

SENATE BILL NO. 135

March 02, 2023, Introduced by Senators HERTEL, JOHNSON, WOJNO, CHANG, MCBROOM, BELLINO, POLEHANKI and SINGH and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 83 and 304 (MCL 257.83 and 257.304), section 83 as added by 2020 PA 383 and section 304 as amended by 2020 PA 376.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 83. **As used in this act:**
- 2 **(a) "Specialty court" or "specialty court program" means a**

1 ~~program under~~ any of the following:

2 (i) ~~(a)~~—A drug treatment court, as that term is defined in
3 section 1060 of the revised judicature act of 1961, 1961 PA 236,
4 MCL 600.1060, in which the participant is an adult.

5 (ii) ~~(b)~~—A DWI/sobriety court, as that term is defined in
6 section 1084 of the revised judicature act of 1961, 1961 PA 236,
7 MCL 600.1084.

8 (iii) ~~(c)~~—A hybrid of the programs under ~~subdivisions (a)~~
9 **subparagraphs (i) and ~~(b)~~ (ii)**.

10 (iv) ~~(d)~~—A mental health court, as that term is defined in
11 section 1090 of the revised judicature act of 1961, 1961 PA 236,
12 MCL 600.1090.

13 (v) ~~(e)~~—A veterans treatment court, as that term is defined in
14 section 1200 of the revised judicature act of 1961, 1961 PA 236,
15 MCL 600.1200.

16 **(b) "Specialty court interlock program" means a program as**
17 **that term is defined in section 1084 of the revised judicature act**
18 **of 1961, 1961 PA 236, MCL 600.1084.**

19 Sec. 304. (1) Except as provided in subsection (3), the
20 secretary of state shall issue a restricted license to an
21 individual whose license was suspended or restricted under section
22 319 or revoked or denied under section 303 based on either of the
23 following:

24 (a) Two or more convictions for violating section 625(1) or
25 (3) or a local ordinance of this state that substantially
26 corresponds to section 625(1) or (3).

27 (b) One conviction for violating section 625(1) or (3) or a
28 local ordinance of this state that substantially corresponds to
29 section 625(1) or (3), preceded by 1 or more convictions for

1 violating a local ordinance or law of another state that
2 substantially corresponds to section 625(1), (3), or (6), or a law
3 of the United States that substantially corresponds to section
4 625(1), (3), or (6).

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

11 (a) The individual has been admitted into a ~~DWI/sobriety~~
12 **specialty** court **interlock** program.

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

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

21 (a) Section 303(1)(i) or (k).

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

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

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

25 (e) Section 320(1)(d).

26 (f) Section 321a(1) or (2).

27 (g) Section 323c.

28 (h) Section 625f.

29 (i) Section 732a(5).

1 (j) Section 904(10).

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

4 (l) Section 3177 of the insurance code of 1956, 1956 PA 218,
5 MCL 500.3177.

6 (m) Section 10 of the motor vehicle accident claims act, 1965
7 PA 198, MCL 257.1110.

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

14 (a) In the course of the individual's employment or occupation
15 if the employment or occupation does not require a commercial
16 driver license.

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

18 (i) The individual's residence.

19 (ii) The individual's work location.

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

22 (iv) Alcoholics Anonymous, Narcotics Anonymous, or other court-
23 ordered self-help programs.

24 (v) Court hearings and probation appointments.

25 (vi) Court-ordered community service.

26 (vii) An educational institution at which the individual is
27 enrolled as a student.

28 (viii) A place of regularly occurring medical treatment for a
29 serious condition or medical emergency for the individual or a

1 member of the individual's household or immediate family.

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

3 (x) An ignition interlock service provider as required.

4 (xi) At the discretion of the judge, the custodian of a minor
5 child may drive to and from the facilities of a provider of day
6 care services at which the custodian's minor child is enrolled, or
7 an educational institution at which the custodian's minor child is
8 enrolled as a student for the purposes of classes, academic
9 meetings or conferences, and athletic or other extracurricular
10 activities sanctioned by the educational institution in which the
11 minor child is a participant. As used in this subparagraph, "minor
12 child" means an individual who is less than 18 years of age.

13 (5) While driving with a restricted license, the individual
14 shall carry proof of his or her destination and the hours of any
15 employment, class, or other reason for traveling and shall display
16 that proof on a peace officer's request.

17 (6) 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. Subject
20 to subsection (7), the hearing officer shall not order an
21 unrestricted license until the later of the following events
22 occurs:

23 (a) The court notifies the secretary of state that the
24 individual has successfully completed the ~~DWI/sobriety~~ **specialty**
25 court program.

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

29 (c) The individual demonstrates that he or she has operated

1 with an ignition interlock device for not less than 1 year.

2 (d) The individual satisfies the requirements of section 303
3 and R 257.313 of the Michigan Administrative Code.

4 (7) A hearing officer shall not issue an unrestricted license
5 for at least 1 year if either of the following applies:

6 (a) The hearing officer determines that the individual
7 consumed any alcohol during the period that his or her license was
8 restricted under this section, as determined by breath, blood,
9 urine, or transdermal testing unless a second test, administered
10 within 5 minutes after administering the first test, showed an
11 absence of alcohol.

12 (b) The hearing officer determines that the individual
13 consumed or otherwise used any controlled substance during the
14 period that his or her license was restricted under this section,
15 except as lawfully prescribed.

