

**SUBSTITUTE FOR
HOUSE BILL NO. 5274**

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 303, 625n, 732a, and 904d (MCL 257.303,
257.625n, 257.732a, and 257.904d), sections 303, 732a, and 904d as
amended by 2008 PA 463 and section 625n as amended by 2008 PA 539,
and by adding section 304.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

7 (c) A person whose license is suspended, revoked, denied, or

1 canceled in any state. If the suspension, revocation, denial, or
2 cancellation is not from the jurisdiction that issued the last
3 license to the person, the secretary of state may issue a license
4 after the expiration of 5 years from the effective date of the most
5 recent suspension, revocation, denial, or cancellation.

6 (d) A person who in the opinion of the secretary of state is
7 afflicted with or suffering from a physical or mental disability or
8 disease preventing that person from exercising reasonable and
9 ordinary control over a motor vehicle while operating the motor
10 vehicle upon the highways.

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

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

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

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

1 (i) A person who has failed to answer a citation or notice to
2 appear in court or for any matter pending or fails to comply with
3 an order or judgment of the court, including, but not limited to,
4 paying all fines, costs, fees, and assessments, in violation of
5 section 321a, until that person answers the citation or notice to
6 appear in court or for any matter pending or complies with an order
7 or judgment of the court, including, but not limited to, paying all
8 fines, costs, fees, and assessments, as provided under section
9 321a.

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

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

25 (l) A person not licensed under this act who is determined to
26 have violated section 33b(1) of former 1933 (Ex Sess) PA 8, section
27 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL

1 436.1703, or section 624a or 624b. ~~of this act.~~ The person shall be
2 denied a license under this subdivision for a period of time that
3 corresponds to the period of the licensing sanction that would have
4 been imposed under those sections had the person been licensed at
5 the time of the violation.

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

8 (n) Unless otherwise eligible under section 307(1), a person
9 who is not a citizen of the United States.

10 (2) Upon receiving the appropriate records of conviction, the
11 secretary of state shall revoke the operator's or chauffeur's
12 license of a person and deny issuance of an operator's or
13 chauffeur's license to a person having any of the following,
14 whether under a law of this state, a local ordinance substantially
15 corresponding to a law of this state, a law of another state
16 substantially corresponding to a law of this state, or, **BEGINNING**
17 **OCTOBER 31, 2010**, a law of the United States substantially
18 corresponding to a law of this state:

19 (a) Any combination of 2 convictions within 7 years for
20 reckless driving in violation of section **626 BEFORE OCTOBER 31,**
21 **2010 OR, BEGINNING OCTOBER 31, 2010**, 626(2).

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

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

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

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

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

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

10 (i) A violation or attempted violation of section 625, except a
11 violation of section 625(2), or a violation of any prior enactment
12 of section 625 in which the defendant operated a vehicle while
13 under the influence of intoxicating or alcoholic liquor or a
14 controlled substance, or a combination of intoxicating or alcoholic
15 liquor and a controlled substance, or while visibly impaired, or
16 with an unlawful bodily alcohol content.

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

18 (iii) A violation or attempted violation of former section 625b.

19 (d) One conviction for a violation or attempted violation of
20 section 315(5), section 601b(3), section 601c(2), section 602a(4)
21 or (5), section 617, section 625(4) or (5), ~~section 626(3) or (4)~~,
22 section 653a(4), ~~or~~ section 904(4) or (5), **OR, BEGINNING OCTOBER**
23 **31, 2010, SECTION 626(3) OR (4).**

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

27 (f) One conviction for a violation or attempted violation of

1 section 479a(4) or (5) of the Michigan penal code, 1931 PA 328, MCL
2 750.479a.

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

8 (i) A violation or attempted violation of section 625, except a
9 violation of section 625(2), or a violation of any prior enactment
10 of section 625 in which the defendant operated a vehicle while
11 under the influence of intoxicating or alcoholic liquor or a
12 controlled substance, or a combination of intoxicating or alcoholic
13 liquor and a controlled substance, or while visibly impaired, or
14 with an unlawful bodily alcohol content.

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

16 (iii) A violation or attempted violation of former section 625b.

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

20 (4) ~~The~~ **EXCEPT AS OTHERWISE PROVIDED UNDER SECTION 304, THE**
21 secretary of state shall not issue a license under this act to a
22 person whose license has been revoked under this act or revoked and
23 denied under subsection (2) until all of the following occur, as
24 applicable:

25 (a) The later of the following:

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

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

4 (b) For a denial under subsection (2)(a), (b), (c), and (g),
5 the person rebuts by clear and convincing evidence the presumption
6 resulting from the prima facie evidence that he or she is a
7 habitual offender. The convictions that resulted in the revocation
8 and denial constitute prima facie evidence that he or she is a
9 habitual offender.

