

HOUSE BILL No. 4921

June 13, 2007, Introduced by Reps. Acciavatti, Corriveau, David Law, Sheen, Casperson, Elsenheimer, Schuitmaker, Huizenga, Coulouris, Simpson, Vagnozzi, Virgil Smith, Bieda, Emmons, Meisner, Scott, Condino, Warren, Byrum, Angerer, Johnson, Bauer, Hammel, 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 303, 319, 322, and 625 (MCL 257.303, 257.319, 257.322, and 257.625), 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 625 as amended by 2006 PA 564, 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**
5 **MOTOR VEHICLE CANNOT BE STARTED IF THE BREATH ALCOHOL LEVEL OF THE**

1 OPERATOR, AS MEASURED BY THE TEST, REACHES A LEVEL OF 0.025 GRAMS
2 PER 210 LITERS OF BREATH, AND TO WHICH ALL OF THE FOLLOWING APPLY:

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

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

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

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

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

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

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

26 (d) A person who in the opinion of the secretary of state is
27 afflicted with or suffering from a physical or mental disability or

1 disease preventing that person from exercising reasonable and
2 ordinary control over a motor vehicle while operating the motor
3 vehicle upon the highways.

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

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

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

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

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

1 fines, costs, fees, and assessments, as provided under section
2 321a.

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

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

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

26 (m) A person whose commercial driver license application is
27 canceled under section 324(2).

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

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

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

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

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

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

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

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

25 (i) A violation or attempted violation of section 625, except a
26 violation of **SECTION 625(1) OR** section 625(2), or a violation of
27 any prior enactment of section 625 in which the defendant operated

1 a vehicle ~~while under the influence of intoxicating or alcoholic~~
2 ~~liquor or a controlled substance, or a combination of intoxicating~~
3 ~~or alcoholic liquor and a controlled substance, or while visibly~~
4 impaired, or with an unlawful bodily alcohol content.

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

6 (iii) Former section 625b.

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

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

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

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

22 (i) A violation or attempted violation of section 625, except a
23 violation of **SECTION 625(1) OR** section 625(2), or a violation of
24 any prior enactment of section 625 in which the defendant operated
25 a vehicle ~~while under the influence of intoxicating or alcoholic~~
26 ~~liquor or a controlled substance, or a combination of intoxicating~~
27 ~~or alcoholic liquor and a controlled substance, or while visibly~~

1 impaired, or with an unlawful bodily alcohol content.

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

3 (iii) Former section 625b.

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

7 (4) The secretary of state shall not issue a license under
8 this act to a person whose license has been revoked under this act
9 or revoked and denied under subsection (2) until all of the
10 following occur, as applicable:

11 (a) The later of the following:

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

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

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

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

24 (5) The secretary of state may deny issuance of an operator's
25 license as follows:

26 (a) Until the age of 17, to a person not licensed under this
27 act who was convicted of or received a juvenile disposition for

1 violating or attempting to violate section 411a(2) of the Michigan
2 penal code, 1931 PA 328, MCL 750.411a, involving a school when he
3 or she was less than 14 years of age. A person not issued a license
4 under this subdivision is not eligible to begin graduated licensing
5 training until he or she attains 16 years of age.

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

16 (6) The secretary of state shall deny issuance of a vehicle
17 group designation to a person if the person has been disqualified
18 by the United States secretary of transportation from operating a
19 commercial motor vehicle.

20 (7) Multiple convictions or civil infraction determinations
21 resulting from the same incident shall be treated as a single
22 violation for purposes of denial or revocation of a license under
23 this section.

24 (8) As used in this section, "felony in which a motor vehicle
25 was used" means a felony during the commission of which the person
26 operated a motor vehicle and while operating the vehicle presented
27 real or potential harm to persons or property and 1 or more of the

1 following circumstances existed:

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

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

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

5 (d) The vehicle was necessary for the commission of the
6 felony.

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

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

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

18 (b) A violation of section 413 of the Michigan penal code,
19 1931 PA 328, MCL 750.413.

20 (c) A violation of section 1 of former 1931 PA 214, MCL
21 752.191, or section 626c.

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

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

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

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

4 (iv) The vehicle was necessary for the commission of the
5 felony.

6 (e) A violation of section 602a(2) or (3) of this act or
7 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL
8 750.479a.

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

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

13 (b) A violation of section 601b(2), section 601c(1), section
14 626, or section 653a(3).

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

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

20 (4) The secretary of state shall suspend the person's license
21 for 30 days for malicious destruction resulting from the operation
22 of a vehicle under section 382(1)(a) of the Michigan penal code,
23 1931 PA 328, MCL 750.382.

24 (5) For perjury or making a false certification to the
25 secretary of state under any law requiring the registration of a
26 motor vehicle or regulating the operation of a vehicle on a
27 highway, or for conduct prohibited under section 324(1) or a local

1 ordinance substantially corresponding to section 324(1), the
2 secretary shall suspend the person's license as follows:

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

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

7 (6) For a violation of section 414 of the Michigan penal code,
8 1931 PA 328, MCL 750.414, the secretary of state shall suspend the
9 person's license as follows:

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

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

14 (7) For a violation of section 624a or 624b of this act or
15 section 703(1) of the Michigan liquor control code of 1998, 1998 PA
16 58, MCL 436.1703, the secretary of state shall suspend the person's
17 license as follows:

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

22 (b) If the person has 2 or more prior convictions for an
23 offense described in this subsection or section 33b(1) of former
24 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue
25 the person a restricted license after the first 60 days of
26 suspension.

27 (8) The secretary of state shall suspend the person's license

1 for a violation of section 625 or 625m as follows:

2 (a) ~~For~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISIONS (G), (H),**
3 **AND (I), FOR** 180 days for a violation of section 625(1) or (8) if
4 the person has no prior convictions within 7 years. The secretary
5 of state may issue the person a restricted license, ~~during a~~
6 ~~specified portion of the suspension,~~ except that the secretary of
7 state shall not issue a restricted license during the first 30 days
8 of suspension.

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

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

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

26 (e) For 180 days for a violation of section 625(7) if the
27 person has no prior convictions within 7 years. The secretary of

1 state may issue the person a restricted license after the first 90
2 days of suspension.

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

7 (G) FOR THE LONGER OF 2 YEARS OR UNTIL THE PERSON SATISFIES
8 THE CONDITION IN SUBDIVISION (J) FOR A VIOLATION OF SECTION 625(1)
9 IF THE PERSON HAS 1 PRIOR CONVICTION FOR A VIOLATION OF THAT
10 SECTION WITHIN 7 YEARS. THE SECRETARY OF STATE SHALL ISSUE THE
11 PERSON A RESTRICTED LICENSE, EXCEPT THAT THE SECRETARY OF STATE
12 SHALL NOT ISSUE A RESTRICTED LICENSE DURING THE FIRST 45 DAYS OF
13 THE SUSPENSION.

14 (H) FOR THE LONGER OF 3 YEARS OR UNTIL THE PERSON SATISFIES
15 THE CONDITION IN SUBDIVISION (J) FOR A VIOLATION OF SECTION 625(1)
16 IF THE PERSON HAS 2 PRIOR CONVICTIONS FOR A VIOLATION OF THAT
17 SECTION WITHIN 10 YEARS. THE SECRETARY OF STATE SHALL ISSUE THE
18 PERSON A RESTRICTED LICENSE, EXCEPT THAT THE SECRETARY OF STATE
19 SHALL NOT ISSUE A RESTRICTED LICENSE DURING THE FIRST 45 DAYS OF
20 THE SUSPENSION.

21 (I) FOR THE LONGER OF 5 YEARS OR UNTIL THE PERSON SATISFIES
22 THE CONDITION IN SUBDIVISION (J) IF THE PERSON HAS 3 OR MORE PRIOR
23 CONVICTIONS FOR A VIOLATION OF SECTION 625(1). THE SECRETARY OF
24 STATE SHALL ISSUE THE PERSON A RESTRICTED LICENSE, EXCEPT THAT THE
25 SECRETARY OF STATE SHALL NOT ISSUE A RESTRICTED LICENSE DURING THE
26 FIRST 45 DAYS OF THE SUSPENSION.

27 (J) THE DEPARTMENT SHALL ORDER A PERSON CONVICTED OF VIOLATING

1 SECTION 625(1) WHO HAS 1 OR MORE PRIOR CONVICTIONS NOT TO OPERATE A
2 MOTOR VEHICLE UNDER A RESTRICTED LICENSE ISSUED UNDER SUBDIVISION
3 (G), (H), OR (I) UNLESS THE VEHICLE IS EQUIPPED WITH AN IGNITION
4 INTERLOCK DEVICE APPROVED, CERTIFIED, AND INSTALLED AS REQUIRED
5 UNDER SECTIONS 625K AND 625L. THE IGNITION INTERLOCK DEVICE MAY BE
6 REMOVED AFTER THE MINIMUM PERIOD FOR THE RESTRICTED LICENSE EXPIRES
7 IF THE PERSON PROVIDES THE DEPARTMENT WITH VERIFICATION THAT THE
8 PERSON HAS OPERATED THE VEHICLE FOR THE MOST RECENT 6 CONTINUOUS
9 MONTHS WITH NO INSTANCES OF REACHING OR EXCEEDING A BLOOD ALCOHOL
10 LEVEL OF 0.025 GRAMS PER 210 LITERS OF BREATH.

