

# HOUSE BILL No. 4920

June 13, 2007, Introduced by Reps. Corriveau, Acciavatti, David Law, Sheen, Casperson, Schuitmaker, Huizenga, Coulouris, Simpson, Vagnozzi, Virgil Smith, Bieda, Emmons, Meisner, Scott, Condino, Warren, Byrum, Angerer, Johnson, Bauer, Hammel, Sak, LaJoy, Melton, Meadows, Rocca and Stakoe and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled  
"Michigan vehicle code,"  
by amending sections 319, 322, 625, 625b, 625k, 625l, and 904 (MCL 257.319, 257.322, 257.625, 257.625b, 257.625k, 257.625l, and 257.904), sections 319 and 904 as amended by 2004 PA 362, section 322 as amended by 2001 PA 159, section 625 as amended by 2006 PA 564, section 625b as amended by 2004 PA 62, and sections 625k and 625l as amended by 2003 PA 61, 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, THE DEVICE INSTALLATION  
10 USES A POSITIVE-NEGATIVE-POSITIVE AIR PRESSURE TEST REQUIREMENT, A  
11 MIDTEST HUM TONE REQUIREMENT, OR ANY OTHER ANTICIRCUMVENTION METHOD  
12 OR TECHNOLOGY THAT FIRST BECOMES COMMERCIALY AVAILABLE AFTER  
13 DECEMBER 31, 2007 AND THAT IS APPROVED BY THE DEPARTMENT AS EQUALLY  
14 OR MORE EFFECTIVE.

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

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

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

26 (b) A violation of section 413 of the Michigan penal code,  
27 1931 PA 328, MCL 750.413.

1 (c) A violation of section 1 of former 1931 PA 214, MCL  
2 752.191, or section 626c.

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

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

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

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

12 (iv) The vehicle was necessary for the commission of the  
13 felony.

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

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

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

21 (b) A violation of section 601b(2), section 601c(1), section  
22 626, or section 653a(3).

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

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

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

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

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

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

15           (6) For a violation of section 414 of the Michigan penal code,  
16 1931 PA 328, MCL 750.414, the secretary of state shall suspend the  
17 person's license as follows:

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

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

22           (7) For a violation of section 624a or 624b of this act or  
23 section 703(1) of the Michigan liquor control code of 1998, 1998 PA  
24 58, MCL 436.1703, the secretary of state shall suspend the person's  
25 license as follows:

26           (a) If the person has 1 prior conviction for an offense  
27 described in this subsection or section 33b(1) of former 1933 (Ex

1 Sess) PA 8, for 90 days. The secretary of state may issue the  
2 person a restricted license after the first 30 days of suspension.

3 (b) If the person has 2 or more prior convictions for an  
4 offense described in this subsection or section 33b(1) of former  
5 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue  
6 the person a restricted license after the first 60 days of  
7 suspension.

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

10 (a) For 180 days for a violation of section ~~625(1)~~ **625(1) (A)**  
11 **OR (B)** or (8) if the person has no prior convictions within 7  
12 years. The secretary of state may issue the person a restricted  
13 license during a specified portion of the suspension, except that  
14 the secretary of state shall not issue a restricted license during  
15 the first 30 days of suspension.

16 (b) For 90 days for a violation of section 625(3) if the  
17 person has no prior convictions within 7 years. However, if the  
18 person is convicted of a violation of section 625(3), for operating  
19 a vehicle when, due to the consumption of a controlled substance or  
20 a combination of alcoholic liquor and a controlled substance, the  
21 person's ability to operate the vehicle was visibly impaired, the  
22 secretary of state shall suspend the person's license under this  
23 subdivision for 180 days. The secretary of state may issue the  
24 person a restricted license during all or a specified portion of  
25 the suspension.

26 (c) For 30 days for a violation of section 625(6) if the  
27 person has no prior convictions within 7 years. The secretary of

1 state may issue the person a restricted license during all or a  
2 specified portion of the suspension.

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

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

10 (f) For 90 days for a violation of section 625m if the person  
11 has no prior convictions within 7 years. The secretary of state may  
12 issue the person a restricted license during all or a specified  
13 portion of the suspension.

14 (G) FOR THE LONGER OF 1 YEAR OR UNTIL THE PERSON SATISFIES THE  
15 CONDITION IN SUBDIVISION (H) FOR A VIOLATION OF SECTION 625(1)(C)  
16 IF THE PERSON HAS NO PRIOR CONVICTIONS WITHIN 7 YEARS. THE  
17 SECRETARY OF STATE SHALL ISSUE THE PERSON A RESTRICTED LICENSE,  
18 EXCEPT THAT THE SECRETARY OF STATE SHALL NOT ISSUE A RESTRICTED  
19 LICENSE DURING THE FIRST 45 DAYS OF SUSPENSION.

20 (H) THE DEPARTMENT SHALL ORDER A PERSON CONVICTED OF VIOLATING  
21 SECTION 625(1)(C) NOT TO OPERATE A MOTOR VEHICLE UNDER A RESTRICTED  
22 LICENSE ISSUED UNDER SUBDIVISION (G) UNLESS THE VEHICLE IS EQUIPPED  
23 WITH AN IGNITION INTERLOCK DEVICE APPROVED, CERTIFIED, AND  
24 INSTALLED AS REQUIRED UNDER SECTIONS 625K AND 625/. THE IGNITION  
25 INTERLOCK DEVICE MAY BE REMOVED AFTER THE MINIMUM PERIOD FOR THE  
26 RESTRICTED LICENSE EXPIRES IF THE PERSON PROVIDES THE DEPARTMENT  
27 WITH VERIFICATION THAT THE PERSON HAS OPERATED THE VEHICLE FOR THE

1 MOST RECENT 6 CONTINUOUS MONTHS WITH NO INSTANCES OF REACHING OR  
2 EXCEEDING A BLOOD ALCOHOL LEVEL OF 0.025 GRAMS PER 210 LITERS OF  
3 BREATH.

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

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

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

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

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

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

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

27 (14) The secretary of state may waive a restriction,

1 suspension, or revocation of a person's license imposed under this  
2 act if the person submits proof that a court in another state  
3 revoked, suspended, or restricted his or her license for a period  
4 equal to or greater than the period of a restriction, suspension,  
5 or revocation prescribed under this act for the violation and that  
6 the revocation, suspension, or restriction was served for the  
7 violation, or may grant a restricted license.

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

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

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

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

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

22 (i) The person's residence.

23 (ii) The person's work location.

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

26 (iv) The court probation department.

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



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

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

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

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

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

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

24          (ii) Section 625m.

25          (iii) Former section 625b.

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

1 crimes.

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

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

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

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

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

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

25 (b) Issue process to compel attendance.

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

1 the circuit court.

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

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

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

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

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

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

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

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

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

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

21 **(10) A PERSON WHO IS ISSUED A RESTRICTED LICENSE REQUIRING AN**  
22 **IGNITION INTERLOCK DEVICE SHALL NOT REMOVE THE DEVICE OR CAUSE THE**  
23 **DEVICE TO BE REMOVED UNLESS THE DEPARTMENT HAS ISSUED AN ORDER**  
24 **AUTHORIZING ITS REMOVAL.**

25 Sec. 625. (1) A person, whether licensed or not, shall not  
26 operate a vehicle upon a highway or other place open to the general  
27 public or generally accessible to motor vehicles, including an area

1 designated for the parking of vehicles, within this state if the  
2 person is operating while intoxicated. As used in this section,  
3 "operating while intoxicated" means ~~either~~ **ANY** of the following:  
4 ~~applies.~~

5 (a) The person is under the influence of alcoholic liquor, a  
6 controlled substance, or a combination of alcoholic liquor and a  
7 controlled substance.

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

13 **(C) THE PERSON HAS AN ALCOHOL CONTENT OF 0.15 GRAMS OR MORE**  
14 **PER 100 MILLILITERS OF BLOOD, PER 210 LITERS OF BREATH, OR PER 67**  
15 **MILLILITERS OF URINE.**

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

22 (a) The person is under the influence of alcoholic liquor, a  
23 controlled substance, or a combination of alcoholic liquor and a  
24 controlled substance.

25 (b) The person has an alcohol content of 0.08 grams or more  
26 per 100 milliliters of blood, per 210 liters of breath, or per 67  
27 milliliters of urine or, beginning October 1, 2013, the person has

1 an alcohol content of 0.10 grams or more per 100 milliliters of  
2 blood, per 210 liters of breath, or per 67 milliliters of urine.

3 (c) The person's ability to operate the motor vehicle is  
4 visibly impaired due to the consumption of alcoholic liquor, a  
5 controlled substance, or a combination of alcoholic liquor and a  
6 controlled substance.

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

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

20 (a) Except as provided in subdivision (b), the person is  
21 guilty of a felony punishable by imprisonment for not more than 15  
22 years or a fine of not less than \$2,500.00 or more than \$10,000.00,  
23 or both. The judgment of sentence may impose the sanction permitted  
24 under section 625n. If the vehicle is not ordered forfeited under  
25 section 625n, the court shall order vehicle immobilization under  
26 section 904d in the judgment of sentence.

27 (b) If, at the time of the violation, the person is operating

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

12 (5) A person, whether licensed or not, who operates a motor  
13 vehicle in violation of subsection (1), (3), or (8) and by the  
14 operation of that motor vehicle causes a serious impairment of a  
15 body function of another person is guilty of a felony punishable by  
16 imprisonment for not more than 5 years or a fine of not less than  
17 \$1,000.00 or more than \$5,000.00, or both. The judgment of sentence  
18 may impose the sanction permitted under section 625n. If the  
19 vehicle is not ordered forfeited under section 625n, the court  
20 shall order vehicle immobilization under section 904d in the  
21 judgment of sentence.

22 (6) A person who is less than 21 years of age, whether  
23 licensed or not, shall not operate a vehicle upon a highway or  
24 other place open to the general public or generally accessible to  
25 motor vehicles, including an area designated for the parking of  
26 vehicles, within this state if the person has any bodily alcohol  
27 content. As used in this subsection, "any bodily alcohol content"

1 means either of the following:

2 (a) An alcohol content of 0.02 grams or more but less than  
3 0.08 grams per 100 milliliters of blood, per 210 liters of breath,  
4 or per 67 milliliters of urine, or, beginning October 1, 2013, the  
5 person has an alcohol content of 0.02 grams or more but less than  
6 0.10 grams per 100 milliliters of blood, per 210 liters of breath,  
7 or per 67 milliliters of urine.

8 (b) Any presence of alcohol within a person's body resulting  
9 from the consumption of alcoholic liquor, other than consumption of  
10 alcoholic liquor as a part of a generally recognized religious  
11 service or ceremony.

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

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

19 (i) Except as provided in subparagraph (ii), a person who  
20 violates this subdivision is guilty of a misdemeanor and shall be  
21 sentenced to pay a fine of not less than \$200.00 or more than  
22 \$1,000.00 and to 1 or more of the following:

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

26 (B) Community service for not less than 30 days or more than  
27 90 days.



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

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

9           (B) Probation with imprisonment in the county jail for not  
10 less than 30 days or more than 1 year and community service for not  
11 less than 60 days or more than 180 days. Not less than 48 hours of  
12 this imprisonment shall be served consecutively. This term of  
13 imprisonment shall not be suspended.

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

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

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

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

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

24           (ii) If the violation occurs within 7 years of a prior  
25 conviction or after 2 or more prior convictions, regardless of the  
26 number of years that have elapsed since any prior conviction, a  
27 person who violates this subdivision shall be sentenced to pay a

1 fine of not less than \$200.00 or more than \$1,000.00 and to 1 or  
2 more of the following:

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

6 (B) Community service for not less than 30 days or more than  
7 90 days.

8 (c) In the judgment of sentence under subdivision (a) (i) or  
9 (b) (i), the court may, unless the vehicle is ordered forfeited under  
10 section 625n, order vehicle immobilization as provided in section  
11 904d. In the judgment of sentence under subdivision (a) (ii) or  
12 (b) (ii), the court shall, unless the vehicle is ordered forfeited  
13 under section 625n, order vehicle immobilization as provided in  
14 section 904d.

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

22 (8) A person, whether licensed or not, shall not operate a  
23 vehicle upon a highway or other place open to the general public or  
24 generally accessible to motor vehicles, including an area  
25 designated for the parking of vehicles, within this state if the  
26 person has in his or her body any amount of a controlled substance  
27 listed in schedule 1 under section 7212 of the public health code,

1 1978 PA 368, MCL 333.7212, or a rule promulgated under that  
2 section, or of a controlled substance described in section  
3 7214(a)(iv) of the public health code, 1978 PA 368, MCL 333.7214.

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

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

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

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

11 (iii) A fine of not less than \$100.00 or more than \$500.00.

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

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

18 (ii) Community service for not less than 30 days or more than  
19 90 days.

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

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

27 (ii) Probation with imprisonment in the county jail for not

1 less than 30 days or more than 1 year and community service for not  
2 less than 60 days or more than 180 days. Not less than 48 hours of  
3 the imprisonment imposed under this subparagraph shall be served  
4 consecutively.

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

7 (e) In the judgment of sentence under subdivision (a), the  
8 court may order vehicle immobilization as provided in section 904d.  
9 In the judgment of sentence under subdivision (b) or (c), the court  
10 shall, unless the vehicle is ordered forfeited under section 625n,  
11 order vehicle immobilization as provided in section 904d.

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

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

16 (a) Except as provided in subdivisions (b) and (c), a  
17 misdemeanor punishable by imprisonment for not more than 93 days or  
18 a fine of not less than \$100.00 or more than \$500.00, or both.

19 (b) If the person operating the motor vehicle violated  
20 subsection (4), a felony punishable by imprisonment for not more  
21 than 5 years or a fine of not less than \$1,500.00 or more than  
22 \$10,000.00, or both.

23 (c) If the person operating the motor vehicle violated  
24 subsection (5), a felony punishable by imprisonment for not more  
25 than 2 years or a fine of not less than \$1,000.00 or more than  
26 \$5,000.00, or both.

27 (11) If a person is convicted of violating subsection (3), all

1 of the following apply:

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

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

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

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

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

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

15 (ii) Community service for not less than 30 days or more than  
16 90 days.

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

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

24 (ii) Probation with imprisonment in the county jail for not  
25 less than 30 days or more than 1 year and community service for not  
26 less than 60 days or more than 180 days. Not less than 48 hours of  
27 the imprisonment imposed under this subparagraph shall be served

1 consecutively.

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

4 (e) In the judgment of sentence under subdivision (a), the  
5 court may order vehicle immobilization as provided in section 904d.  
6 In the judgment of sentence under subdivision (b) or (c), the court  
7 shall, unless the vehicle is ordered forfeited under section 625n,  
8 order vehicle immobilization as provided in section 904d.

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

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

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

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

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

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

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

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

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

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

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

6           (15) If the prosecuting attorney intends to seek an enhanced  
7 sentence under this section or a sanction under section 625n based  
8 upon the defendant having 1 or more prior convictions, the  
9 prosecuting attorney shall include on the complaint and  
10 information, or an amended complaint and information, filed in  
11 district court, circuit court, municipal court, or family division  
12 of circuit court, a statement listing the defendant's prior  
13 convictions.

14           (16) If a person is charged with a violation of subsection  
15 (1), (3), (4), (5), (7), or (8) or section 625m, the court shall  
16 not permit the defendant to enter a plea of guilty or nolo  
17 contendere to a charge of violating subsection (6) in exchange for  
18 dismissal of the original charge. This subsection does not prohibit  
19 the court from dismissing the charge upon the prosecuting  
20 attorney's motion.

21           (17) A prior conviction shall be established at sentencing by  
22 1 or more of the following:

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

24           (b) An abstract of conviction.