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

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

13 (a) Until the age of 17, to a person not licensed under this
14 act who was convicted of or received a juvenile disposition for
15 violating or attempting to violate section 411a(2) of the Michigan
16 penal code, 1931 PA 328, MCL 750.411a, involving a school when he
17 or she was less than 14 years of age. A person not issued a license
18 under this subdivision is not eligible to begin graduated licensing
19 training until he or she attains 16 years of age.

20 (b) To a person less than 21 years of age not licensed under
21 this act who was convicted of or received a juvenile disposition
22 for violating or attempting to violate section 411a(2) of the
23 Michigan penal code, 1931 PA 328, MCL 750.411a, involving a school
24 when he or she was 14 years of age or older, until 3 years after
25 the date of the conviction or juvenile disposition. A person not
26 issued a license under this subdivision is not eligible to begin
27 graduated licensing training or otherwise obtain an original

1 operator's or chauffeur's license until 3 years after the date of
2 the conviction or juvenile disposition.

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

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

11 (8) As used in this section, "felony in which a motor vehicle
12 was used" means a felony during the commission of which the person
13 operated a motor vehicle and while operating the vehicle presented
14 real or potential harm to persons or property and 1 or more of the
15 following circumstances existed:

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

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

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

19 (d) The vehicle was necessary for the commission of the
20 felony.

21 **SEC. 304. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), THE**
22 **SECRETARY OF STATE SHALL ISSUE A RESTRICTED LICENSE TO A PERSON**
23 **WHOSE LICENSE WAS SUSPENDED OR RESTRICTED UNDER SECTION 319 OR**
24 **REVOKED OR DENIED UNDER SECTION 303 BASED ON EITHER OF THE**
25 **FOLLOWING:**

26 (A) TWO OR MORE CONVICTIONS FOR VIOLATING SECTION 625(1) OR

27 (3) OR A LOCAL ORDINANCE OF THIS STATE SUBSTANTIALLY CORRESPONDING

1 TO SECTION 625(1) OR (3).

2 (B) ONE CONVICTION FOR VIOLATING SECTION 625(1) OR (3) OR A
3 LOCAL ORDINANCE OF THIS STATE SUBSTANTIALLY CORRESPONDING TO
4 SECTION 625(1) OR (3), PRECEDED BY 1 OR MORE CONVICTIONS FOR
5 VIOLATING A LOCAL ORDINANCE OR LAW OF ANOTHER STATE SUBSTANTIALLY
6 CORRESPONDING TO SECTION 625(1), (3), OR (6), OR A LAW OF THE
7 UNITED STATES SUBSTANTIALLY CORRESPONDING TO SECTION 625(1), (3),
8 OR (6).

9 (2) A RESTRICTED LICENSE SHALL NOT BE ISSUED UNDER SUBSECTION
10 (1) UNLESS ALL OF THE FOLLOWING CONDITIONS ARE MET:

11 (A) THE PERSON IS OTHERWISE ELIGIBLE. A PERSON IS OTHERWISE
12 ELIGIBLE UNLESS 1 OR BOTH OF THE FOLLOWING CONDITIONS APPLY:

13 (i) THE PERSON'S LICENSE WAS SUSPENDED OR REVOKED OR THE PERSON
14 WAS DENIED THE ISSUANCE OF AN OPERATOR'S LICENSE UNDER THE LAWS OF
15 THIS STATE OR THE UNITED STATES FOR THE PERSON'S FAILURE TO PAY
16 CHILD SUPPORT.

17 (ii) THE PERSON'S LICENSE WAS SUSPENDED OR REVOKED OR THE
18 PERSON WAS DENIED THE ISSUANCE OF AN OPERATOR'S LICENSE UNDER THE
19 LAWS OF THIS STATE OR THE UNITED STATES FOR MEDICAL UNFITNESS.

20 (B) THE PERSON'S LICENSE HAS BEEN SUSPENDED, RESTRICTED, OR
21 REVOKED AND DENIED FOR NOT LESS THAN 45 DAYS.

22 (C) A JUDGE ASSIGNED TO A DWI/SOBRIETY COURT CERTIFIES TO THE
23 SECRETARY OF STATE THAT BOTH OF THE FOLLOWING CONDITIONS HAVE BEEN
24 MET:

25 (i) THE INDIVIDUAL HAS BEEN ADMITTED INTO A DWI/SOBRIETY COURT.

26 (ii) AN IGNITION INTERLOCK DEVICE APPROVED, CERTIFIED, AND
27 INSTALLED AS REQUIRED UNDER SECTIONS 625K AND 625/ HAS BEEN

1 INSTALLED ON EACH MOTOR VEHICLE OWNED OR OPERATED, OR BOTH, BY THE
2 INDIVIDUAL.

3 (D) THE PERSON SUBMITS TO THE SECRETARY OF STATE PROOF THAT
4 THE IGNITION INTERLOCK DEVICE HAS BEEN INSTALLED AS DESCRIBED IN
5 SUBDIVISION (C).

6 (3) A RESTRICTED LICENSE ISSUED UNDER SUBSECTION (1) PERMITS
7 THE PERSON TO WHOM IT IS ISSUED TO OPERATE ONLY THE VEHICLE
8 EQUIPPED WITH AN IGNITION INTERLOCK DEVICE DESCRIBED IN SUBSECTION
9 (2) (C) (ii), TO TAKE ANY DRIVING SKILLS TEST REQUIRED BY THE
10 SECRETARY OF STATE, AND TO DRIVE TO AND FROM ANY COMBINATION OF THE
11 FOLLOWING LOCATIONS:

12 (A) THE PERSON'S RESIDENCE.

13 (B) THE PERSON'S WORKPLACE.

14 (C) THE PERSON'S SCHOOL.

15 (D) AN ALCOHOL OR DRUG EDUCATION OR TREATMENT PROGRAM AS
16 ORDERED BY THE COURT.

17 (4) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A RESTRICTED
18 LICENSE ISSUED UNDER SUBSECTION (1) IS EFFECTIVE UNTIL A HEARING
19 OFFICER ORDERS AN UNRESTRICTED LICENSE UNDER SECTION 322. THE
20 PERSON SHALL NOT BE CONSIDERED FOR AN UNRESTRICTED LICENSE UNTIL
21 THE LATER OF THE FOLLOWING EVENTS OCCURS:

22 (A) THE COURT NOTIFIES THE SECRETARY OF STATE THAT THE PERSON
23 HAS SUCCESSFULLY COMPLETED THE DWI/SOBRIETY COURT PROGRAM.

24 (B) THE MINIMUM PERIOD OF LICENSE SANCTION THAT WOULD HAVE
25 BEEN IMPOSED UNDER SECTION 303 OR 319 BUT FOR THIS SECTION HAS BEEN
26 COMPLETED.

27 (5) IF THE SECRETARY OF STATE RECEIVES A NOTIFICATION FROM THE

1 DWI/SOBRIETY COURT UNDER SECTION 1084(6) OF THE REVISED JUDICATURE
2 ACT OF 1961, 1961 PA 236, MCL 600.1084, THE SECRETARY OF STATE
3 SHALL SUMMARILY IMPOSE 1 OF THE FOLLOWING LICENSE SANCTIONS, AS
4 APPLICABLE:

5 (A) SUSPENSION FOR THE FULL LENGTH OF TIME PROVIDED UNDER
6 SECTION 319(8). HOWEVER, A RESTRICTED LICENSE SHALL NOT BE ISSUED
7 AS PROVIDED UNDER SECTION 319(8). THIS SUBDIVISION APPLIES IF THE
8 UNDERLYING CONVICTION OR CONVICTIONS WOULD HAVE SUBJECTED THE
9 PERSON TO A LICENSE SANCTION UNDER SECTION 319(8) IF THIS SECTION
10 DID NOT APPLY.

11 (B) A LICENSE REVOCATION AND DENIAL FOR THE FULL LENGTH OF
12 TIME PROVIDED UNDER SECTION 303. THE MINIMUM PERIOD OF LICENSE
13 REVOCATION AND DENIAL IMPOSED SHALL BE THE SAME AS IF THIS SECTION
14 DID NOT APPLY. THIS SUBDIVISION APPLIES IF THE UNDERLYING
15 CONVICTION OR CONVICTIONS WOULD HAVE CAUSED A LICENSE REVOCATION
16 AND DENIAL UNDER SECTION 303 IF THIS SECTION DID NOT APPLY.

17 (6) AFTER THE PERSON COMPLETES THE DWI/SOBRIETY COURT PILOT
18 PROGRAM, THE RESTRICTED LICENSE ISSUED UNDER THIS SECTION SHALL BE
19 SUSPENDED OR REVOKED OR DENIED AS PROVIDED IN SUBSECTION (5) IF ANY
20 OF THE FOLLOWING EVENTS OCCUR, UNLESS IT IS SET ASIDE UNDER
21 SUBSECTION (4):

22 (A) THE PERSON OPERATES A MOTOR VEHICLE WITHOUT AN IGNITION
23 INTERLOCK DEVICE THAT MEETS THE CRITERIA UNDER SUBSECTION
24 (2) (C) (ii) .