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

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

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

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

20 (11) For a violation or attempted violation of section 411a(2)
21 of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a
22 school, the secretary of state shall suspend the license of a
23 person 14 years of age or over but less than 21 years of age until
24 3 years after the date of the conviction or juvenile disposition
25 for the violation. The secretary of state may issue the person a
26 restricted license after the first 365 days of suspension.

27 (12) Except as provided in subsection (14), a suspension under

1 this section shall be imposed notwithstanding a court order unless
2 the court order complies with section 323.

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

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

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

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

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

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

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

2 (i) The person's residence.

3 (ii) The person's work location.

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

6 (iv) The court probation department.

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

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

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

13 (18) A RESTRICTED LICENSE ISSUED UNDER SUBSECTION (8) (G), (H),
14 OR (I) SHALL PERMIT THE PERSON TO WHOM IT IS ISSUED TO OPERATE A
15 VEHICLE ONLY TO AND FROM 1 OR MORE OF THE FOLLOWING DESTINATIONS:

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

17 (B) THE PERSON'S SCHOOL.

18 (C) AN ALCOHOL TREATMENT PROGRAM.

19 (19) ~~(18)~~ While driving with a restricted license, the person
20 shall carry proof of his or her destination and the hours of any
21 employment, class, or other reason for traveling and shall display
22 that proof upon a peace officer's request.

23 (20) ~~(19)~~ Subject to subsection ~~(21)~~ (22), as used in
24 subsection (8), "prior conviction" means a conviction for any of
25 the following, whether under a law of this state, a local ordinance
26 substantially corresponding to a law of this state, or a law of
27 another state substantially corresponding to a law of this state:

1 (a) Except as provided in subsection ~~(20)~~-(21), a violation or
2 attempted violation of any of the following:

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

10 (ii) Section 625m.

11 (iii) Former section 625b.

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

15 (21) ~~(20)~~—Except for purposes of the suspensions described in
16 subsection (8) (c) and (d), only 1 violation or attempted violation
17 of section 625(6), a local ordinance substantially corresponding to
18 section 625(6), or a law of another state substantially
19 corresponding to section 625(6) may be used as a prior conviction.

20 (22) ~~(21)~~—If 2 or more convictions described in subsection
21 ~~(19)~~-(20) are convictions for violations arising out of the same
22 transaction, only 1 conviction shall be used to determine whether
23 the person has a prior conviction.

24 Sec. 322. (1) The secretary of state shall appoint a hearing
25 officer to hear appeals from persons aggrieved by a final
26 determination of the secretary of state denying an application for
27 an operator's or chauffeur's license, suspending, restricting, or

1 revoking an operator's or chauffeur's license, or other license
2 action.

3 (2) The appeal shall be in writing and filed with the
4 secretary of state within 14 days after the final determination.
5 Upon notice of the appeal, the hearing officer shall require
6 production of all documents filed in the matter, together with a
7 transcript of any testimony taken.

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

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

11 (b) Issue process to compel attendance.

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

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

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

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

19 (5) After a hearing, the hearing officer may affirm, modify,
20 or set aside a final determination of the secretary of state
21 denying an application for an operator's or chauffeur's license,
22 suspending, restricting, or revoking an operator's or chauffeur's
23 license, or any other license action. The hearing officer shall
24 include his or her findings of fact and conclusions of law in the
25 record.

26 (6) Except as provided in subsection (7), if a person whose
27 license has been denied or revoked under section 303(2)(c), (d), or

1 (g) applies for a license or reinstatement of a license after the
2 time period specified in section 303(4) has elapsed, the hearing
3 officer may issue a restricted license to that person, setting
4 restrictions upon operating a vehicle as the hearing officer
5 determines are appropriate. If the hearing officer issues a
6 restricted license following a hearing held after October 1, 1999,
7 he or she shall do both of the following:

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

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

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

20 (8) If the hearing officer issues a restricted license to a
21 person who intends to operate a vehicle owned by his or her
22 employer, the secretary of state shall notify the employer of the
23 employee's license restriction that requires the installation of an
24 ignition interlock device. An employer who receives notice under
25 this subsection is not required to install an ignition interlock
26 device on the employer-owned vehicle. This subsection does not
27 apply to a vehicle that is operated by a self-employed individual

1 who uses the vehicle for both business and personal use.

