

Act No. 48
Public Acts of 2018
Approved by the Governor
March 1, 2018
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**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Reps. Marino, Chatfield, Inman, Yaroach, Bellino, Phelps, Hauck, Santana and Love

ENROLLED HOUSE BILL No. 5046

AN ACT to amend 1949 PA 300, entitled “An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of manufacturers, the manufacturers of certain devices, the manufacturers of automated technology, upfitters, owners, and operators of vehicles and service of process on residents and nonresidents; to regulate the introduction and use of certain evidence; to regulate and certify the manufacturers of certain devices; to provide for approval and certification of installers and servicers of certain devices; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date,” by amending section 304 (MCL 257.304), as amended by 2017 PA 162.

The People of the State of Michigan enact:

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

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

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

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

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

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

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

- (a) Section 303(1)(i) or (l).
- (b) Section 303(2)(c)(i) or (iii).
- (c) Section 303(2)(g)(i) or (iii).
- (d) Section 319(4), (5), (6), (7), (8)(a) to (e), or (9).
- (e) Section 319e(2)(a) or (b).
- (f) Section 320(1)(d).
- (g) Section 321a(1), (2), or (3).
- (h) Section 323c.
- (i) Section 625f.
- (j) Section 732a(5).
- (k) Section 904(10).
- (l) Section 82105a(2) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82105a.
- (m) Section 3177 of the insurance code of 1956, 1956 PA 218, MCL 500.3177.
- (n) Section 10 of the motor vehicle claims act, 1965 PA 198, MCL 257.1110.

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

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

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

- (i) The person's residence.
- (ii) The person's work location.
- (iii) An alcohol, drug, or mental health education and treatment as ordered by the court.
- (iv) Alcoholics Anonymous, Narcotics Anonymous, or other court-ordered self-help programs.
- (v) Court hearings and probation appointments.
- (vi) Court-ordered community service.
- (vii) An educational institution at which the person is enrolled as a student.
- (viii) A place of regularly occurring medical treatment for a serious condition or medical emergency for the person or a member of the person's household or immediate family.
- (ix) Alcohol or drug testing as ordered by the court.
- (x) An ignition interlock service provider as required.

(xi) At the discretion of the judge, the custodian of a minor child may drive to and from the facilities of a provider of day care services at which the custodian's minor child is enrolled, or an educational institution at which the custodian's minor child is enrolled as a student for the purposes of classes, academic meetings or conferences, and athletic or other extracurricular activities sanctioned by the educational institution in which the minor child is a participant. As used in this subparagraph, "minor child" means an individual who is less than 18 years of age.

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

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

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

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

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

(d) The person satisfies the requirements of section 303 and R 257.313 of the Michigan Administrative Code.

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

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

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

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

(9) If the secretary of state receives a notification from the DWI/sobriety court under section 1084(7) of the revised judiciary act of 1961, 1961 PA 236, MCL 600.1084, the secretary of state shall summarily impose 1 of the following license sanctions, as applicable:

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

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

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

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

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

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

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

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

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

(A) Section 625.

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

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

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

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

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

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

(b) Except as otherwise provided in this subdivision, at the end of the person's participation in the DWI/sobriety court program, the driver responsibility fees must be assessed and paid under the payment schedule described in section 732a. If the person's participation in the DWI/sobriety court program is completed on or after October 1, 2018, the driver responsibility fees are waived and shall not be collected.

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

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

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

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

(14) As used in this section:

(a) "DWI/sobriety court" means that term as defined in section 1084 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1084. Beginning January 1, 2018, DWI/sobriety court includes only a DWI/sobriety court that is certified by the state court administrative office as provided in section 1084(3) of the revised judicature act of 1961, 1961 PA 236, MCL 600.1084.

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor