

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4289

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 625k, 625l, 904, and 904d (MCL 257.625k,
257.625l, 257.904, and 257.904d), sections 625k, 625l, and 904d as
amended by 2003 PA 61 and section 904 as amended by 2004 PA 362.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 625k. (1) The department shall approve an ignition
2 interlock device certified by a department-approved laboratory as
3 complying with the ~~national highway traffic safety administration's~~
4 model specifications for breath alcohol ignition interlock devices
5 (BAIID), ~~57 F.R. p. 11772, April 7, 1992~~ **57 FR 11772 - 11787 (APRIL**
6 **7, 1992)**. Subject to subsection (5), the department shall ~~publish~~
7 **PROVIDE** a list of all manufacturers of approved certified devices
8 **TO EACH PERSON WHO IS ISSUED A RESTRICTED LICENSE THAT PERMITS THE**

PERSON TO DRIVE A VEHICLE ONLY IF IT IS EQUIPPED WITH AN IGNITION INTERLOCK DEVICE. THE DEPARTMENT SHALL ROTATE THE ORDER OF THE PROVIDERS WITH EACH LIST PROVIDED UNDER THIS SUBSECTION.

(2) The secretary of state shall promulgate rules to implement this section in compliance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) The manufacturer of an ignition interlock device shall bear the cost of that device's certification.

(4) A laboratory that certifies an ignition interlock device as provided in this section shall immediately notify the department of that certification.

(5) The department shall not include the manufacturer of a certified ignition interlock device on the list of manufacturers published under subsection (1) unless the manufacturer complies with all of the following:

(a) The manufacturer has filed copies of all of the following with the department:

(i) A bond executed as provided in section 625o or a letter of credit.

(ii) Evidence of insurance as described in section 625l.

(iii) An affidavit that the ignition interlock device ~~is~~ **MEETS** all of the following **CONDITIONS**:

~~—— (A) An alcohol concentration measuring device that prevents a motor vehicle from being started at any time without first determining through a deep lung sample the operator's breath alcohol level.~~

~~—— (B) Calibrated to render the motor vehicle incapable of being~~

1 ~~started if the device detects an alcohol content of 0.025 grams or~~
2 ~~more per 210 liters of breath of the person who offers a breath~~
3 ~~sample.~~

4 (A) MEETS THE DEFINITION IN SECTION 20D.

5 (B) ~~(C) Set~~ IS SET to periodically take samples while the
6 vehicle is in operation and to do ~~1 or~~ both of the following +

7 ~~— (I) Emit a warning signal when the device detects an alcohol~~
8 ~~content of 0.025 grams or more per 210 liters of breath in the~~
9 ~~person who offers a breath sample .~~ OR IF A BREATH SAMPLE IS NOT

10 GIVEN WITHIN THE ALLOTTED TIME:

11 (I) EMIT A VISIBLE OR AUDIBLE WARNING SIGNAL.

12 (II) ~~If it detects an alcohol content of 0.04 grams or more~~
13 ~~per 210 liters of breath of the person who offers the breath~~
14 ~~sample, render~~ RENDER the vehicle inoperable as soon as the vehicle
15 is no longer being operated, REQUIRING THE OPERATOR TO PROVIDE A
16 BREATH SAMPLE CONTAINING A BREATH ALCOHOL LEVEL OF LESS THAN 0.025
17 GRAMS PER 210 LITERS OF BREATH BEFORE THE VEHICLE MAY BE RESTARTED.

18 (b) ~~The manufacturer of ignition interlock devices provides~~
19 PROVIDES a list of installers who are authorized to install and
20 service its ignition interlock devices to the secretary of state.

21 (c) Agrees to have service locations within 50 miles of any
22 location within this state.

23 (d) Agrees to provide an ignition interlock device without
24 cost to a person whose gross income for the immediately preceding
25 tax year based on his or her state income tax return was less than
26 150% of the official poverty line for that same tax year
27 established in the poverty guidelines issued by the secretary of

1 health and human services under ~~authority of section 673(2) of the~~
2 ~~community services block grant act, subtitle B of title VI of the~~
3 ~~omnibus budget reconciliation act of 1981, Public Law 97-35, 42~~
4 ~~U.S.C. 9902~~ **42 USC 9902**. A person in whose vehicle an ignition
5 interlock device is installed without cost under this subdivision
6 shall pay a maintenance fee to the installer of not more than ~~\$1.00~~
7 **\$2.00** per day.

8 **(E) AGREES TO COMPLY WITH THE REPORTING REQUIREMENTS OF THE**
9 **SECRETARY OF STATE.**

10 **(F)** ~~(e)~~ Agrees to periodically monitor installed ignition
11 interlock devices and if monitoring indicates that the device has
12 been circumvented, **TAMPERED WITH, OR THAT A PERSON WITH A BREATH**
13 **ALCOHOL LEVEL OF 0.025 OR MORE GRAMS PER 210 LITERS OF BREATH HAS**
14 **ATTEMPTED TO OPERATE THE MOTOR VEHICLE, OR BOTH,** to communicate
15 ~~that fact~~ **ALL OF THE RELEVANT INFORMATION CONCERNING THESE FACTS** to
16 the secretary of state or to the court, **OR BOTH,** as appropriate.

17 (6) A manufacturer that has made a filing under subsection (5)
18 shall immediately notify the department if the device no longer
19 meets the requirements of subsection (5).

20 (7) A person who knowingly provides false information to the
21 department under subsection (4) or (5) is guilty of a felony
22 punishable by imprisonment for not less than 5 years or more than
23 10 years or a fine of not less than \$5,000.00 or more than
24 \$10,000.00, or both, together with costs of the prosecution.

25 (8) A person who negligently provides false information to the
26 department under subsection (4) or (5) is guilty of a misdemeanor
27 punishable by imprisonment for not more than 1 year or a fine of

1 not more than \$1,000.00, or both, together with costs of the
2 prosecution.

3 (9) A person who knowingly fails to comply with subsection (6)
4 is guilty of a felony punishable by imprisonment for not less than
5 5 years or more than 10 years or a fine of not less than \$5,000.00
6 or more than \$10,000.00, or both, together with costs of the
7 prosecution.

8 (10) A person who negligently fails to comply with subsection
9 (6) is guilty of a misdemeanor punishable by imprisonment for not
10 more than 1 year or a fine of not more than \$1,000.00, or both,
11 together with costs of the prosecution.

12 Sec. 625/. (1) The manufacturer of an ignition interlock device
13 shall design a warning label, and the person who has an ignition
14 interlock device shall promptly affix that label to each ignition
15 interlock device upon installation. The label shall contain a
16 warning that any person tampering **WITH**, circumventing, or otherwise
17 misusing the device is guilty of a misdemeanor punishable as
18 provided by law.

19 **(2) A PERSON WHO IS ONLY PERMITTED TO OPERATE A MOTOR VEHICLE**
20 **EQUIPPED WITH AN IGNITION INTERLOCK DEVICE SHALL NOT OPERATE A**
21 **MOTOR VEHICLE ON WHICH AN IGNITION INTERLOCK DEVICE IS NOT PROPERLY**
22 **INSTALLED.**

23 (3) ~~(2)~~—A person who has an ignition interlock device
24 installed and whose driving privilege is restricted shall not
25 request or solicit any other person to blow into an ignition
26 interlock device or to start a vehicle equipped with the device for
27 the purpose of providing the person whose driving privilege is

1 restricted with an operable vehicle.

2 (4) ~~(3)~~ A person shall not blow into an ignition interlock
3 device or start a motor vehicle equipped with the device for the
4 purpose of providing an operable vehicle to a person who has an
5 interlock device installed and whose driving privilege is
6 restricted.

7 (5) ~~(4)~~ A person shall not tamper with or circumvent the
8 operation of an ignition interlock device.

9 (6) ~~(5)~~ A person who violates subsection (2), (3), ~~or~~ (4), OR
10 (5) is guilty of a misdemeanor punishable by imprisonment for not
11 more than 6 months or a fine of not more than \$5,000.00, or both.

12 ~~—— (6) As used in this act, "ignition interlock device" or~~
13 ~~"device" means an alcohol concentration measuring device that~~
14 ~~prevents a motor vehicle from being started at any time without~~
15 ~~first determining through a deep lung sample the operator's breath~~
16 ~~alcohol level. The system shall be calibrated so that the motor~~
17 ~~vehicle may not be started if the breath alcohol level of the~~
18 ~~operator, as measured by the test, reaches a level of 0.025 grams~~
19 ~~per 210 liters of breath.~~

