

HOUSE BILL No. 5020

October 1, 2013, Introduced by Rep. Jenkins and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending section 304 (MCL 257.304), as amended by 2012 PA 498.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 304. (1) Except as provided in subsection (3), the
2 secretary of state shall issue a restricted license to a person
3 whose license was suspended or restricted under section 319 or
4 revoked or denied under section 303 based on either of the
5 following:

6 (a) Two or more convictions for violating section 625(1) or
7 (3) or a local ordinance of this state substantially corresponding
8 to section 625(1) or (3).

9 (b) One conviction for violating section 625(1) or (3) or a

1 local ordinance of this state substantially corresponding to
2 section 625(1) or (3), preceded by 1 or more convictions for
3 violating a local ordinance or law of another state substantially
4 corresponding to section 625(1), (3), or (6), or a law of the
5 United States substantially corresponding to section 625(1), (3),
6 or (6).

7 (2) A restricted license issued under subsection (1) shall not
8 be issued until after the person's operator's or chauffeur's
9 license has been suspended or revoked for 45 days and the judge
10 assigned to a DWI/sobriety court certifies to the secretary of
11 state that both of the following conditions have been met:

12 (a) The person has been admitted into a DWI/sobriety court
13 program.

14 (b) An ignition interlock device approved, certified, and
15 installed as required under sections 625k and 625l has been
16 installed on each motor vehicle owned or operated, or both, by the
17 individual.

18 (3) A restricted license shall not be issued under subsection
19 (1) if the person is otherwise ineligible for an operator's or
20 chauffeur's license under this act, unless the person's
21 ineligibility is based on 1 or more of the following:

22 (a) Section 303(1)(i) or (l).

23 (b) Section 303(2)(c)(i) or (iii).

24 (c) Section 303(2)(g)(i) or (iii).

25 (d) Section 319(4), (5), (6), (7), (8)(a) to (e), or (9).

26 (e) Section 319e(2)(a) or (b).

27 (f) Section 320(1)(d).

1 (g) Section 321a(1), (2), or (3).

2 (h) Section 323c.

3 (i) Section 625f.

4 (j) Section 732a(5).

5 (k) Section 904(10).

6 (l) Section 82105a(2) of the natural resources and
7 environmental protection act, 1994 PA 451, MCL 324.82105a.

8 (m) Section 3177 of the insurance code of 1956, 1956 PA 218,
9 MCL 500.3177.

10 (n) Section 10 of the motor vehicle claims act, 1965 PA 198,
11 MCL 257.1110.

12 (4) A restricted license issued under subsection (1) permits
13 the person to whom it is issued to operate only the vehicle
14 equipped with an ignition interlock device described in subsection
15 (2)(b), to take any driving skills test required by the secretary
16 of state, and to drive to and from any combination of the following
17 locations or events:

18 (a) In the course of the person's employment or occupation if
19 the employment or occupation does not require a commercial driver
20 license.

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

22 (i) The person's residence.

23 (ii) The person's work location.

24 (iii) An alcohol, drug, or mental health education and treatment
25 as ordered by the court.

26 (iv) Alcoholics anonymous, narcotics anonymous, or other court-
27 ordered self-help programs.

1 (v) Court hearings and probation appointments.

2 (vi) Court-ordered community service.

3 (vii) An educational institution at which the person is
4 enrolled as a student.

5 (viii) A place of regularly occurring medical treatment for a
6 serious condition or medical emergency for the person or a member
7 of the person's household or immediate family.

8 (ix) Alcohol or drug testing as ordered by the court.

9 (x) Ignition interlock service provider as required.

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

14 (6) Except as otherwise provided in this section, a restricted
15 license issued under subsection (1) is effective until a hearing
16 officer orders an unrestricted license under section 322. The
17 hearing officer shall not order an unrestricted license until the
18 later of the following events occurs:

19 (a) The court notifies the secretary of state that the person
20 has successfully completed the DWI/sobriety court program.

21 (b) The minimum period of license sanction that would have
22 been imposed under section 303 or 319 but for this section has been
23 completed.

24 (c) The person demonstrates that he or she has operated with
25 an ignition interlock device for not less than 1 year.

26 (d) The person satisfies the requirements of section 303 and R
27 257.313 of the Michigan administrative code.

1 (7) In determining whether to order an unrestricted license
2 under subsection (6), the successful completion of the DWI/sobriety
3 court program and a certificate from the DWI/sobriety court judge
4 shall be considered positive evidence of the petitioner's
5 abstinence while the petitioner participated in the DWI/sobriety
6 court program. As used in this subsection, "certificate" includes,
7 but is not limited to, a statement that the participant has
8 maintained a period of abstinence from alcohol for not less than 6
9 months at the time the participant completed the DWI/sobriety court
10 program.