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

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

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

2 (f) Information contained in a presentence report.

3 (g) An admission by the defendant.

4 (18) Except as otherwise provided in subsection (20), if a  
5 person is charged with operating a vehicle while under the  
6 influence of a controlled substance or a combination of alcoholic  
7 liquor and a controlled substance in violation of subsection (1) or  
8 a local ordinance substantially corresponding to subsection (1),  
9 the court shall require the jury to return a special verdict in the  
10 form of a written finding or, if the court convicts the person  
11 without a jury or accepts a plea of guilty or nolo contendere, the  
12 court shall make a finding as to whether the person was under the  
13 influence of a controlled substance or a combination of alcoholic  
14 liquor and a controlled substance at the time of the violation.

15 (19) Except as otherwise provided in subsection (20), if a  
16 person is charged with operating a vehicle while his or her ability  
17 to operate the vehicle was visibly impaired due to his or her  
18 consumption of a controlled substance or a combination of alcoholic  
19 liquor and a controlled substance in violation of subsection (3) or  
20 a local ordinance substantially corresponding to subsection (3),  
21 the court shall require the jury to return a special verdict in the  
22 form of a written finding or, if the court convicts the person  
23 without a jury or accepts a plea of guilty or nolo contendere, the  
24 court shall make a finding as to whether, due to the consumption of  
25 a controlled substance or a combination of alcoholic liquor and a  
26 controlled substance, the person's ability to operate a motor  
27 vehicle was visibly impaired at the time of the violation.



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

4           (a) Whether the defendant was under the influence of a  
5 controlled substance or a combination of alcoholic liquor and a  
6 controlled substance at the time of the violation.

7           (b) Whether the defendant was visibly impaired due to his or  
8 her consumption of a controlled substance or a combination of  
9 alcoholic liquor and a controlled substance at the time of the  
10 violation.

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

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

17           (b) On a form or forms prescribed by the state court  
18 administrator, forward to the department of state police a record  
19 that specifies the penalties imposed by the court, including any  
20 term of imprisonment, and any sanction imposed under section 625n  
21 or 904d.

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

26           (23) In a prosecution for a violation of subsection (6), the  
27 defendant bears the burden of proving that the consumption of

1 alcoholic liquor was a part of a generally recognized religious  
2 service or ceremony by a preponderance of the evidence.

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

9 (25) Subject to subsection (27), as used in this section,  
10 "prior conviction" means a conviction for any of the following,  
11 whether under a law of this state, a local ordinance substantially  
12 corresponding to a law of this state, or a law of another state  
13 substantially corresponding to a law of this state:

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

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

23 (ii) Section 625m.

24 (iii) Former section 625b.

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

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

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

10          Sec. 625b. (1) A person arrested for a misdemeanor violation  
11 of section 625(1), (3), (6), (7), or (8) or section 625m or a local  
12 ordinance substantially corresponding to section 625(1), (3), (6),  
13 or (8) or section 625m shall be arraigned on the citation,  
14 complaint, or warrant not more than 14 days after the arrest for  
15 the violation or, if an arrest warrant is issued or reissued, not  
16 more than 14 days after the issued or reissued arrest warrant is  
17 served, whichever is later. The court shall not dismiss a case or  
18 impose any other sanction for a failure to comply with this time  
19 limit. The time limit does not apply to a violation of section  
20 625(1), (3), (7), or (8) or section 625m punishable as a felony or  
21 a violation of section 625(1), (3), (6), (7), or (8) or section  
22 625m joined with a felony charge.

23          (2) The court shall schedule a pretrial conference between the  
24 prosecuting attorney, the defendant, and the defendant's attorney  
25 in each case in which the defendant is charged with a misdemeanor  
26 violation of section 625(1), (3), (6), (7), or (8) or section 625m  
27 or a local ordinance substantially corresponding to section 625(1),

1 (3), (6), or (8) or section 625m. The pretrial conference shall be  
2 held not more than 35 days after the person's arrest for the  
3 violation or, if an arrest warrant is issued or reissued, not more  
4 than 35 days after the issued or reissued arrest warrant is served,  
5 whichever is later. If the court has only 1 judge who sits in more  
6 than 1 location in that district, the pretrial conference shall be  
7 held not more than 42 days after the person's arrest for the  
8 violation or, if an arrest warrant is issued or reissued, not more  
9 than 42 days after the date the issued or reissued arrest warrant  
10 is served, whichever is later. The court shall not dismiss a case  
11 or impose any other sanction for a failure to comply with the  
12 applicable time limit. The 35- and 42-day time limits do not apply  
13 to a violation of section 625(1), (3), (7), or (8) or section 625m  
14 punishable as a felony or a violation of section 625(1), (3), (6),  
15 (7), or (8) or section 625m joined with a felony charge. The court  
16 shall order the defendant to attend the pretrial conference and may  
17 accept a plea by the defendant at the conclusion of the pretrial  
18 conference. The court may adjourn the pretrial conference upon the  
19 motion of a party for good cause shown. Not more than 1 adjournment  
20 shall be granted to a party, and the length of an adjournment shall  
21 not exceed 14 days.