20 (7) IF A LAW ENFORCEMENT OFFICER DETAINS THE OPERATOR OF A
21 MOTOR VEHICLE FOR VIOLATING A LAW OF THIS STATE OR A LOCAL
22 ORDINANCE AND THE OPERATOR IS A PERSON REQUIRED TO ONLY OPERATE A
23 MOTOR VEHICLE WITH AN IGNITION INTERLOCK DEVICE PROPERLY INSTALLED,
24 BUT NO IGNITION INTERLOCK DEVICE IS PROPERLY INSTALLED ON THE MOTOR
25 VEHICLE, THE LAW ENFORCEMENT OFFICER SHALL IMPOUND THE MOTOR
26 VEHICLE. IF A MOTOR VEHICLE IMPOUNDED UNDER THIS SUBSECTION IS
27 INDIVIDUALLY OR JOINTLY OWNED BY THE OPERATOR, THE LAW ENFORCEMENT

1 OFFICER SHALL DO ALL OF THE FOLLOWING:

2 (A) IMMEDIATELY CONFISCATE THE MOTOR VEHICLE REGISTRATION
3 PLATE AND DESTROY IT.

4 (B) ISSUE A TEMPORARY REGISTRATION PLATE FOR THE VEHICLE IN
5 THE SAME MANNER PRESCRIBED BY THE SECRETARY OF STATE FOR TEMPORARY
6 REGISTRATION PLATES ISSUED UNDER SECTION 226A OR 226B.

7 (C) PLACE THE TEMPORARY REGISTRATION PLATE ISSUED UNDER
8 SUBDIVISION (B) ON THE MOTOR VEHICLE IN THE MANNER PRESCRIBED BY
9 THE SECRETARY OF STATE.

10 (D) NOTIFY THE SECRETARY OF STATE THROUGH THE LAW ENFORCEMENT
11 INFORMATION NETWORK IN A FORM PRESCRIBED BY THE SECRETARY OF STATE
12 THAT THE REGISTRATION PLATE WAS DESTROYED AND A TEMPORARY
13 REGISTRATION PLATE WAS ISSUED TO THE MOTOR VEHICLE.

14 (8) A TEMPORARY REGISTRATION PLATE ISSUED UNDER THIS SECTION
15 IS VALID UNTIL THE CHARGES FOR VIOLATING SUBSECTION (2) ARE
16 DISMISSED, THE PERSON PLEADS GUILTY OR NO CONTEST TO THE CHARGE, OR
17 THE PERSON IS FOUND GUILTY TO OR IS ACQUITTED OF THE CHARGE.

18 (9) IF THE MOTOR VEHICLE IMPOUNDED UNDER THIS SECTION IS NOT
19 OWNED INDIVIDUALLY OR JOINTLY BY THE OPERATOR, THE LAW ENFORCEMENT
20 OFFICER SHALL IMPOUND THE MOTOR VEHICLE BY CONTACTING A LOCAL
21 TOWING AGENCY. THE MOTOR VEHICLE SHALL ONLY BE RETURNED TO THE
22 REGISTERED OWNER.

23 (10) THE OWNER OF A MOTOR VEHICLE IMPOUNDED UNDER THIS SECTION
24 IS LIABLE FOR THE EXPENSES INCURRED IN THE REMOVAL AND STORAGE OF
25 THE MOTOR VEHICLE WHETHER OR NOT IT IS RETURNED TO HIM OR HER. THE
26 MOTOR VEHICLE SHALL BE RETURNED TO THE OWNER ONLY IF THE OWNER PAYS
27 THE EXPENSES OF REMOVAL AND STORAGE. IF REDEMPTION IS NOT MADE OR

1 THE VEHICLE IS NOT RETURNED AS DESCRIBED UNDER THIS SUBSECTION, IT
2 SHALL BE CONSIDERED AN ABANDONED VEHICLE AND DISPOSED OF UNDER
3 SECTION 252A.

4 (11) ~~(7)~~—The state, or the department, its officers,
5 employees, or agents, or a court, its officers, employees, or
6 agents are not liable in any claim or action that may arise,
7 directly or indirectly, out of any act or omission by a
8 manufacturer, installer, or servicing agent of an ignition
9 interlock device that results in damage to persons or property.

10 (12) ~~(8)~~—A person shall not sell, lease, install, or monitor
11 in a vehicle in this state an ignition interlock device unless the
12 ignition interlock device manufacturer and provider carries
13 liability insurance covering product liability, including, but not
14 limited to, insurance to indemnify the department and any person
15 injured as a result of a design defect or the calibration or
16 removal of the ignition interlock device or a misrepresentation
17 about the ignition interlock device. The insurance required by this
18 subsection shall be in an amount of not less than \$1,000,000.00 per
19 incident.