25 (B) THE PERSON REMOVES, OR CAUSES TO BE REMOVED, AN IGNITION
26 INTERLOCK DEVICE FROM A VEHICLE HE OR SHE OWNS OR OPERATES UNLESS
27 THE SECRETARY OF STATE HAS AUTHORIZED ITS REMOVAL UNDER SECTION

1 322A.

2 (C) THE PERSON IS ARRESTED FOR A VIOLATION OF ANY OF THE
3 FOLLOWING:

4 (i) SECTION 625.

5 (ii) A LOCAL ORDINANCE OF THIS STATE OR ANOTHER STATE
6 SUBSTANTIALLY CORRESPONDING TO SECTION 625.

7 (iii) A LAW OF THE UNITED STATES SUBSTANTIALLY CORRESPONDING TO
8 SECTION 625.

9 (7) ALL DRIVER RESPONSIBILITY FEES REQUIRED TO BE ASSESSED BY
10 THE SECRETARY OF STATE UNDER SECTION 732A FOR THE CONVICTION OR
11 CONVICTIONS THAT LED TO THE RESTRICTED LICENSE UNDER THIS SECTION
12 SHALL BE HELD IN ABEYANCE AS FOLLOWS:

13 (A) THE FEES SHALL BE HELD IN ABEYANCE DURING THE TIME THE
14 PERSON HAS A RESTRICTED LICENSE UNDER THIS SECTION AND IS
15 PARTICIPATING IN THE DWI/SOBRIETY COURT PILOT PROJECT.

16 (B) AT THE END OF THE PERSON'S PARTICIPATION IN THE
17 DWI/SOBRIETY COURT PROGRAM, THE DRIVER RESPONSIBILITY FEES SHALL BE
18 ASSESSED AND PAID UNDER THE PAYMENT SCHEDULE DESCRIBED IN SECTION
19 732A.

20 (8) THE VEHICLE OF AN INDIVIDUAL ADMITTED TO THE DWI/SOBRIETY
21 COURT PILOT PROJECT WHOSE VEHICLE WOULD OTHERWISE BE SUBJECT TO
22 IMMOBILIZATION OR FORFEITURE UNDER THIS ACT IS EXEMPT FROM BOTH
23 IMMOBILIZATION AND FORFEITURE UNDER SECTIONS 625N AND 904D IF ALL
24 OF THE FOLLOWING APPLY:

25 (A) THE PERSON IS A DWI/SOBRIETY COURT PILOT PROGRAM
26 PARTICIPANT IN GOOD STANDING.

27 (B) THE PERSON SUCCESSFULLY SATISFACTORILY COMPLETES THE

1 DWI/SOBRIETY COURT PILOT PROGRAM.

2 (C) THE PERSON DOES NOT SUBSEQUENTLY VIOLATE A LAW OF THIS
3 STATE FOR WHICH VEHICLE IMMOBILIZATION OR FORFEITURE IS A SANCTION.

4 (9) AS USED IN THIS SECTION:

5 (A) "DWI/SOBRIETY COURT" MEANS THAT TERM AS DEFINED IN SECTION
6 1084 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL
7 600.1084.

8 (B) "DWI/SOBRIETY COURT PILOT PROJECT" AND "DWI/SOBRIETY COURT
9 PROGRAM" MEAN THOSE TERMS AS DESCRIBED IN SECTION 1084 OF THE
10 REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.1084.

11 Sec. 625n. (1) Except as otherwise provided in this section
12 **AND SECTION 304** and in addition to any other penalty provided for
13 in this act, the judgment of sentence for a conviction for a
14 violation of section 625(1) described in section 625(9)(b) or (c),
15 a violation of section 625(3) described in section 625(11)(b) or
16 (c), a violation of section 625(4), (5), or (7), or a violation of
17 section 904(4) or (5), **OR, BEGINNING OCTOBER 31, 2010, A VIOLATION**
18 **OF SECTION 626(3) OR (4)**, may require 1 of the following with
19 regard to the vehicle used in the offense if the defendant owns the
20 vehicle in whole or in part or leases the vehicle:

21 (a) Forfeiture of the vehicle if the defendant owns the
22 vehicle in whole or in part.

23 (b) Return of the vehicle to the lessor if the defendant
24 leases the vehicle.

25 (2) The vehicle may be seized ~~pursuant to an order of~~ **UNDER A**
26 **seizure ORDER** issued by the court having jurisdiction upon a
27 showing of probable cause that the vehicle is subject to forfeiture

1 or return to the lessor.