22 (3) Except for delay attributable to the unavailability of the  
23 defendant, a witness, or material evidence or due to an  
24 interlocutory appeal or exceptional circumstances, but not a delay  
25 caused by docket congestion, the court shall finally adjudicate, by  
26 a plea of guilty or nolo contendere, entry of a verdict, or other  
27 final disposition, a case in which the defendant is charged with a

1 misdemeanor violation of section 625(1), (3), (6), (7), or (8) or  
2 section 625m or a local ordinance substantially corresponding to  
3 section 625(1), (3), (6), or (8) or section 625m, within 77 days  
4 after the person is arrested for the violation or, if an arrest  
5 warrant is issued or reissued, not more than 77 days after the date  
6 the issued or reissued arrest warrant is served, whichever is  
7 later. The court shall not dismiss a case or impose any other  
8 sanction for a failure to comply with this time limit. The 77-day  
9 time limit does not apply to a violation of section 625(1), (3),  
10 (7), or (8) or section 625m punishable as a felony or a violation  
11 of section 625(1), (3), (6), (7), or (8) or section 625m joined  
12 with a felony charge.

13 (4) Before accepting a plea of guilty or nolo contendere under  
14 section 625 or a local ordinance substantially corresponding to  
15 section 625(1), (2), (3), (6), or (8), the court shall advise the  
16 accused of the maximum possible term of imprisonment and the  
17 maximum possible fine that may be imposed for the violation and  
18 shall advise the defendant that the maximum possible license  
19 sanctions that may be imposed will be based upon the master driving  
20 record maintained by the secretary of state under section 204a.

21 (5) Before imposing sentence for a violation of section  
22 625(1), (3), (4), (5), (6), (7), or (8) or a local ordinance  
23 substantially corresponding to section 625(1), (3), (6), or (8),  
24 the court shall order the person to undergo screening and  
25 assessment by a person or agency designated by the office of  
26 substance abuse services to determine whether the person is likely  
27 to benefit from rehabilitative services, including alcohol or drug

1 education and alcohol or drug treatment programs. Except as  
 2 otherwise provided in this subsection, the court may order the  
 3 person to participate in and successfully complete 1 or more  
 4 appropriate rehabilitative programs as part of the sentence. If the  
 5 person **WAS CONVICTED UNDER SECTION 625(1)(C) OR** has 1 or more prior  
 6 convictions, the court shall order the person to participate in and  
 7 successfully complete 1 or more appropriate rehabilitative programs  
 8 as part of the sentence. The person shall pay for the costs of the  
 9 screening, assessment, and rehabilitative services. **THIS SUBSECTION**  
 10 **DOES NOT REQUIRE THE PERSON TO SUCCESSFULLY COMPLETE AN ORDERED**  
 11 **REHABILITATIVE PROGRAM BEFORE DRIVING A VEHICLE WITH AN IGNITION**  
 12 **INTERLOCK DEVICE ON A RESTRICTED LICENSE.**

13 (6) If the judgment and sentence are appealed to circuit  
 14 court, the court may ex parte order the secretary of state to stay  
 15 the suspension, revocation, or restricted license issued by the  
 16 secretary of state pending the outcome of the appeal.

17 Sec. 625k. (1) The department shall approve an ignition  
 18 interlock device certified by a department-approved laboratory as  
 19 complying with the ~~national highway traffic safety administration's~~  
 20 model specifications for breath alcohol ignition interlock devices  
 21 (BAIID), ~~57 F.R. p. 11772, April 7, 1992~~ **57 FR 11772 - 11787 (APRIL**  
 22 **7, 1992)**. Subject to subsection (5), the department shall ~~publish~~  
 23 **PROVIDE** a list of all manufacturers of approved certified devices  
 24 **TO EACH PERSON WHO IS ISSUED A RESTRICTIVE LICENSE THAT PERMITS THE**  
 25 **PERSON TO DRIVE A VEHICLE ONLY IF IT IS EQUIPPED WITH AN IGNITION**  
 26 **INTERLOCK DEVICE. THE DEPARTMENT SHALL ROTATE THE ORDER OF THE**  
 27 **PROVIDERS WITH EACH DISTRIBUTION.**

1           (2) The secretary of state shall promulgate rules to implement  
2 this section in compliance with the administrative procedures act  
3 of 1969, 1969 PA 306, MCL 24.201 to 24.328.

4           (3) The manufacturer of an ignition interlock device shall  
5 bear the cost of that device's certification.

6           (4) A laboratory that certifies an ignition interlock device  
7 as provided in this section shall immediately notify the department  
8 of that certification.

9           (5) The department shall not include the manufacturer of a  
10 certified ignition interlock device on the list of manufacturers  
11 published under subsection (1) unless the manufacturer complies  
12 with all of the following:

13           (a) The manufacturer has filed copies of all of the following  
14 with the department:

15           (i) A bond executed as provided in section 625o or a letter of  
16 credit.

17           (ii) Evidence of insurance as described in section 625l.

18           (iii) An affidavit that the ignition interlock device ~~is~~ **MEETS**  
19 all of the following **CONDITIONS**:

20 ~~—— (A) An alcohol concentration measuring device that prevents a~~  
21 ~~motor vehicle from being started at any time without first~~  
22 ~~determining through a deep lung sample the operator's breath~~  
23 ~~alcohol level.~~

24 ~~—— (B) Calibrated to render the motor vehicle incapable of being~~  
25 ~~started if the device detects an alcohol content of 0.025 grams or~~  
26 ~~more per 210 liters of breath of the person who offers a breath~~  
27 ~~sample.~~

1 (A) MEETS THE DEFINITION IN SECTION 20B.