16 (8) In determining whether to order an unrestricted license
17 under subsection (6), the successful completion of the ~~DWI/sobriety~~
18 **specialty** court program and a certificate from the ~~DWI/sobriety~~
19 **specialty** court judge must be considered positive evidence of the
20 petitioner's abstinence while the petitioner participated in the
21 ~~DWI/sobriety~~ **specialty** court program. This subsection does not
22 apply to a determination made under subsection (7). As used in this
23 subsection, "certificate" includes, but is not limited to, a
24 statement that the participant has maintained a period of
25 abstinence from alcohol for not less than 6 months at the time the
26 participant completed the ~~DWI/sobriety~~ **specialty** court program.

27 (9) If the secretary of state receives a notification from ~~the~~
28 ~~DWI/sobriety court under section 1084(7) of the revised judicature~~
29 ~~act of 1961, 1961 PA 236, MCL 600.1084, a specialty court, the~~

1 secretary of state shall summarily impose 1 of the following
2 license sanctions, as applicable:

3 (a) Suspension for the full length of time provided under
4 section 319(8). However, a restricted license must not be issued as
5 provided under section 319(8). This subdivision applies if the
6 underlying conviction or convictions would have subjected the
7 individual to a license sanction under section 319(8) if this
8 section did not apply.

9 (b) A license revocation and denial for the full length of
10 time provided under section 303. The minimum period of license
11 revocation and denial imposed must be the same as if this section
12 did not apply. This subdivision applies if the underlying
13 conviction or convictions would have caused a license revocation
14 and denial under section 303 if this section did not apply.

15 (10) After the individual completes the ~~DWI/sobriety~~ **specialty**
16 court program, the following apply:

17 (a) The secretary of state shall postpone considering the
18 issuance of an unrestricted license under section 322 for a period
19 of 3 months for each act that would be a minor violation if the
20 individual's license had been issued under section 322(6). As used
21 in this subdivision, "minor violation" means that term as defined
22 in R 257.301a of the Michigan Administrative Code.

23 (b) The restricted license issued under this section must be
24 suspended or revoked or denied as provided in subsection (9),
25 unless set aside under section 322(5), if any of the following
26 events occur:

27 (i) The individual operates a motor vehicle without an ignition
28 interlock device that meets the criteria under subsection (2) (b).

29 (ii) The individual removes, or causes to be removed, an

1 ignition interlock device from a vehicle he or she owns or operates
2 unless the secretary of state has authorized its removal under
3 section 322a.

4 (iii) The individual commits any other act that would be a major
5 violation if the individual's license had been issued under section
6 322(6). As used in this subparagraph, "major violation" means that
7 term as defined in R 257.301a of the Michigan Administrative Code.

8 (iv) The individual is arrested for a violation of any of the
9 following:

10 (A) Section 625.

11 (B) A local ordinance of this state or another state that
12 substantially corresponds to section 625.

13 (C) A law of the United States that substantially corresponds
14 to section 625.

15 (c) If the individual is convicted of or found responsible for
16 any offense that requires the suspension, revocation, denial, or
17 cancellation of the individual's operator's or chauffeur's license,
18 the restricted license issued under this section must be suspended
19 until the requisite period of license suspension, revocation,
20 denial, or cancellation, as appropriate, has elapsed.

21 (d) If the individual has failed to pay any court-ordered
22 fines or costs that resulted from the operation of a vehicle, the
23 restricted license issued under this section must be suspended
24 pending payment of those fines and costs.

25 ~~(11) All driver responsibility fees required to be assessed by~~
26 ~~the secretary of state under section 732a for the conviction or~~
27 ~~convictions that led to the restricted license under this section~~
28 ~~must be held in abeyance as follows:~~

29 ~~(a) The fees must be held in abeyance during the time the~~

1 ~~individual has a restricted license under this section and is~~
2 ~~participating in the DWI/sobriety court program.~~

3 ~~(b) Except as otherwise provided in this subdivision, at the~~
4 ~~end of the individual's participation in the DWI/sobriety court~~
5 ~~program, the driver responsibility fees must be assessed and paid~~
6 ~~under the payment schedule described in section 732a. If the~~
7 ~~individual's participation in the DWI/sobriety court program is~~
8 ~~completed on or after October 1, 2018, the driver responsibility~~
9 ~~fees are waived and must not be collected.~~

10 ~~(11) (12)~~ The vehicle of an individual admitted to the
11 ~~DWI/sobriety~~ **specialty** court **interlock** program whose vehicle would
12 otherwise be subject to immobilization or forfeiture under this act
13 is exempt from both immobilization and forfeiture under sections
14 625n and 904d if both of the following apply:

15 (a) The individual is a ~~DWI/sobriety~~ **specialty** court **interlock**
16 program participant in good standing or the individual successfully
17 satisfactorily completes the ~~DWI/sobriety~~ **specialty** court **interlock**
18 program.

19 (b) The individual does not subsequently violate a law of this
20 state for which vehicle immobilization or forfeiture is a sanction.

21 ~~(12) (13)~~ This section only applies to individuals arrested
22 for a violation of section 625 on or after January 1, 2011.

23 ~~(14) As used in this section:~~

24 ~~(a) "DWI/sobriety court" means that term as defined in section~~
25 ~~1084 of the revised judicature act of 1961, 1961 PA 236, MCL~~
26 ~~600.1084. Beginning January 1, 2018, DWI/sobriety court includes~~
27 ~~only a DWI/sobriety court that is certified by the state court~~
28 ~~administrative office as provided in section 1084(3) of the revised~~
29 ~~judicature act of 1961, 1961 PA 236, MCL 600.1084.~~

1 ~~(b) "DWI/sobriety court program" means "program" as that term~~
2 ~~is defined in section 1084 of the revised judicature act of 1961,~~
3 ~~1961 PA 236, MCL 600.1084.~~

4 Enacting section 1. This amendatory act does not take effect
5 unless Senate Bill No. 134 of the 102nd Legislature is enacted into
6 law.