2 (9) ~~If~~ **EXCEPT AS PROVIDED IN SUBSECTION (10), IF** the hearing
3 officer issues a restricted license requiring an ignition interlock
4 device, the initial period for requiring the device shall be **NOT**
5 **LESS THAN** 1 year. ~~After that time, THE DEVICE SHALL NOT BE REMOVED~~
6 **UNTIL** the hearing officer ~~may continue~~ **ORDERS** the ignition
7 interlock device ~~requirement for any length of time~~ **REMOVED**.

8 (10) **A RESTRICTED LICENSE ISSUED UNDER THIS SECTION AFTER A**
9 **PERSON'S LICENSE IS SUSPENDED UNDER SECTION 319(8)(G) SHALL REQUIRE**
10 **AN IGNITION INTERLOCK DEVICE NOT LESS THAN 2 YEARS, A RESTRICTED**
11 **LICENSE ISSUED AFTER THE PERSON'S LICENSE IS SUSPENDED UNDER**
12 **SECTION 319(8)(H) SHALL REQUIRE AN IGNITION INTERLOCK DEVICE FOR**
13 **NOT LESS THAN 3 YEARS, AND A RESTRICTED LICENSE ISSUED AFTER THE**
14 **PERSON'S LICENSE IS SUSPENDED UNDER SECTION 319(8)(I) SHALL REQUIRE**
15 **AN IGNITION INTERLOCK DEVICE FOR NOT LESS THAN 5 YEARS.**

16 Sec. 625. (1) A person, whether licensed or not, shall not
17 operate a vehicle upon a highway or other place open to the general
18 public or generally accessible to motor vehicles, including an area
19 designated for the parking of vehicles, within this state if the
20 person is operating while intoxicated. As used in this section,
21 "operating while intoxicated" means either of the following:

22 ~~applies:~~

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

26 (b) The person has an alcohol content of 0.08 grams or more
27 per 100 milliliters of blood, per 210 liters of breath, or per 67

1 milliliters of urine, or, beginning October 1, 2013, the person has
2 an alcohol content of 0.10 grams or more per 100 milliliters of
3 blood, per 210 liters of breath, or per 67 milliliters of urine.

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

10 (a) The person is under the influence of alcoholic liquor, a
11 controlled substance, or a combination of alcoholic liquor and a
12 controlled substance.

13 (b) The person has an alcohol content of 0.08 grams or more
14 per 100 milliliters of blood, per 210 liters of breath, or per 67
15 milliliters of urine or, beginning October 1, 2013, the person has
16 an alcohol content of 0.10 grams or more per 100 milliliters of
17 blood, per 210 liters of breath, or per 67 milliliters of urine.

18 (c) The person's ability to operate the motor vehicle is
19 visibly impaired due to the consumption of alcoholic liquor, a
20 controlled substance, or a combination of alcoholic liquor and a
21 controlled substance.

22 (3) 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 when, due
26 to the consumption of alcoholic liquor, a controlled substance, or
27 a combination of alcoholic liquor and a controlled substance, the

1 person's ability to operate the vehicle is visibly impaired. If a
2 person is charged with violating subsection (1), a finding of
3 guilty under this subsection may be rendered.

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

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

15 (b) If, at the time of the violation, the person is operating
16 a motor vehicle in a manner proscribed under section 653a and
17 causes the death of a police officer, firefighter, or other
18 emergency response personnel, the person is guilty of a felony
19 punishable by imprisonment for not more than 20 years or a fine of
20 not less than \$2,500.00 or more than \$10,000.00, or both. This
21 subdivision applies regardless of whether the person is charged
22 with the violation of section 653a. The judgment of sentence may
23 impose the sanction permitted under section 625n. If the vehicle is
24 not ordered forfeited under section 625n, the court shall order
25 vehicle immobilization under section 904d in the judgment of
26 sentence.

