

HOUSE BILL No. 4336

February 18, 2009, Introduced by Rep. Lori and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 303, 319, and 322 (MCL 257.303, 257.319, and 257.322), sections 303 and 319 as amended by 2008 PA 463 and section 322 as amended by 2008 PA 462.

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
8 canceled in any state. If the suspension, revocation, denial, or

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

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

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

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

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

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

27 (i) A person who has failed to answer a citation or notice to

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

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

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

24 (l) A person not licensed under this act who is determined to
25 have violated section 33b(1) of former 1933 (Ex Sess) PA 8, section
26 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL
27 436.1703, or section 624a or 624b. ~~of this act.~~ The person shall be

1 denied a license under this subdivision for a period of time that
2 corresponds to the period of the licensing sanction that would have
3 been imposed under those sections had the person been licensed at
4 the time of the violation.

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

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

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

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

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

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

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

27 (iii) Negligent homicide, manslaughter, or murder resulting from

1 the operation of a vehicle or an attempt to commit any of those
2 crimes.

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

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

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

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

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

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

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

26 (f) One conviction for a violation or attempted violation of
27 section 479a(4) or (5) of the Michigan penal code, 1931 PA 328, MCL

1 750.479a.

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

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

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

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

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

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

24 (a) The later of the following:

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

27 (ii) The expiration of not less than 5 years after the date of

1 a subsequent revocation or denial occurring within 7 years after
2 the date of any prior revocation or denial.

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

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

10 (5) THE SECRETARY OF STATE SHALL ISSUE A RESTRICTED LICENSE TO
11 A PERSON WHOSE LICENSE WAS REVOKED UNDER SUBSECTION (2)(C) OR (G)
12 AFTER THE PERSON'S LICENSE WAS REVOKED FOR NOT LESS THAN 45 DAYS,
13 OR FOR NOT LESS THAN 1 YEAR IF THE 111TH CONGRESS OF THE UNITED
14 STATES OF AMERICA FAILS TO ENACT AMENDMENTS TO 23 USC 164 ALLOWING
15 IGNITION INTERLOCK DEVICES TO BE INSTALLED BY DRUNK DRIVING REPEAT
16 OFFENDERS FOLLOWING 45 DAYS OF LICENSE REVOCATION. A RESTRICTED
17 LICENSE MAY ONLY BE ISSUED IF THE PERSON EQUIPS HIS OR HER MOTOR
18 VEHICLE WITH AN IGNITION INTERLOCK DEVICE THAT IS APPROVED,
19 CERTIFIED, AND INSTALLED AS REQUIRED UNDER SECTIONS 625K AND 625L.
20 THE RESTRICTED LICENSE SHALL ALLOW THE PERSON TO OPERATE ONLY A
21 VEHICLE EQUIPPED WITH THE IGNITION INTERLOCK DEVICE. THE IGNITION
22 INTERLOCK DEVICE SHALL REMAIN ON THE VEHICLE OR ANY REPLACEMENT
23 VEHICLE UNTIL THE SECRETARY OF STATE ISSUES AN UNRESTRICTED LICENSE
24 UNDER THIS SECTION.

25 (6) A RESTRICTED LICENSE ISSUED UNDER SUBSECTION (5) PERMITS
26 THE PERSON TO WHOM IT IS ISSUED TO OPERATE ONLY THE VEHICLE
27 EQUIPPED WITH AN IGNITION INTERLOCK DEVICE AND ONLY FOR THE PURPOSE

1 OF DRIVING TO OR FROM 1 OR MORE OF THE FOLLOWING DESTINATIONS:

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

3 (B) THE PERSON'S SCHOOL.

4 (C) AN ALCOHOL TREATMENT PROGRAM.

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

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

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

24 (8) ~~(6)~~—The secretary of state shall deny issuance of a
25 vehicle group designation to a person if the person has been
26 disqualified by the United States secretary of transportation from
27 operating a commercial motor vehicle.

1 (9) ~~(7)~~ Multiple convictions or civil infraction
2 determinations resulting from the same incident shall be treated as
3 a single violation for purposes of denial or revocation of a
4 license under this section.

5 (10) ~~(8)~~ As used in this section, "felony in which a motor
6 vehicle was used" means a felony during the commission of which the
7 person operated a motor vehicle and while operating the vehicle
8 presented real or potential harm to persons or property and 1 or
9 more of the following circumstances existed:

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

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

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

13 (d) The vehicle was necessary for the commission of the
14 felony.

