

**SUBSTITUTE FOR  
HOUSE BILL NO. 4921**

A bill to amend 1949 PA 300, entitled  
"Michigan vehicle code,"  
by amending sections 303, 319, 322, and 625b (MCL 257.303, 257.319,  
257.322, and 257.625b), section 303 as amended by 2006 PA 298,  
section 319 as amended by 2004 PA 362, section 322 as amended by  
2001 PA 159, and section 625b as amended by 2004 PA 62, and by  
adding section 20b.

**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**

1 MOTOR VEHICLE CANNOT BE STARTED IF THE BREATH ALCOHOL LEVEL OF THE  
2 OPERATOR, AS MEASURED BY THE TEST, REACHES A LEVEL OF 0.025 GRAMS  
3 PER 210 LITERS OF BREATH, AND TO WHICH ALL OF THE FOLLOWING APPLY:

4 (A) THE DEVICE MEETS OR EXCEEDS THE MODEL SPECIFICATIONS FOR  
5 BREATH ALCOHOL IGNITION INTERLOCK DEVICES (BAIID), 57 FR 11772 -  
6 11787 (APRIL 7, 1992).

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

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

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

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

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

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

27 (d) A person who in the opinion of the secretary of state is

1 afflicted with or suffering from a physical or mental disability or  
2 disease preventing that person from exercising reasonable and  
3 ordinary control over a motor vehicle while operating the motor  
4 vehicle upon the highways.

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

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

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

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

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

1 or judgment of the court, including, but not limited to, paying all  
2 fines, costs, fees, and assessments, as provided under section  
3 321a.

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

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

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

27 (m) A person whose commercial driver license application is

1 canceled under section 324(2).

2 (2) Upon receiving the appropriate records of conviction, the  
3 secretary of state shall revoke the operator's or chauffeur's  
4 license of a person and deny issuance of an operator's or  
5 chauffeur's license to a person having any of the following,  
6 whether under a law of this state, a local ordinance substantially  
7 corresponding to a law of this state, or a law of another state  
8 substantially corresponding to a law of this state:

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

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

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

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

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

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

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

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 section 625b.

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

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

15 (f) One conviction for a violation or attempted violation of  
16 section 479a(4) or (5) of the Michigan penal code, 1931 PA 328, MCL  
17 750.479a.

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

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

1 ~~liquor and a controlled substance, or~~ while visibly impaired, or  
2 with an unlawful bodily alcohol content.

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

4 (iii) Former section 625b.

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

8 (4) ~~The~~ **EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTIONS (5) AND**  
9 **(6), THE** secretary of state shall not issue a license under this  
10 act to a person whose license has been revoked under this act or  
11 revoked and denied under subsection (2) until all of the following  
12 occur, as applicable:

13 (a) The later of the following:

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

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

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

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

26 **(5) THE SECRETARY OF STATE SHALL ISSUE A RESTRICTED LICENSE TO**  
27 **A PERSON WHOSE LICENSE WAS REVOKED UNDER SUBSECTION (2)(C) OR (G)**

1 AFTER THE PERSON'S LICENSE WAS REVOKED FOR NOT LESS THAN 45 DAYS,  
2 OR FOR NOT LESS THAN 1 YEAR IF THE 110 CONGRESS FAILS TO ENACT  
3 AMENDMENTS TO 23 USC 164 ALLOWING IGNITION INTERLOCK DEVICES TO BE  
4 INSTALLED BY DRUNK DRIVING REPEAT OFFENDERS FOLLOWING 45 DAYS OF  
5 LICENSE REVOCATION. A RESTRICTED LICENSE MAY ONLY BE ISSUED IF THE  
6 PERSON EQUIPS HIS OR HER MOTOR VEHICLE WITH AN IGNITION INTERLOCK  
7 DEVICE THAT IS APPROVED, CERTIFIED, AND INSTALLED AS REQUIRED UNDER  
8 SECTIONS 625K AND 625/. THE RESTRICTED LICENSE SHALL ALLOW THE  
9 PERSON TO OPERATE ONLY A VEHICLE EQUIPPED WITH THE IGNITION  
10 INTERLOCK DEVICE. THE IGNITION INTERLOCK DEVICE SHALL REMAIN ON THE  
11 VEHICLE OR ANY REPLACEMENT VEHICLE UNTIL THE SECRETARY OF STATE  
12 ISSUES AN UNRESTRICTED LICENSE UNDER THIS SECTION.

