

HOUSE BILL No. 5046

September 28, 2017, Introduced by Reps. Marino, Chatfield, Inman, Yaroach, Bellino, Phelps, Hauck, Santana and Love and referred to the Committee on Michigan Competitiveness.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending section 304 (MCL 257.304), as amended by 2016 PA 32.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

13 (a) The person has been admitted into a DWI/sobriety court
14 program.

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

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

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

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

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

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

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

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

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

3 (h) Section 323c.

4 (i) Section 625f.

5 (j) Section 732a(5).

6 (k) Section 904(10).

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

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

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

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

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

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

23 (i) The person's residence.

24 (ii) The person's work location.

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

27 (iv) Alcoholics ~~anonymous~~, narcotics ~~anonymous~~, **ANONYMOUS**,

1 **NARCOTICS ANONYMOUS**, or other court-ordered self-help programs.

2 (v) Court hearings and probation appointments.

3 (vi) Court-ordered community service.

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

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

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

10 (x) Ignition interlock service provider as required.

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

15 (6) Except as otherwise provided in this section, a restricted
16 license issued under subsection (1) is effective until a hearing
17 officer orders an unrestricted license under section 322. Subject
18 to subsection (7), the hearing officer shall not order an
19 unrestricted license until the later of the following events
20 occurs:

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

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

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

1 (d) The person satisfies the requirements of section 303 and R
2 257.313 of the Michigan ~~administrative code.~~ **ADMINISTRATIVE CODE.**

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

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

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

15 (8) In determining whether to order an unrestricted license
16 under subsection (6), the successful completion of the DWI/sobriety
17 court program and a certificate from the DWI/sobriety court judge
18 shall be considered positive evidence of the petitioner's
19 abstinence while the petitioner participated in the DWI/sobriety
20 court program. This subsection does not apply to a determination
21 made under subsection (7). As used in this subsection,
22 "certificate" includes, but is not limited to, a statement that the
23 participant has maintained a period of abstinence from alcohol for
24 not less than 6 months at the time the participant completed the
25 DWI/sobriety court program.

26 (9) If the secretary of state receives a notification from the
27 DWI/sobriety court under section 1084(6) of the revised judicature

1 act of 1961, 1961 PA 236, MCL 600.1084, the secretary of state
2 shall summarily impose 1 of the following license sanctions, as
3 applicable:

4 (a) Suspension for the full length of time provided under
5 section 319(8). However, a restricted license shall not be issued
6 as provided under section 319(8). This subdivision applies if the
7 underlying conviction or convictions would have subjected the
8 person to a license sanction under section 319(8) if this section
9 did not apply.

10 (b) A license revocation and denial for the full length of
11 time provided under section 303. The minimum period of license
12 revocation and denial imposed shall be the same as if this section
13 did not apply. This subdivision applies if the underlying
14 conviction or convictions would have caused a license revocation
15 and denial under section 303 if this section did not apply.

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

18 (a) The secretary of state shall postpone considering the
19 issuance of an unrestricted license under section 322 for a period
20 of 3 months for each act that would be a minor violation if the
21 person's license had been issued under section 322(6). As used in
22 this subdivision, "minor violation" means that term as defined in R
23 257.301a of the Michigan ~~administrative code~~. **ADMINISTRATIVE CODE**.

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

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

3 (ii) The person removes, or causes to be removed, an ignition
4 interlock device from a vehicle he or she owns or operates unless
5 the secretary of state has authorized its removal under section
6 322a.

7 (iii) The person commits any other act that would be a major
8 violation if the person's license had been issued under section
9 322(6). As used in this subparagraph, "major violation" means that
10 term as defined in R 257.301a of the Michigan administrative
11 ~~code~~. **ADMINISTRATIVE CODE.**

12 (iv) The person is arrested for a violation of any of the
13 following:

14 (A) Section 625.

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

17 (C) A law of the United States substantially corresponding to
18 section 625.

19 (c) If the person is convicted of or found responsible for any
20 offense that requires the suspension, revocation, denial, or
21 cancellation of the person's operator's or chauffeur's license, the
22 restricted license issued under this section shall be suspended
23 until the requisite period of license suspension, revocation,
24 denial, or cancellation, as appropriate, has elapsed.

25 (d) If the person has failed to pay any court-ordered fines or
26 costs that resulted from the operation of a vehicle, the restricted
27 license issued under this section shall be suspended pending

1 payment of those fines and costs.

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

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

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

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

21 (a) The person is a DWI/sobriety court program participant in
22 good standing or the person successfully satisfactorily completes
23 the DWI/sobriety court program.

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

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

1 (14) As used in this section:

2 (a) "DWI/sobriety court" means that term as defined in section
3 1084 of the revised judicature act of 1961, 1961 PA 236, MCL
4 600.1084.

5 (b) "DWI/sobriety court program" means "program" as that term
6 is defined in section 1084 of the revised judicature act of 1961,
7 1961 PA 236, MCL 600.1084.

8 Enacting section 1. This amendatory act takes effect 90 days
9 after the date it is enacted into law.