2 (B) ~~(C) Set~~ IS SET to periodically take samples while the  
 3 vehicle is in operation and to do ~~1 or~~ both of the following +  
 4 ~~—— (I) Emit a warning signal~~ when the device detects an alcohol  
 5 content of 0.025 grams or more per 210 liters of breath in the  
 6 person who offers a breath sample ~~—OR IF A BREATH SAMPLE IS NOT~~  
 7 GIVEN WITHIN THE ALLOTTED TIME:

8 (I) EMIT A VISIBLE OR AUDIBLE WARNING SIGNAL.

9 (II) ~~If it detects an alcohol content of 0.04 grams or more~~  
 10 ~~per 210 liters of breath of the person who offers the breath~~  
 11 ~~sample, render~~ RENDER the vehicle inoperable as soon as the vehicle  
 12 is no longer being operated.

13 (b) ~~The manufacturer of ignition interlock devices provides~~  
 14 PROVIDES a list of installers who are authorized to install and  
 15 service its ignition interlock devices to the secretary of state.

16 (c) Agrees to have service locations within 50 miles of any  
 17 location within this state.

18 (d) Agrees to provide an ignition interlock device without  
 19 cost to a person whose gross income for the immediately preceding  
 20 tax year based on his or her state income tax return was less than  
 21 150% of the official poverty line for that same tax year  
 22 established in the poverty guidelines issued by the secretary of  
 23 health and human services under ~~authority of section 673(2) of the~~  
 24 ~~community services block grant act, subtitle B of title VI of the~~  
 25 ~~omnibus budget reconciliation act of 1981, Public Law 97-35, 42~~  
 26 ~~U.S.C. 9902-42~~ USC 9902. A person in whose vehicle an ignition  
 27 interlock device is installed without cost under this subdivision



1 shall pay a maintenance fee to the installer of not more than ~~\$1.00~~  
2 \$2.00 per day.

3 (E) AGREES TO COMPLY WITH THE REPORTING REQUIREMENTS OF THE  
4 SECRETARY OF STATE.

5 (F) ~~(e)~~Agrees to periodically monitor installed ignition  
6 interlock devices and if monitoring indicates that the device has  
7 been circumvented, to communicate that fact to the secretary of  
8 state or to the court, **OR BOTH**, as appropriate.

9 (6) A manufacturer that has made a filing under subsection (5)  
10 shall immediately notify the department if the device no longer  
11 meets the requirements of subsection (5).

12 (7) A person who knowingly provides false information to the  
13 department under subsection (4) or (5) is guilty of a felony  
14 punishable by imprisonment for not less than 5 years or more than  
15 10 years or a fine of not less than \$5,000.00 or more than  
16 \$10,000.00, or both, together with costs of the prosecution.

17 (8) A person who negligently provides false information to the  
18 department under subsection (4) or (5) is guilty of a misdemeanor  
19 punishable by imprisonment for not more than 1 year or a fine of  
20 not more than \$1,000.00, or both, together with costs of the  
21 prosecution.

22 (9) A person who knowingly fails to comply with subsection (6)  
23 is guilty of a felony punishable by imprisonment for not less than  
24 5 years or more than 10 years or a fine of not less than \$5,000.00  
25 or more than \$10,000.00, or both, together with costs of the  
26 prosecution.

27 (10) A person who negligently fails to comply with subsection

1 (6) is guilty of a misdemeanor punishable by imprisonment for not  
2 more than 1 year or a fine of not more than \$1,000.00, or both,  
3 together with costs of the prosecution.

4 (11) BEGINNING DECEMBER 31, 2009, AND BY DECEMBER 31 EVERY  
5 FIFTH YEAR AFTER THAT, THE SECRETARY OF STATE SHALL CONVENE A PANEL  
6 TO REVIEW CURRENT TECHNOLOGY AND INVESTIGATE PROGRAM IMPROVEMENTS.

7 Sec. 625/. (1) The manufacturer of an ignition interlock device  
8 shall design a warning label, and the person who has an ignition  
9 interlock device shall promptly affix that label to each ignition  
10 interlock device upon installation. The label shall contain a  
11 warning that any person tampering **WITH**, circumventing, or otherwise  
12 misusing the device is guilty of a misdemeanor punishable as  
13 provided by law.

14 (2) A person who has an ignition interlock device installed  
15 and whose driving privilege is restricted shall not request or  
16 solicit any other person to blow into an ignition interlock device  
17 or to start a vehicle equipped with the device for the purpose of  
18 providing the person whose driving privilege is restricted with an  
19 operable vehicle.

20 (3) A person shall not blow into an ignition interlock device  
21 or start a motor vehicle equipped with the device for the purpose  
22 of providing an operable vehicle to a person who has an interlock  
23 device installed and whose driving privilege is restricted.

24 (4) A person shall not tamper with or circumvent the operation  
25 of an ignition interlock device.

26 (5) A person who violates subsection (2), (3), or (4) is  
27 guilty of a misdemeanor punishable by imprisonment for not more

1 than 6 months or a fine of not more than \$5,000.00, or both.