11 (8) If the secretary of state receives a notification from the
12 DWI/sobriety court under section 1084(6) of the revised judicature
13 act of 1961, 1961 PA 236, MCL 600.1084, the secretary of state
14 shall summarily impose 1 of the following license sanctions, as
15 applicable:

16 (a) Suspension for the full length of time provided under
17 section 319(8). However, a restricted license shall not be issued
18 as provided under section 319(8). This subdivision applies if the
19 underlying conviction or convictions would have subjected the
20 person to a license sanction under section 319(8) if this section
21 did not apply.

22 (b) A license revocation and denial for the full length of
23 time provided under section 303. The minimum period of license
24 revocation and denial imposed shall be the same as if this section
25 did not apply. This subdivision applies if the underlying
26 conviction or convictions would have caused a license revocation
27 and denial under section 303 if this section did not apply.

1 (9) After the person completes the DWI/sobriety court
2 interlock ~~pilot~~-program, the following apply:

3 (a) The secretary of state shall postpone considering the
4 issuance of an unrestricted license under section 322 for a period
5 of 3 months for each act that would be a minor violation if the
6 person's license had been issued under section 322(6). As used in
7 this subdivision, "minor violation" means that term as defined in R
8 257.301a of the Michigan administrative code.

9 (b) The restricted license issued under this section shall be
10 suspended or revoked or denied as provided in subsection (8),
11 unless set aside under subsection (6), if any of the following
12 events occur:

13 (i) The person operates a motor vehicle without an ignition
14 interlock device that meets the criteria under subsection (2)(b).

15 (ii) The person removes, or causes to be removed, an ignition
16 interlock device from a vehicle he or she owns or operates unless
17 the secretary of state has authorized its removal under section
18 322a.

19 (iii) The person commits any other act that would be a major
20 violation if the person's license had been issued under section
21 322(6). As used in this subparagraph, "major violation" means that
22 term as defined in R 257.301a of the Michigan administrative code.

23 (iv) The person is arrested for a violation of any of the
24 following:

25 (A) Section 625.

26 (B) A local ordinance of this state or another state
27 substantially corresponding to section 625.

1 (C) A law of the United States substantially corresponding to
2 section 625.

3 (c) If the person is convicted of or found responsible for any
4 offense that requires the suspension, revocation, denial, or
5 cancellation of the person's operator's or chauffeur's license, the
6 restricted license issued under this section shall be suspended
7 until the requisite period of license suspension, revocation,
8 denial, or cancellation, as appropriate, has elapsed.

9 (d) If the person has failed to pay any court-ordered fines or
10 costs that resulted from the operation of a vehicle, the restricted
11 license issued under this section shall be suspended pending
12 payment of those fines and costs.

13 (10) All driver responsibility fees required to be assessed by
14 the secretary of state under section 732a for the conviction or
15 convictions that led to the restricted license under this section
16 shall be held in abeyance as follows:

17 (a) The fees shall be held in abeyance during the time the
18 person has a restricted license under this section and is
19 participating in the DWI/sobriety court interlock ~~pilot~~ project.

20 (b) At the end of the person's participation in the
21 DWI/sobriety court program, the driver responsibility fees shall be
22 assessed and paid under the payment schedule described in section
23 732a.

24 (11) The vehicle of an individual admitted to the DWI/sobriety
25 court interlock ~~pilot~~ project whose vehicle would otherwise be
26 subject to immobilization or forfeiture under this act is exempt
27 from both immobilization and forfeiture under sections 625n and

1 904d if both of the following apply:

2 (a) The person is a DWI/sobriety court interlock ~~pilot~~-program
3 participant in good standing or the person successfully
4 satisfactorily completes the DWI/sobriety court interlock ~~pilot~~
5 program.

6 (b) The person does not subsequently violate a law of this
7 state for which vehicle immobilization or forfeiture is a sanction.

8 (12) This section only applies to individuals arrested for a
9 violation of section 625 on or after January 1, 2011.

10 (13) As used in this section:

11 (a) "DWI/sobriety court" means that term as defined in section
12 1084 of the revised judicature act of 1961, 1961 PA 236, MCL
13 600.1084.

14 (b) "DWI/sobriety court interlock ~~pilot~~-project" and
15 "DWI/sobriety court program" mean those terms as defined or
16 described in section 1084 of the revised judicature act of 1961,
17 1961 PA 236, MCL 600.1084.

18 Enacting section 1. This amendatory act does not take effect
19 unless Senate Bill No. ____ or House Bill No. 5021 (request no.
20 03010'13) of the 97th Legislature is enacted into law.