS OR HER RIGHT TO A HEARING UNDER SECTION 625E IF THE PERSON IS
11 OTHERWISE ELIGIBLE AND THE SECRETARY OF STATE ISSUES THE PERSON A
12 RESTRICTED LICENSE REQUIRING THAT HE OR SHE ONLY OPERATE A VEHICLE
13 PROPERLY EQUIPPED WITH AN IGNITION INTERLOCK DEVICE UNDER SECTIONS
14 625K AND 625/ UPON RECEIVING PROOF THAT A FUNCTIONING IGNITION
15 INTERLOCK DEVICE HAS BEEN INSTALLED AND WILL BE MAINTAINED ON 1 OR
16 MORE NONCOMMERCIAL VEHICLES THE PERSON WILL OPERATE DURING THE
17 PERIOD OF SUSPENSION.

18 (3) A PERSON WHO IS ISSUED A RESTRICTED LICENSE UNDER
19 SUBSECTION (2) DURING ANY PERIOD OF SUSPENSION REQUIRED UNDER
20 SECTION 625E SHALL RECEIVE DAY-FOR-DAY CREDIT TOWARD ANY MANDATORY
21 PERIOD OF IGNITION INTERLOCK USE IMPOSED AS A RESULT OF THE SAME
22 INCIDENT FOR ANY PERIOD THE PERSON HELD A RESTRICTED LICENSE UNDER
23 THIS SECTION.

24 (4) ~~(2)~~—If a hearing is requested, the secretary of state
25 shall hold the hearing in the same manner and under the same
26 conditions as provided in section 322. Not less than 5 days' notice
27 of the hearing shall be mailed to the person requesting the

1 hearing, to the peace officer who filed the report under section
2 625d, and if the prosecuting attorney requests receipt of the
3 notice, to the prosecuting attorney of the county where the arrest
4 was made. The hearing officer may administer oaths, issue subpoenas
5 for the attendance of necessary witnesses, and grant a reasonable
6 request for an adjournment. Not more than 1 adjournment shall be
7 granted to a party and the length of an adjournment shall not
8 exceed 14 days. A hearing under this subsection shall be scheduled
9 to be held within 45 days after the date of arrest for the
10 violation. The hearing officer shall not impose any sanction for a
11 failure to comply with these time limits.

12 (5) ~~(3)~~—Except for delay attributable to the unavailability of
13 the defendant, a witness, or material evidence, or due to an
14 interlocutory appeal or exceptional circumstances, but not a delay
15 caused by docket congestion, a hearing shall be finally adjudicated
16 within 77 days after the date of arrest. The hearing officer shall
17 not impose any sanction for a failure to comply with this time
18 limit.

19 (6) ~~(4)~~—The hearing shall cover only the following issues:

20 (a) Whether the peace officer had reasonable grounds to
21 believe that the person had committed a crime described in section
22 625c(1).

23 (b) Whether the person was placed under arrest for a crime
24 described in section 625c(1).

25 (c) If the person refused to submit to the test upon the
26 request of the officer, whether the refusal was reasonable.

27 (d) Whether the person was advised of the rights under section

1 625a(6).

2 (7) ~~(5)~~—A person shall not order a hearing officer to make a
3 particular finding on any issue enumerated in subsection ~~(4)(a) to~~
4 ~~(d)~~. **(6) (A) TO (D)**.

5 (8) ~~(6)~~—The hearing officer shall make a record of a hearing
6 held ~~pursuant to~~ **UNDER** this section. The record shall be prepared
7 and transcribed in accordance with section 86 of the administrative
8 procedures act of 1969, 1969 PA 306, MCL 24.286. Upon notification
9 of the filing of a petition for judicial review ~~pursuant to~~ **UNDER**
10 section 323 and not less than 10 days before the matter is set for
11 review, the hearing officer shall transmit to the court in which
12 the petition was filed the original or a certified copy of the
13 official record of the proceedings. Proceedings at which evidence
14 was presented need not be transcribed and transmitted if the sole
15 reason for review is to determine whether the court will order the
16 issuance of a restricted license. The parties to the proceedings
17 for judicial review may stipulate that the record be shortened. A
18 party unreasonably refusing to stipulate to a shortened record may
19 be taxed by the court in which the petition is filed for the
20 additional costs. The court may permit subsequent corrections to
21 the record.

22 (9) ~~(7)~~—If the person who requested a hearing does not
23 prevail, the secretary of state shall impose the following license
24 sanctions after the hearing:

25 (a) If the person was operating a vehicle other than a
26 commercial motor vehicle, suspend or deny issuance of a license or
27 driving permit or a nonresident operating privilege of the person

1 for 1 year or, for a second or subsequent refusal within 7 years,
2 for 2 years. If the person is a resident without a license or
3 permit to operate a vehicle in the state, the secretary of state
4 shall not issue the person a license or permit for 1 year or, for a
5 second or subsequent refusal within 7 years, for 2 years. The
6 person may file a petition in the circuit court of the county in
7 which the arrest was made to review the suspension or denial as
8 provided in section 323.

9 (b) If the person was operating a commercial motor vehicle,
10 impose the sanction prescribed under subsection (1)(b) or (1)(c),
11 as applicable. The person may file a petition in the circuit court
12 of the county in which the arrest was made to review the suspension
13 or denial as provided in section 323.

14 (c) If the person was operating a commercial motor vehicle and
15 was arrested for an offense enumerated in section 625c other than a
16 violation of section 625a(5) or 625m, impose the license sanctions
17 described in subdivisions (a) and (b).

18 **(10)** ~~(8)~~—If the person who requested the hearing prevails, the
19 peace officer who filed the report under section 625d may, with the
20 consent of the prosecuting attorney, file a petition in the circuit
21 court of the county in which the arrest was made to review the
22 determination of the hearing officer as provided in section 323.

23 **(11)** ~~(9)~~—When it has been finally determined that a
24 nonresident's privilege to operate a vehicle in the state has been
25 suspended or denied, the department shall give notice in writing of
26 the action taken to the motor vehicle administrator of the state of
27 the person's residence and of each state in which he or she has a

1 license to operate a motor vehicle.