13 (6) A RESTRICTED LICENSE ISSUED UNDER SUBSECTION (5) PERMITS  
14 THE PERSON TO WHOM IT IS ISSUED TO OPERATE ONLY THE VEHICLE  
15 EQUIPPED WITH AN IGNITION INTERLOCK DEVICE AND ONLY FOR THE PURPOSE  
16 OF DRIVING TO OR FROM 1 OR MORE OF THE FOLLOWING DESTINATIONS:

17 (A) THE PERSON'S PLACE OF WORK.

18 (B) THE PERSON'S SCHOOL.

19 (C) AN ALCOHOL TREATMENT PROGRAM.

20 (7) ~~(5)~~—The secretary of state may deny issuance of an  
21 operator's license as follows:

22 (a) Until the age of 17, to a person not licensed under this  
23 act who was convicted of or received a juvenile disposition for  
24 violating or attempting to violate section 411a(2) of the Michigan  
25 penal code, 1931 PA 328, MCL 750.411a, involving a school when he  
26 or she was less than 14 years of age. A person not issued a license  
27 under this subdivision is not eligible to begin graduated licensing

1 training until he or she attains 16 years of age.

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

12 (8) ~~(6)~~—The secretary of state shall deny issuance of a  
13 vehicle group designation to a person if the person has been  
14 disqualified by the United States secretary of transportation from  
15 operating a commercial motor vehicle.

16 (9) ~~(7)~~—Multiple convictions or civil infraction  
17 determinations resulting from the same incident shall be treated as  
18 a single violation for purposes of denial or revocation of a  
19 license under this section.

20 (10) ~~(8)~~—As used in this section, "felony in which a motor  
21 vehicle was used" means a felony during the commission of which the  
22 person operated a motor vehicle and while operating the vehicle  
23 presented real or potential harm to persons or property and 1 or  
24 more of the following circumstances existed:

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

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

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

1 (d) The vehicle was necessary for the commission of the  
2 felony.

3 Sec. 319. (1) The secretary of state shall immediately suspend  
4 a person's license as provided in this section upon receiving a  
5 record of the person's conviction for a crime described in this  
6 section, whether the conviction is under a law of this state, a  
7 local ordinance substantially corresponding to a law of this state,  
8 or a law of another state substantially corresponding to a law of  
9 this state.

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

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

14 (b) A violation of section 413 of the Michigan penal code,  
15 1931 PA 328, MCL 750.413.

16 (c) A violation of section 1 of former 1931 PA 214, MCL  
17 752.191, or section 626c.

18 (d) A felony in which a motor vehicle was used. As used in  
19 this section, "felony in which a motor vehicle was used" means a  
20 felony during the commission of which the person convicted operated  
21 a motor vehicle and while operating the vehicle presented real or  
22 potential harm to persons or property and 1 or more of the  
23 following circumstances existed:

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

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

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

27 (iv) The vehicle was necessary for the commission of the

1 felony.

2 (e) A violation of section 602a(2) or (3) of this act or  
3 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL  
4 750.479a.

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

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

9 (b) A violation of section 601b(2), section 601c(1), section  
10 626, or section 653a(3).

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

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

16 (4) The secretary of state shall suspend the person's license  
17 for 30 days for malicious destruction resulting from the operation  
18 of a vehicle under section 382(1)(a) of the Michigan penal code,  
19 1931 PA 328, MCL 750.382.

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

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

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

3 (6) For a violation of section 414 of the Michigan penal code,  
4 1931 PA 328, MCL 750.414, the secretary of state shall suspend the  
5 person's license as follows:

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

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

10 (7) For a violation of section 624a or 624b of this act or  
11 section 703(1) of the Michigan liquor control code of 1998, 1998 PA  
12 58, MCL 436.1703, the secretary of state shall suspend the person's  
13 license as follows:

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

18 (b) If the person has 2 or more prior convictions for an  
19 offense described in this subsection or section 33b(1) of former  
20 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue  
21 the person a restricted license after the first 60 days of  
22 suspension.

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

25 (a) For 180 days for a violation of section 625(1) or (8) if  
26 the person has no prior convictions within 7 years. The secretary  
27 of state may issue the person a restricted license, ~~during a~~

1 ~~specified portion of the suspension,~~ except that the secretary of  
2 state shall not issue a restricted license during the first 30 days  
3 of suspension.

4 (b) For 90 days for a violation of section 625(3) if the  
5 person has no prior convictions within 7 years. However, if the  
6 person is convicted of a violation of section 625(3), for operating  
7 a vehicle when, due to the consumption of a controlled substance or  
8 a combination of alcoholic liquor and a controlled substance, the  
9 person's ability to operate the vehicle was visibly impaired, the  
10 secretary of state shall suspend the person's license under this  
11 subdivision for 180 days. The secretary of state may issue the  
12 person a restricted license during all or a specified portion of  
13 the suspension.