15 Sec. 319. (1) The secretary of state shall immediately suspend
16 a person's license as provided in this section upon receiving a
17 record of the person's conviction for a crime described in this
18 section, whether the conviction is under a law of this state, a
19 local ordinance substantially corresponding to a law of this state,
20 a law of another state substantially corresponding to a law of this
21 state, or, **BEGINNING ON AND AFTER OCTOBER 31, 2010**, a law of the
22 United States substantially corresponding to a law of this state.

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

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

27 (b) A violation of section 413 of the Michigan penal code,

1 1931 PA 328, MCL 750.413.

2 (c) A violation of section 1 of former 1931 PA 214, MCL
3 752.191, or section 626c.

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

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

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

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

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

15 (e) A violation of section 602a(2) or (3) of this act or
16 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL
17 750.479a.

18 (f) ~~A-BEGINNING ON AND AFTER OCTOBER 31, 2010, A~~ violation of
19 section 601d.

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

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

24 (b) A violation of section 601b(2), section 601c(1), section
25 **626 BEFORE OCTOBER 31, 2010 OR, BEGINNING ON AND AFTER OCTOBER 31,**
26 **2010, SECTION 626(2),** or section 653a(3).

27 (c) Malicious destruction resulting from the operation of a

1 vehicle under section 382(1)(b), (c), or (d) of the Michigan penal
2 code, 1931 PA 328, MCL 750.382.

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

5 (4) The secretary of state shall suspend the person's license
6 for 30 days for malicious destruction resulting from the operation
7 of a vehicle under section 382(1)(a) of the Michigan penal code,
8 1931 PA 328, MCL 750.382.

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

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

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

19 (6) For a violation of section 414 of the Michigan penal code,
20 1931 PA 328, MCL 750.414, the secretary of state shall suspend the
21 person's license as follows:

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

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

26 (7) For a violation of section 624a or 624b of this act or
27 section 703(1) of the Michigan liquor control code of 1998, 1998 PA

1 58, MCL 436.1703, the secretary of state shall suspend the person's
2 license as follows:

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

7 (b) If the person has 2 or more prior convictions for an
8 offense described in this subsection or section 33b(1) of former
9 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue
10 the person a restricted license after the first 60 days of
11 suspension.

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

14 (a) For 180 days for a violation of section **625(1) OR (8)**
15 **BEFORE OCTOBER 31, 2010 OR, BEGINNING ON AND AFTER OCTOBER 31,**
16 **2010, SECTION** 625(1)(a) or (b) or (8) if the person has no prior
17 convictions within 7 years. The secretary of state may issue the
18 person a restricted license, ~~during a specified portion of the~~
19 ~~suspension,~~ except that the secretary of state shall not issue a
20 restricted license during the first 30 days of suspension.

21 (b) For 90 days for a violation of section 625(3) if the
22 person has no prior convictions within 7 years. However, if the
23 person is convicted of a violation of section 625(3), for operating
24 a vehicle when, due to the consumption of a controlled substance or
25 a combination of alcoholic liquor and a controlled substance, the
26 person's ability to operate the vehicle was visibly impaired, the
27 secretary of state shall suspend the person's license under this

1 subdivision for 180 days. The secretary of state may issue the
2 person a restricted license during all or a specified portion of
3 the suspension.

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

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

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

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

19 (g) ~~For~~ **BEGINNING ON AND AFTER OCTOBER 31, 2010, FOR** 1 year
20 for a violation of section 625(1)(c) if the person has no prior
21 convictions within 7 years or not more than 2 convictions within 10
22 years. The secretary of state may issue the person a restricted
23 license, except that the secretary of state shall not issue a
24 restricted license during the first 45 days of suspension.

25 (h) ~~The~~ **BEGINNING ON AND AFTER OCTOBER 31, 2010, THE**
26 department shall order a person convicted of violating section
27 625(1)(c) not to operate a motor vehicle under a restricted license

1 issued under subdivision (g) unless the vehicle is equipped with an
2 ignition interlock device approved, certified, and installed as
3 required under sections 625k and 625l. The ignition interlock device
4 may be removed after the interlock device provider provides the
5 department with verification that the person has operated the
6 vehicle with no instances of reaching or exceeding a blood alcohol
7 level of 0.025 grams per 210 liters of breath.

8 (i) ~~If~~ **BEGINNING ON AND AFTER OCTOBER 31, 2010, IF** an
9 individual violates the conditions of the restricted license issued
10 under subdivision (g) or operates or attempts to operate a motor
11 vehicle with a blood alcohol level of 0.025 grams per 210 liters of
12 breath, the secretary of state shall impose an additional like
13 period of suspension and restriction as prescribed under
14 subdivision (g). This subdivision does not apply to a start-up test
15 failure within the first 2 months after installation of the
16 ignition interlock device. As used in this subdivision, "start-up
17 test failure" means that term as defined in R 257.313a of the
18 Michigan administrative code.