2 (3) The forfeiture of a vehicle is subject to the interest of
3 the holder of a security interest who did not have prior knowledge
4 of or consent to the violation.

5 (4) Within 14 days after the defendant's conviction for a
6 violation described in subsection (1), the prosecuting attorney may
7 file a petition with the court for the forfeiture of the vehicle or
8 to have the court order return of a leased vehicle to the lessor.
9 The prosecuting attorney shall give notice by first-class mail or
10 other process to the defendant and his or her attorney, to all
11 owners of the vehicle, and to any person holding a security
12 interest in the vehicle that the court may require forfeiture or
13 return of the vehicle.

14 (5) If a vehicle is seized before disposition of the criminal
15 proceedings, a defendant who is an owner or lessee of the vehicle
16 may move the court having jurisdiction over the proceedings to
17 require the seizing agency to file a lien against the vehicle and
18 to return the vehicle to the owner or lessee pending disposition of
19 the criminal proceedings. The court shall hear the motion within 7
20 days after the motion is filed. If the defendant establishes at the
21 hearing that he or she holds the legal title to the vehicle or that
22 he or she has a leasehold interest and that it is necessary for him
23 or her or a member of his or her family to use the vehicle pending
24 the outcome of the forfeiture action, the court may order the
25 seizing agency to return the vehicle to the owner or lessee. If the
26 court orders the return of the vehicle to the owner or lessee, the
27 court shall order the defendant to post a bond in an amount equal

1 to the retail value of the vehicle, and shall also order the
2 seizing agency to file a lien against the vehicle.

3 (6) Within 14 days after notice by the prosecuting attorney is
4 given under subsection (4), the defendant, an owner, lessee, or
5 holder of a security interest may file a claim of interest in the
6 vehicle with the court. Within 21 days after the expiration of the
7 period for filing claims, but before or at sentencing, the court
8 shall hold a hearing to determine the legitimacy of any claim, the
9 extent of any co-owner's equity interest, the liability of the
10 defendant to any co-lessee, and whether to order the vehicle
11 forfeited or returned to the lessor. In considering whether to
12 order forfeiture, the court shall review the defendant's driving
13 record to determine whether the defendant has multiple convictions
14 under section 625 or a local ordinance substantially corresponding
15 to section 625, or multiple suspensions, restrictions, or denials
16 under section 904, or both. If the defendant has multiple
17 convictions under section 625 or multiple suspensions,
18 restrictions, or denials under section 904, or both, that factor
19 shall weigh heavily in favor of forfeiture.

20 (7) If a vehicle is forfeited under this section, the unit of
21 government that seized the vehicle shall sell the vehicle pursuant
22 to the procedures under section 252g(1) and dispose of the proceeds
23 in the following order of priority:

24 (a) Pay any outstanding security interest of a secured party
25 who did not have prior knowledge of or consent to the commission of
26 the violation.

27 (b) Pay the equity interest of a co-owner who did not have

1 prior knowledge of or consent to the commission of the violation.

2 (c) Satisfy any order of restitution entered in the
3 prosecution for the violation.

4 (d) Pay any outstanding accrued towing and storage fees.

5 (e) Pay the claim of each person who shows that he or she is a
6 victim of the violation to the extent that the claim is not covered
7 by an order of restitution.

8 (f) Pay any outstanding lien against the property that has
9 been imposed by a governmental unit.

10 (g) Pay the proper expenses of the proceedings for forfeiture
11 and sale, including, but not limited to, expenses incurred during
12 the seizure process and expenses for maintaining custody of the
13 property, advertising, and court costs.

14 (h) The balance remaining after the payment of items (a)
15 through (g) shall be distributed by the court having jurisdiction
16 over the forfeiture proceedings to the unit or units of government
17 substantially involved in effecting the forfeiture. Seventy-five
18 percent of the money received by a unit of government under this
19 subdivision shall be used to enhance enforcement of the criminal
20 laws and 25% of the money shall be used to implement the **WILLIAM**
21 **VAN REGENMORTER** crime victim's rights act, 1985 PA 87, MCL 780.751
22 to 780.834. A unit of government receiving money under this
23 subdivision shall report annually to the department of management
24 and budget the amount of money received under this subdivision that
25 was used to enhance enforcement of the criminal laws and the amount
26 that was used to implement the **WILLIAM VAN REGENMORTER** crime
27 victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

1 (8) The court may order the defendant to pay to a co-lessee
2 any liability determined under subsection (6). The order may be
3 enforced in the same manner as a civil judgment.

4 (9) The return of a vehicle to the lessor under this section
5 does not affect or impair the lessor's rights or the defendant's
6 obligations under the lease.