2 ~~—— (6) As used in this act, "ignition interlock device" or~~  
3 ~~"device" means an alcohol concentration measuring device that~~  
4 ~~prevents a motor vehicle from being started at any time without~~  
5 ~~first determining through a deep lung sample the operator's breath~~  
6 ~~alcohol level. The system shall be calibrated so that the motor~~  
7 ~~vehicle may not be started if the breath alcohol level of the~~  
8 ~~operator, as measured by the test, reaches a level of 0.025 grams~~  
9 ~~per 210 liters of breath.~~

10 (6) ~~(7)~~ The state, or the department, its officers, employees,  
11 or agents, or a court, its officers, employees, or agents are not  
12 liable in any claim or action that may arise, directly or  
13 indirectly, out of any act or omission by a manufacturer,  
14 installer, or servicing agent of an ignition interlock device that  
15 results in damage to persons or property.

16 (7) ~~(8)~~ A person shall not sell, lease, install, or monitor in  
17 a vehicle in this state an ignition interlock device unless the  
18 ignition interlock device manufacturer and provider carries  
19 liability insurance covering product liability, including, but not  
20 limited to, insurance to indemnify the department and any person  
21 injured as a result of a design defect or the calibration or  
22 removal of the ignition interlock device or a misrepresentation  
23 about the ignition interlock device. The insurance required by this  
24 subsection shall be in an amount of not less than \$1,000,000.00 per  
25 incident.

26 (8) ~~(9)~~ The provider of insurance described in this section  
27 may cancel the insurance upon 30 days' written notice to the

1 department and is not liable for a claim arising from an event that  
2 occurs after the effective date of a cancellation made in  
3 compliance with this section.

4 (9) ~~(10)~~—An ignition interlock device shall be serviced  
5 according to manufacturer's standards. Service shall include, but  
6 not be limited to, physical inspection of the device and vehicle  
7 for tampering, calibration of the device, and monitoring of the  
8 data contained within the device's memory. Only authorized  
9 employees of the manufacturer or the department, or other persons  
10 approved by the court, may observe the installation of a device.  
11 Reasonable security measures ~~must~~ **SHALL** be taken to prevent the  
12 customer from observing the installation of a device or obtaining  
13 access to installation materials.

14 Sec. 904. (1) A person whose operator's or chauffeur's license  
15 or registration certificate has been suspended or revoked and who  
16 has been notified as provided in section 212 of that suspension or  
17 revocation, whose application for license has been denied, or who  
18 has never applied for a license, shall not operate a motor vehicle  
19 upon a highway or other place open to the general public or  
20 generally accessible to motor vehicles, including an area  
21 designated for the parking of motor vehicles, within this state.

22 (2) A person shall not knowingly permit a motor vehicle owned  
23 by the person to be operated upon a highway or other place open to  
24 the general public or generally accessible to motor vehicles,  
25 including an area designated for the parking of vehicles, within  
26 this state by a person whose license or registration certificate is  
27 suspended or revoked, whose application for license has been

1 denied, or who has never applied for a license, except as permitted  
2 under this act.

3 (3) Except as otherwise provided in this section, a person who  
4 violates subsection (1) or (2) is guilty of a misdemeanor  
5 punishable as follows:

6 (a) For a first violation, by imprisonment for not more than  
7 93 days or a fine of not more than \$500.00, or both. Unless the  
8 vehicle was stolen or used with the permission of a person who did  
9 not knowingly permit an unlicensed driver to operate the vehicle,  
10 the registration plates of the vehicle shall be canceled by the  
11 secretary of state upon notification by a peace officer.

12 (b) For a violation that occurs after a prior conviction, by  
13 imprisonment for not more than 1 year or a fine of not more than  
14 \$1,000.00, or both. Unless the vehicle was stolen, the registration  
15 plates of the vehicle shall be canceled by the secretary of state  
16 upon notification by a peace officer.

17 (4) A person who operates a motor vehicle in violation of  
18 subsection (1) and who, by operation of that motor vehicle, causes  
19 the death of another person is guilty of a felony punishable by  
20 imprisonment for not more than 15 years or a fine of not less than  
21 \$2,500.00 or more than \$10,000.00, or both. This subsection does  
22 not apply to a person whose operator's or chauffeur's license was  
23 suspended because that person failed to answer a citation or comply  
24 with an order or judgment pursuant to section 321a.

25 (5) A person who operates a motor vehicle in violation of  
26 subsection (1) and who, by operation of that motor vehicle, causes  
27 the serious impairment of a body function of another person is

1 guilty of a felony punishable by imprisonment for not more than 5  
2 years or a fine of not less than \$1,000.00 or more than \$5,000.00,  
3 or both. This subsection does not apply to a person whose  
4 operator's or chauffeur's license was suspended because that person  
5 failed to answer a citation or comply with an order or judgment  
6 pursuant to section 321a. ~~As used in this subsection and subsection~~  
7 ~~(7), "serious impairment of a body function" includes, but is not~~  
8 ~~limited to, 1 or more of the following:~~

9 ~~—— (a) Loss of a limb or loss of use of a limb.~~

10 ~~—— (b) Loss of a foot, hand, finger, or thumb or loss of use of a~~  
11 ~~foot, hand, finger, or thumb.~~

12 ~~—— (c) Loss of an eye or ear or loss of use of an eye or ear.~~

13 ~~—— (d) Loss or substantial impairment of a bodily function.~~

14 ~~—— (e) Serious visible disfigurement.~~

15 ~~—— (f) A comatose state that lasts for more than 3 days.~~

16 ~~—— (g) Measurable brain or mental impairment.~~

17 ~~—— (h) A skull fracture or other serious bone fracture.~~

18 ~~—— (i) Subdural hemorrhage or subdural hematoma.~~

19 (6) In addition to being subject to any other penalty provided  
20 for in this act, if a person is convicted under subsection (4) or  
21 (5), the court may impose the sanction permitted under section  
22 625n. If the vehicle is not ordered forfeited under section 625n,  
23 the court shall order vehicle immobilization under section 904d in  
24 the judgment of sentence.