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

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

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

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

1 (11) For a violation or attempted violation of section 411a(2)
2 of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a
3 school, the secretary of state shall suspend the license of a
4 person 14 years of age or over but less than 21 years of age until
5 3 years after the date of the conviction or juvenile disposition
6 for the violation. The secretary of state may issue the person a
7 restricted license after the first 365 days of suspension.

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

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

15 (14) The secretary of state may waive a restriction,
16 suspension, or revocation of a person's license imposed under this
17 act if the person submits proof that a court in another state
18 revoked, suspended, or restricted his or her license for a period
19 equal to or greater than the period of a restriction, suspension,
20 or revocation prescribed under this act for the violation and that
21 the revocation, suspension, or restriction was served for the
22 violation, or may grant a restricted license.

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

27 (16) The secretary of state shall not issue a restricted

1 license to a person under subsection (8) that would permit the
2 person to operate a commercial motor vehicle.

3 (17) Except as provided in subsection (16), a restricted
4 license issued under this section shall permit the person to whom
5 it is issued to take any driving skills test required by the
6 secretary of state and to operate a vehicle under 1 or more of the
7 following circumstances:

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

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

10 (i) The person's residence.

11 (ii) The person's work location.

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

14 (iv) The court probation department.

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

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

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

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

25 (19) Subject to subsection (21), as used in subsection (8),
26 "prior conviction" means a conviction for any of the following,
27 whether under a law of this state, a local ordinance substantially

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

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

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

12 (ii) Section 625m.

13 (iii) Former section 625b.

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

17 (c) ~~A-BEGINNING ON AND AFTER OCTOBER 31, 2010, A~~ violation of
18 section 601d or section 626(3) or (4).

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

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

1 Sec. 322. (1) The secretary of state shall appoint a hearing
2 officer to hear appeals from persons aggrieved by a final
3 determination of the secretary of state denying an application for
4 an operator's or chauffeur's license, suspending, restricting, or
5 revoking an operator's or chauffeur's license, or other license
6 action.

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

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

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

15 (b) Issue process to compel attendance.

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

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

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

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

23 (5) After a hearing, the hearing officer may affirm, modify,
24 or set aside a final determination of the secretary of state
25 denying an application for an operator's or chauffeur's license,
26 suspending, restricting, or revoking an operator's or chauffeur's
27 license, or any other license action. The hearing officer shall

1 include his or her findings of fact and conclusions of law in the
2 record.

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

12 (a) Require a properly installed and functioning ignition
13 interlock device **THAT, BEFORE OCTOBER 31, 2010, MEETS OR EXCEEDS**
14 **THE MODEL SPECIFICATIONS FOR BREATH ALCOHOL IGNITION INTERLOCK**
15 **DEVICES (BAIID), 57 FR P 11772 - 11787 (APRIL 7, 1992),** on each
16 motor vehicle the person owns or intends to operate, the costs of
17 which shall be borne by the person whose license is restricted.

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

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

24 (8) If the hearing officer issues a restricted license to a
25 person who intends to operate a vehicle owned by his or her
26 employer, the secretary of state shall notify the employer of the
27 employee's license restriction that requires the installation of an

1 ignition interlock device. An employer who receives notice under
2 this subsection is not required to install an ignition interlock
3 device on the employer-owned vehicle. This subsection does not
4 apply to a vehicle that is operated by a self-employed individual
5 who uses the vehicle for both business and personal use.

6 (9) If the hearing officer issues a restricted license
7 requiring an ignition interlock device, the initial period for
8 requiring the device shall be, ~~not less than~~ **BEFORE OCTOBER 31,**
9 **2010, 1 year. BEFORE OCTOBER 31, 2010, AFTER THAT INITIAL PERIOD,**
10 **THE HEARING OFFICER MAY CONTINUE THE IGNITION INTERLOCK DEVICE**
11 **REQUIREMENT FOR ANY LENGTH OF TIME. BEGINNING ON AND AFTER OCTOBER**
12 **31, 2010, THE INITIAL PERIOD FOR REQUIRING THE DEVICE SHALL BE NOT**
13 **LESS THAN 1 YEAR. THE DEVICE SHALL NOT BE REMOVED UNTIL THE HEARING**
14 **OFFICER ORDERS THE IGNITION INTERLOCK DEVICE REMOVED.**

15 Enacting section 1. This amendatory act takes effect October
16 1, 2009.