7 (10) A person who knowingly conceals, sells, gives away, or
8 otherwise transfers or disposes of a vehicle with the intent to
9 avoid forfeiture or return of the vehicle to the lessor under this
10 section is guilty of a misdemeanor punishable by imprisonment for
11 not more than 1 year or a fine of not more than \$1,000.00, or both.

12 (11) The failure of the court or prosecutor to comply with any
13 time limit specified in this section does not preclude the court
14 from ordering forfeiture of a vehicle or its return to a lessor,
15 unless the court finds that the owner or claimant suffered
16 substantial prejudice as a result of that failure.

17 (12) The forfeiture provisions of this section do not preclude
18 the prosecuting attorney from pursuing a forfeiture proceeding
19 under any other law of this state or a local ordinance
20 substantially corresponding to this section.

21 Sec. 732a. (1) An individual, whether licensed or not, who
22 accumulates 7 or more points on his or her driving record pursuant
23 ~~to~~ **UNDER** sections 320a and 629c within a 2-year period for any
24 violation not listed under subsection (2) shall be assessed a
25 \$100.00 driver responsibility fee. For each additional point
26 accumulated above 7 points not listed under subsection (2), an
27 additional fee of \$50.00 shall be assessed. The secretary of state

1 shall collect the fees described in this subsection once each year
2 that the point total on an individual driving record is 7 points or
3 more.

4 (2) An individual, whether licensed or not, who violates any
5 of the following sections or another law or local ordinance that
6 substantially corresponds to those sections shall be assessed a
7 driver responsibility fee as follows:

8 (a) Upon posting an abstract indicating that an individual has
9 been found guilty for a violation of law listed or described in
10 this subdivision, the secretary of state shall assess a \$1,000.00
11 driver responsibility fee each year for 2 consecutive years:

12 (i) Manslaughter, negligent homicide, or a felony resulting
13 from the operation of a motor vehicle, ORV, or snowmobile.

14 (ii) Section 601b(2) or (3), 601c(1) or (2), ~~601d, 626(3) or~~
15 ~~(4),~~ or 653a(3) or (4) **OR, BEGINNING OCTOBER 31, 2010, SECTION 601D**
16 **OR 626(3) OR (4).**

17 (iii) Section 625(1), (4), or (5), section 625m, or section
18 81134 of the natural resources and environmental protection act,
19 1994 PA 451, MCL 324.81134, or a law or ordinance substantially
20 corresponding to section 625(1), (4), or (5), section 625m, or
21 section 81134 of the natural resources and environmental protection
22 act, 1994 PA 451, MCL 324.81134.

23 (iv) Failing to stop and disclose identity at the scene of an
24 accident when required by law.

25 (v) Fleeing or eluding an officer.

26 (b) Upon posting an abstract indicating that an individual has
27 been found guilty for a violation of law listed in this

1 subdivision, the secretary of state shall assess a \$500.00 driver
2 responsibility fee each year for 2 consecutive years:

3 (i) Section 625(3), (6), (7), or (8).

4 (ii) Section **626 OR, BEGINNING OCTOBER 31, 2010, SECTION**
5 626(2).

6 (iii) Section 904.

7 (iv) Section 3101, 3102(1), or 3103 of the insurance code of
8 1956, 1956 PA 218, MCL 500.3101, 500.3102, and 500.3103.

9 (c) Upon posting an abstract indicating that an individual has
10 been found guilty for a violation of section 301, the secretary of
11 state shall assess a \$150.00 driver responsibility fee each year
12 for 2 consecutive years.

13 (d) Upon posting an abstract indicating that an individual has
14 been found guilty or determined responsible for a violation listed
15 in section 328, the secretary of state shall assess a \$200.00
16 driver responsibility fee each year for 2 consecutive years.

17 (3) The secretary of state shall send a notice of the driver
18 responsibility assessment, as prescribed under subsection (1) or
19 (2), to the individual by regular mail to the address on the
20 records of the secretary of state. If payment is not received
21 within 30 days after the notice is mailed, the secretary of state
22 shall send a second notice that indicates that if payment is not
23 received within the next 30 days, the driver's driving privileges
24 will be suspended.

25 (4) The secretary of state may authorize payment by
26 installment for a period not to exceed 24 months.