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

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

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

25 (f) For 90 days for a violation of section 625m if the person  
26 has no prior convictions within 7 years. The secretary of state may  
27 issue the person a restricted license during all or a specified

1 portion of the suspension.

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

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

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

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

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

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

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

25 (14) The secretary of state may waive a restriction,  
26 suspension, or revocation of a person's license imposed under this  
27 act if the person submits proof that a court in another state

1 revoked, suspended, or restricted his or her license for a period  
2 equal to or greater than the period of a restriction, suspension,  
3 or revocation prescribed under this act for the violation and that  
4 the revocation, suspension, or restriction was served for the  
5 violation, or may grant a restricted license.

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

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

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

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

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

20 (i) The person's residence.

21 (ii) The person's work location.

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

24 (iv) The court probation department.

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

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

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

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

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

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

15           (i) Section 625, except a violation of section 625(2), or a  
16 violation of any prior enactment of section 625 in which the  
17 defendant operated a vehicle while under the influence of  
18 intoxicating or alcoholic liquor or a controlled substance, or a  
19 combination of intoxicating or alcoholic liquor and a controlled  
20 substance, or while visibly impaired, or with an unlawful bodily  
21 alcohol content.

22           (ii) Section 625m.

23           (iii) Former section 625b.

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

27           (20) Except for purposes of the suspensions described in

1 subsection (8)(c) and (d), only 1 violation or attempted violation  
2 of section 625(6), a local ordinance substantially corresponding to  
3 section 625(6), or a law of another state substantially  
4 corresponding to section 625(6) may be used as a prior conviction.

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

9 Sec. 322. (1) The secretary of state shall appoint a hearing  
10 officer to hear appeals from persons aggrieved by a final  
11 determination of the secretary of state denying an application for  
12 an operator's or chauffeur's license, suspending, restricting, or  
13 revoking an operator's or chauffeur's license, or other license  
14 action.

15 (2) The appeal shall be in writing and filed with the  
16 secretary of state within 14 days after the final determination.  
17 Upon notice of the appeal, the hearing officer shall require  
18 production of all documents filed in the matter, together with a  
19 transcript of any testimony taken.

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

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

23 (b) Issue process to compel attendance.

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

27 (d) Swear witnesses, administer oaths, and exemplify records

1 in any matter before the officer.

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

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

4 (5) After a hearing, the hearing officer may affirm, modify,  
5 or set aside a final determination of the secretary of state  
6 denying an application for an operator's or chauffeur's license,  
7 suspending, restricting, or revoking an operator's or chauffeur's  
8 license, or any other license action. The hearing officer shall  
9 include his or her findings of fact and conclusions of law in the  
10 record.

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

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

26 (b) Condition issuance of a restricted license upon  
27 verification by the secretary of state that an ignition interlock

1 device has been installed.

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

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

14 (9) If the hearing officer issues a restricted license  
15 requiring an ignition interlock device, the initial period for  
16 requiring the device shall be **NOT LESS THAN** 1 year. ~~After that~~  
17 ~~time, THE DEVICE SHALL NOT BE REMOVED UNTIL~~ the hearing officer ~~may~~  
18 ~~continue~~ **ORDERS** the ignition interlock device ~~requirement for any~~  
19 ~~length of time~~ **REMOVED**.

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 has 1 or more prior convictions, the court shall order the  
16 person to participate in and successfully complete 1 or more  
17 appropriate rehabilitative programs as part of the sentence,  
18 **INCLUDING, BUT NOT LIMITED TO, AN ALCOHOL TREATMENT PROGRAM OR A**  
19 **SELF-HELP PROGRAM FOR A PERIOD OF NOT LESS THAN 1 YEAR. THE**  
20 **TREATMENT PLAN SHALL BE DEvised FROM AN ASSESSMENT PERFORMED BY AN**  
21 **APPROPRIATELY LICENSED ALCOHOL ASSESSOR AND APPROVED BY THE COURT.**  
22 The person shall pay for the costs of the screening, assessment,  
23 and rehabilitative services. **THIS SUBSECTION DOES NOT REQUIRE THE**  
24 **PERSON TO SUCCESSFULLY COMPLETE AN ORDERED REHABILITATIVE PROGRAM**  
25 **BEFORE DRIVING A VEHICLE WITH AN IGNITION INTERLOCK DEVICE ON A**  
26 **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 takes effect October  
5 1, 2008.

6 Enacting section 2. This amendatory act does not take effect  
7 unless House Bill No. 4289 of the 94th Legislature is enacted into  
8 law.