25 (7) A person shall not knowingly permit a motor vehicle owned  
26 by the person to be operated upon a highway or other place open to  
27 the general public or generally accessible to motor vehicles,

1 including an area designated for the parking of vehicles, within  
2 this state, by a person whose license or registration certificate  
3 is suspended or revoked, whose application for license has been  
4 denied, or who has never been licensed except as permitted by this  
5 act. If a person permitted to operate a motor vehicle in violation  
6 of this subsection causes the serious impairment of a body function  
7 of another person by operation of that motor vehicle, the person  
8 knowingly permitting the operation of that motor vehicle is guilty  
9 of a felony punishable by imprisonment for not more than 2 years,  
10 or a fine of not less than \$1,000.00 or more than \$5,000.00, or  
11 both. If a person permitted to operate a motor vehicle in violation  
12 of this subsection causes the death of another person by operation  
13 of that motor vehicle, the person knowingly permitting the  
14 operation of that motor vehicle is guilty of a felony punishable by  
15 imprisonment for not more than 5 years, or a fine of not less than  
16 \$1,000.00 or more than \$5,000.00, or both.

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

24 (9) A prior conviction under this section shall be established  
25 at or before sentencing by 1 or more of the following:

26 (a) An abstract of conviction.

27 (b) A copy of the defendant's driving record.

1 (c) An admission by the defendant.

2 (10) Upon receiving a record of a person's conviction or civil  
3 infraction determination for the unlawful operation of a motor  
4 vehicle or a moving violation reportable under section 732 while  
5 the person's operator's or chauffeur's license is suspended or  
6 revoked, the secretary of state immediately shall impose an  
7 additional like period of suspension or revocation. This subsection  
8 applies only if the violation occurs during a suspension of  
9 definite length or if the violation occurs before the person is  
10 approved for a license following a revocation.

11 (11) Upon receiving a record of a person's conviction or civil  
12 infraction determination for the unlawful operation of a motor  
13 vehicle or a moving violation reportable under section 732 while  
14 the person's operator's or chauffeur's license is indefinitely  
15 suspended or whose application for a license has been denied, the  
16 secretary of state immediately shall impose a 30-day period of  
17 suspension or denial.

18 (12) Upon receiving a record of the conviction, bond  
19 forfeiture, or a civil infraction determination of a person for  
20 unlawful operation of a motor vehicle requiring a vehicle group  
21 designation while the designation is suspended or revoked pursuant  
22 to ~~to~~ **UNDER** section 319b, or while the person is disqualified from  
23 operating a commercial motor vehicle by the United States secretary  
24 of transportation or under 49 USC 31301 to 31317, the secretary of  
25 state immediately shall impose an additional like period of  
26 suspension or revocation. This subsection applies only if the  
27 violation occurs during a suspension of definite length or if the



1 violation occurs before the person is approved for a license  
2 following a revocation.

3 (13) If the secretary of state receives records of more than 1  
4 conviction or civil infraction determination resulting from the  
5 same incident, all of the convictions or civil infraction  
6 determinations shall be treated as a single violation for purposes  
7 of imposing an additional period of suspension or revocation under  
8 subsection (10), (11), or (12).

9 (14) Before a person is arraigned before a district court  
10 magistrate or judge on a charge of violating this section, the  
11 arresting officer shall obtain the person's driving record from the  
12 secretary of state and shall furnish the record to the court. The  
13 driving record of the person may be obtained from the secretary of  
14 state's computer information network.

15 (15) This section does not apply to a person who operates a  
16 vehicle solely for the purpose of protecting human life or property  
17 if the life or property is endangered and summoning prompt aid is  
18 essential.

19 (16) A person whose vehicle group designation is suspended or  
20 revoked and who has been notified as provided in section 212 of  
21 that suspension or revocation, or whose application for a vehicle  
22 group designation has been denied as provided in this act, or who  
23 has never applied for a vehicle group designation and who operates  
24 a commercial motor vehicle within this state, except as permitted  
25 under this act, while any of those conditions exist is guilty of a  
26 misdemeanor punishable, except as otherwise provided in this  
27 section, by imprisonment for not less than 3 days or more than 93

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

2 (17) If a person has a second or subsequent suspension or  
3 revocation under this section within 7 years as indicated on the  
4 person's Michigan driving record, the court shall proceed as  
5 provided in section 904d.

6 (18) Any period of suspension or revocation required under  
7 subsection (10), (11), or (12) does not apply to a person who has  
8 only 1 currently effective suspension or denial on his or her  
9 Michigan driving record under section 321a and was convicted of or  
10 received a civil infraction determination for a violation that  
11 occurred during that suspension or denial. This subsection may only  
12 be applied once during the person's lifetime.

13 (19) For purposes of this section, a person who never applied  
14 for a license includes a person who applied for a license, was  
15 denied, and never applied again.

16 Enacting section 1. This amendatory act takes effect October  
17 1, 2008.