27 (5) Except as otherwise provided under this subsection, if

1 payment is not received or an installment plan is not established
2 after the time limit required by the second notice prescribed under
3 subsection (3) expires, the secretary of state shall suspend the
4 driving privileges until the assessment and any other fees
5 prescribed under this act are paid. However, if the individual's
6 license to operate a motor vehicle is not otherwise required under
7 this act to be denied, suspended, or revoked, the secretary of
8 state shall reinstate the individual's operator's driving
9 privileges if the individual requests an installment plan under
10 subsection (4) and makes proper payment under that plan. Fees
11 required to be paid for the reinstatement of an individual's
12 operator's driving privileges as described under this subsection
13 shall, at the individual's request, be included in the amount to be
14 paid under the installment plan. If the individual establishes a
15 payment plan as described in this subsection and subsection (4) but
16 fails to make full or timely payments under that plan, the
17 secretary of state shall suspend the individual's driving
18 privileges. The secretary of state shall only reinstate a license
19 under this subsection once.

20 (6) A fee shall not be assessed under this section for 7
21 points or more on a driving record on October 1, 2003. Points
22 assigned after October 1, 2003 shall be assessed as prescribed
23 under subsections (1) and (2).

24 (7) A driver responsibility fee shall be assessed under this
25 section in the same manner for a conviction or determination of
26 responsibility for a violation or an attempted violation of a law
27 of this state, of a local ordinance substantially corresponding to

1 a law of this state, or of a law of another state substantially
2 corresponding to a law of this state.

3 (8) The fire protection fund is created within the state
4 treasury. The state treasurer may receive money or other assets
5 from any source for deposit into the fund. The state treasurer
6 shall direct the investment of the fund. The state treasurer shall
7 credit to the fund interest and earnings from fund investments.
8 Money in the fund at the close of the fiscal year shall remain in
9 the fund and shall not lapse to the general fund. The department of
10 energy, labor, and economic growth shall expend money from the
11 fund, upon appropriation, only for fire protection grants to
12 cities, villages, and townships with state owned facilities for
13 fire services, as provided in 1977 PA 289, MCL 141.951 to 141.956.

14 (9) The secretary of state shall transmit the fees collected
15 under this section to the state treasurer. The state treasurer
16 shall credit fee money received under this section in each fiscal
17 year as follows:

18 (a) The first \$65,000,000.00 shall be credited to the general
19 fund.

20 (b) If more than \$65,000,000.00 is collected under this
21 section, the next amount collected in excess of \$65,000,000.00 up
22 to \$68,500,000.00 shall be credited to the fire protection fund
23 created in this section.

24 (c) If more than \$100,000,000.00 is collected under this
25 section, the next amount collected in excess of \$100,000,000.00 up
26 to \$105,000,000.00 shall be credited to the fire protection fund
27 created in this section.

1 (d) Any amount collected after crediting the amounts under
2 subdivisions (a), (b), and (c) shall be credited to the general
3 fund.

4 (10) THE COLLECTION OF ASSESSMENTS UNDER THIS SECTION IS
5 SUBJECT TO SECTION 304.

6 Sec. 904d. (1) Vehicle immobilization applies as follows:

7 (a) For a conviction under section 625(1), (3), (7), or (8) or
8 a local ordinance substantially corresponding to section 625(1) or
9 (3) with no prior convictions, or, **BEGINNING OCTOBER 31, 2010, FOR**
10 **A CONVICTION** under section 626(3) or (4), the court may order
11 vehicle immobilization for not more than 180 days.

12 (b) For a conviction under section 625(4) or (5) with no prior
13 convictions, the court shall order vehicle immobilization for not
14 more than 180 days.

15 (c) For a conviction under section 625(1), (3), (4), (5), (7),
16 or (8) within 7 years after a prior conviction, or, **BEGINNING**
17 **OCTOBER 31, 2010**, for a conviction under section 625(2), the court
18 shall order vehicle immobilization for not less than 90 days or
19 more than 180 days.

20 (d) ~~For~~ **BEFORE OCTOBER 31, 2010, FOR** a conviction under
21 section 625(1), (3), (4), (5), (7), or (8) after 2 or more prior
22 convictions **WITHIN 10 YEARS, OR, BEGINNING OCTOBER 31, 2010, FOR A**
23 **CONVICTION UNDER SECTION 625(1), (3), (4), (5), (7), OR (8) AFTER 2**
24 **OR MORE PRIOR CONVICTIONS**, the court shall order vehicle
25 immobilization for not less than 1 year or more than 3 years.

26 (2) For a conviction or civil infraction determination
27 resulting from a violation that occurred during a period of

1 suspension, revocation, or denial, the following apply:

2 (a) Except as provided in subdivision (b), for 1 prior
3 suspension, revocation, or denial under section 904(10), (11), or
4 (12) or former section 904(2) or (4) within the past 7 years, the
5 court may order vehicle immobilization for not more than 180 days.

6 (b) Except as provided in subdivisions (c) and (d), if the
7 person is convicted under section 904(4) or (5), the court shall
8 order vehicle immobilization for not more than 180 days.