27 (5) A person, whether licensed or not, who operates a motor

1 vehicle in violation of subsection (1), (3), or (8) and by the
2 operation of that motor vehicle causes a serious impairment of a
3 body function of another person is guilty of a felony punishable by
4 imprisonment for not more than 5 years or a fine of not less than
5 \$1,000.00 or more than \$5,000.00, or both. The judgment of sentence
6 may impose the sanction permitted under section 625n. If the
7 vehicle is not ordered forfeited under section 625n, the court
8 shall order vehicle immobilization under section 904d in the
9 judgment of sentence.

10 (6) A person who is less than 21 years of age, whether
11 licensed or not, shall not operate a vehicle upon a highway or
12 other place open to the general public or generally accessible to
13 motor vehicles, including an area designated for the parking of
14 vehicles, within this state if the person has any bodily alcohol
15 content. As used in this subsection, "any bodily alcohol content"
16 means either of the following:

17 (a) An alcohol content of 0.02 grams or more but less than
18 0.08 grams per 100 milliliters of blood, per 210 liters of breath,
19 or per 67 milliliters of urine, or, beginning October 1, 2013, the
20 person has an alcohol content of 0.02 grams or more but less than
21 0.10 grams per 100 milliliters of blood, per 210 liters of breath,
22 or per 67 milliliters of urine.

23 (b) Any presence of alcohol within a person's body resulting
24 from the consumption of alcoholic liquor, other than consumption of
25 alcoholic liquor as a part of a generally recognized religious
26 service or ceremony.

27 (7) A person, whether licensed or not, is subject to the

1 following requirements:

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

7 (i) Except as provided in subparagraph (ii), a person who
8 violates this subdivision is guilty of a misdemeanor and shall be
9 sentenced to pay a fine of not less than \$200.00 or more than
10 \$1,000.00 and to 1 or more of the following:

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

14 (B) Community service for not less than 30 days or more than
15 90 days.

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

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

24 (B) 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 this imprisonment shall be served consecutively. This term of

1 imprisonment shall not be suspended.

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

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

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

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

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

12 (ii) If the violation occurs within 7 years of a prior
13 conviction or after 2 or more prior convictions, regardless of the
14 number of years that have elapsed since any prior conviction, a
15 person who violates this subdivision shall be sentenced to pay a
16 fine of not less than \$200.00 or more than \$1,000.00 and to 1 or
17 more of the following:

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

21 (B) Community service for not less than 30 days or more than
22 90 days.

23 (c) In the judgment of sentence under subdivision (a) (i) or
24 (b) (i), the court may, unless the vehicle is ordered forfeited under
25 section 625n, order vehicle immobilization as provided in section
26 904d. In the judgment of sentence under subdivision (a) (ii) or
27 (b) (ii), the court shall, unless the vehicle is ordered forfeited

1 under section 625n, order vehicle immobilization as provided in
2 section 904d.

3 (d) This subsection does not prohibit a person from being
4 charged with, convicted of, or punished for a violation of
5 subsection (4) or (5) that is committed by the person while
6 violating this subsection. However, points shall not be assessed
7 under section 320a for both a violation of subsection (4) or (5)
8 and a violation of this subsection for conduct arising out of the
9 same transaction.

10 (8) A person, whether licensed or not, shall not operate a
11 vehicle upon a highway or other place open to the general public or
12 generally accessible to motor vehicles, including an area
13 designated for the parking of vehicles, within this state if the
14 person has in his or her body any amount of a controlled substance
15 listed in schedule 1 under section 7212 of the public health code,
16 1978 PA 368, MCL 333.7212, or a rule promulgated under that
17 section, or of a controlled substance described in section
18 7214(a)(iv) of the public health code, 1978 PA 368, MCL 333.7214.

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

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

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

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

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

27 (b) If the violation occurs within 7 years of a prior

1 conviction, the person shall be sentenced to pay a fine of not less
2 than \$200.00 or more than \$1,000.00 and 1 or more of the following:

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

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

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

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

15 (ii) Probation with imprisonment in the county jail for not
16 less than 30 days or more than 1 year and community service for not
17 less than 60 days or more than 180 days. Not less than 48 hours of
18 the imprisonment imposed under this subparagraph shall be served
19 consecutively.

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

22 (e) In the judgment of sentence under subdivision (a), the
23 court may order vehicle immobilization as provided in section 904d.
24 In the judgment of sentence under subdivision (b) or (c), the court
25 shall, unless the vehicle is ordered forfeited under section 625n,
26 order vehicle immobilization as provided in section 904d.