9 (c) For any combination of 2 or 3 prior suspensions,
10 revocations, or denials under section 904(10), (11), or (12) or
11 former section 904(2) or (4) within the past 7 years, the court
12 shall order vehicle immobilization for not less than 90 days or
13 more than 180 days.

14 (d) For any combination of 4 or more prior suspensions,
15 revocations, or denials under section 904(10), (11), or (12) or
16 former section 904(2) or (4) within the past 7 years, the court
17 shall order vehicle immobilization for not less than 1 year or more
18 than 3 years.

19 (3) The defendant shall provide to the court the vehicle
20 identification number and registration plate number of the vehicle
21 involved in the violation.

22 (4) The court may order vehicle immobilization under this
23 section under either of the following circumstances:

24 (a) The defendant is the owner, co-owner, lessee, or co-lessee
25 of the vehicle operated during the violation.

26 (b) The owner, co-owner, lessee, or co-lessee knowingly
27 permitted the vehicle to be operated in violation of section 625(2)

1 or section 904(2) regardless of whether a conviction resulted.

2 (5) Except as otherwise provided in ~~subsection~~**SUBSECTIONS**
3 (11) **AND (13)**, an order required to be issued under this section
4 shall not be suspended.

5 (6) If a defendant is ordered imprisoned for the violation for
6 which immobilization is ordered, the period of immobilization shall
7 begin at the end of the period of imprisonment.

8 (7) This section does not apply to any of the following:

9 (a) A suspension, revocation, or denial based on a violation
10 of the support and parenting time enforcement act, 1982 PA 295, MCL
11 552.601 to 552.650.

12 (b) A vehicle that is registered in another state or that is a
13 rental vehicle.

14 (c) A vehicle owned by the federal government, this state, or
15 a local unit of government of this state.

16 (d) A vehicle not subject to registration under section 216.

17 (e) Any of the following:

18 (i) A violation of chapter II.

19 (ii) A violation of chapter V.

20 (iii) A violation for failure to change address.

21 (iv) A parking violation.

22 (v) A bad check violation.

23 (vi) An equipment violation.

24 (vii) A pedestrian, passenger, or bicycle violation, other than
25 a violation of section 703(1) or (2) of the Michigan liquor control
26 code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance
27 substantially corresponding to section 703(1) or (2) of the

1 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or
2 section 624a or 624b or a local ordinance substantially
3 corresponding to section 624a or 624b.

4 (viii) A violation of a local ordinance substantially
5 corresponding to a violation described in subparagraphs (i) to (vii).

6 (8) As used in this section:

7 (a) Subject to subsections (9) and (10), "prior conviction"
8 means a conviction for any of the following, whether under a law of
9 this state, a local ordinance substantially corresponding to a law
10 of this state, or a law of another state substantially
11 corresponding to a law of this state:

12 (i) Except as otherwise provided in subsection (10), a
13 violation or attempted violation of any of the following:

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

21 (B) Section 625m.

22 (C) Former section 625b.

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

26 (iii) ~~A~~ **BEGINNING OCTOBER 31, 2010, A** violation of section 601d
27 or section 626(3) or (4).

1 (b) "Vehicle immobilization" means requiring the motor vehicle
2 involved in the violation immobilized in a manner provided in
3 section 904e.

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

8 (10) Only 1 violation or attempted violation of section
9 625(6), a local ordinance substantially corresponding to section
10 625(6), or a law of another state substantially corresponding to
11 section 625(6) may be used as a prior conviction.

12 (11) ~~If~~**BEGINNING OCTOBER 31, 2010, IF** the person obtains a
13 restricted operator's or chauffeur's license from the secretary of
14 state and an ignition interlock device is properly installed in the
15 vehicle, the court shall suspend the immobilization order issued
16 under subsection (1)(c) for a conviction under section 625(2).

17 (12) ~~The~~**BEGINNING OCTOBER 31, 2010, THE** court may reinstate
18 vehicle immobilization issued under subsection (1)(c) for a
19 conviction under section 625(2) if an ignition interlock device is
20 tampered with, circumvented, or disabled, or if the person's
21 restricted operator's or chauffeur's license is suspended or
22 revoked.

23 **(13) VEHICLE IMMOBILIZATION UNDER THIS SECTION IS SUBJECT TO**
24 **SECTION 304 IF THE DEFENDANT OBTAINS A RESTRICTED LICENSE UNDER**
25 **SECTION 304.**

26 Enacting section 1. This amendatory act takes effect October
27 31, 2010.

1 Enacting section 2. This amendatory act does not take effect
2 unless House Bill No. 5273 of the 95th Legislature is enacted into
3 law.