27 (f) In the judgment of sentence under subdivision (b) or (c),

1 the court may impose the sanction permitted under section 625n.

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

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

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

11 (c) If the person operating the motor vehicle violated
12 subsection (5), a felony punishable by imprisonment for not more
13 than 2 years or a fine of not less than \$1,000.00 or more than
14 \$5,000.00, or both.

15 (11) If a person is convicted of violating subsection (3), all
16 of the following apply:

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

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

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

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

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

27 (i) Imprisonment for not less than 5 days or more than 1 year.

1 Not less than 48 hours of the term of imprisonment imposed under
2 this subparagraph shall be served consecutively.

3 (ii) Community service for not less than 30 days or more than
4 90 days.

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

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

12 (ii) Probation with imprisonment in the county jail for not
13 less than 30 days or more than 1 year and community service for not
14 less than 60 days or more than 180 days. Not less than 48 hours of
15 the imprisonment imposed under this subparagraph shall be served
16 consecutively.

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

19 (e) In the judgment of sentence under subdivision (a), the
20 court may order vehicle immobilization as provided in section 904d.
21 In the judgment of sentence under subdivision (b) or (c), the court
22 shall, unless the vehicle is ordered forfeited under section 625n,
23 order vehicle immobilization as provided in section 904d.

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

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

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

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

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

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

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

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

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

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

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

21 (15) If the prosecuting attorney intends to seek an enhanced
22 sentence under this section or a sanction under section 625n based
23 upon the defendant having 1 or more prior convictions, the
24 prosecuting attorney shall include on the complaint and
25 information, or an amended complaint and information, filed in
26 district court, circuit court, municipal court, or family division
27 of circuit court, a statement listing the defendant's prior

1 convictions.

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

9 (17) A prior conviction shall be established at sentencing by
10 1 or more of the following:

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

12 (b) An abstract of conviction.

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

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

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

17 (f) Information contained in a presentence report.

18 (g) An admission by the defendant.

19 (18) Except as otherwise provided in subsection (20), if a
20 person is charged with operating a vehicle while under the
21 influence of a controlled substance or a combination of alcoholic
22 liquor and a controlled substance in violation of subsection (1) or
23 a local ordinance substantially corresponding to subsection (1),
24 the court shall require the jury to return a special verdict in the
25 form of a written finding or, if the court convicts the person
26 without a jury or accepts a plea of guilty or nolo contendere, the
27 court shall make a finding as to whether the person was under the

1 influence of a controlled substance or a combination of alcoholic
2 liquor and a controlled substance at the time of the violation.

3 (19) Except as otherwise provided in subsection (20), if a
4 person is charged with operating a vehicle while his or her ability
5 to operate the vehicle was visibly impaired due to his or her
6 consumption of a controlled substance or a combination of alcoholic
7 liquor and a controlled substance in violation of subsection (3) or
8 a local ordinance substantially corresponding to subsection (3),
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, due to the consumption of
13 a controlled substance or a combination of alcoholic liquor and a
14 controlled substance, the person's ability to operate a motor
15 vehicle was visibly impaired at the time of the violation.

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

19 (a) Whether the defendant was under the influence of a
20 controlled substance or a combination of alcoholic liquor and a
21 controlled substance at the time of the violation.

22 (b) Whether the defendant was visibly impaired due to his or
23 her consumption of a controlled substance or a combination of
24 alcoholic liquor and a controlled substance at the time of the
25 violation.

26 (21) If a jury or court finds under subsection (18), (19), or
27 (20) that the defendant operated a motor vehicle under the

1 influence of or while impaired due to the consumption of a
2 controlled substance or a combination of a controlled substance and
3 an alcoholic liquor, the court shall do both of the following:

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

5 (b) On a form or forms prescribed by the state court
6 administrator, forward to the department of state police a record
7 that specifies the penalties imposed by the court, including any
8 term of imprisonment, and any sanction imposed under section 625n
9 or 904d.

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

14 (23) In a prosecution for a violation of subsection (6), the
15 defendant bears the burden of proving that the consumption of
16 alcoholic liquor was a part of a generally recognized religious
17 service or ceremony by a preponderance of the evidence.

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

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

1 substantially corresponding to a law of this state:

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

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

11 (ii) Section 625m.

12 (iii) Former section 625b.

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

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

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

25 Enacting section 1. This amendatory act takes effect October
26 1, 2008.

27 Enacting section 2. This amendatory act does not take effect

1 unless H.R. 1195 of the 110th Congress is enacted into law.