20 (13) ~~(9)~~—The provider of insurance described in this section
21 may cancel the insurance upon 30 days' written notice to the
22 department and is not liable for a claim arising from an event that
23 occurs after the effective date of a cancellation made in
24 compliance with this section.

25 (14) ~~(10)~~—An ignition interlock device shall be serviced
26 according to manufacturer's standards. Service shall include, but
27 not be limited to, physical inspection of the device and vehicle

1 for tampering, calibration of the device, and monitoring of the
2 data contained within the device's memory. Only authorized
3 employees of the manufacturer or the department, or other persons
4 approved by the court, may observe the installation of a device.
5 Reasonable security measures ~~must~~**SHALL** be taken to prevent the
6 customer from observing the installation of a device or obtaining
7 access to installation materials.

8 Sec. 904. (1) A person whose operator's or chauffeur's license
9 or registration certificate has been suspended or revoked and who
10 has been notified as provided in section 212 of that suspension or
11 revocation, whose application for license has been denied, or who
12 has never applied for a license, shall not operate a motor vehicle
13 upon a highway or other place open to the general public or
14 generally accessible to motor vehicles, including an area
15 designated for the parking of motor vehicles, within this state.

16 (2) A person shall not knowingly permit a motor vehicle owned
17 by the person to be operated upon a highway or other place open to
18 the general public or generally accessible to motor vehicles,
19 including an area designated for the parking of vehicles, within
20 this state by a person whose license or registration certificate is
21 suspended or revoked, whose application for license has been
22 denied, or who has never applied for a license, except as permitted
23 under this act.

24 (3) Except as otherwise provided in this section, a person who
25 violates subsection (1) or (2) is guilty of a misdemeanor
26 punishable as follows:

27 (a) For a first violation, by imprisonment for not more than

1 93 days or a fine of not more than \$500.00, or both. Unless the
2 vehicle was stolen or used with the permission of a person who did
3 not knowingly permit an unlicensed driver to operate the vehicle,
4 the registration plates of the vehicle shall be canceled by the
5 secretary of state upon notification by a peace officer.

6 (b) For a violation that occurs after a prior conviction, by
7 imprisonment for not more than 1 year or a fine of not more than
8 \$1,000.00, or both. Unless the vehicle was stolen, the registration
9 plates of the vehicle shall be canceled by the secretary of state
10 upon notification by a peace officer.

11 (4) A person who operates a motor vehicle in violation of
12 subsection (1) and who, by operation of that motor vehicle, causes
13 the death of another person is guilty of a felony punishable by
14 imprisonment for not more than 15 years or a fine of not less than
15 \$2,500.00 or more than \$10,000.00, or both. This subsection does
16 not apply to a person whose operator's or chauffeur's license was
17 suspended because that person failed to answer a citation or comply
18 with an order or judgment pursuant to section 321a.

19 (5) A person who operates a motor vehicle in violation of
20 subsection (1) and who, by operation of that motor vehicle, causes
21 the serious impairment of a body function of another person is
22 guilty of a felony punishable by imprisonment for not more than 5
23 years or a fine of not less than \$1,000.00 or more than \$5,000.00,
24 or both. This subsection does not apply to a person whose
25 operator's or chauffeur's license was suspended because that person
26 failed to answer a citation or comply with an order or judgment
27 pursuant to section 321a. ~~As used in this subsection and subsection~~

~~(7), "serious impairment of a body function" includes, but is not limited to, 1 or more of the following:~~

~~—— (a) Loss of a limb or loss of use of a limb.~~

~~—— (b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.~~

~~—— (c) Loss of an eye or ear or loss of use of an eye or ear.~~

~~—— (d) Loss or substantial impairment of a bodily function.~~

~~—— (e) Serious visible disfigurement.~~

~~—— (f) A comatose state that lasts for more than 3 days.~~

~~—— (g) Measurable brain or mental impairment.~~

~~—— (h) A skull fracture or other serious bone fracture.~~

~~—— (i) Subdural hemorrhage or subdural hematoma.~~

(6) In addition to being subject to any other penalty provided for in this act, if a person is convicted under subsection (4) or (5), the court may impose the sanction permitted under section 625n. If the vehicle is not ordered forfeited under section 625n, the court shall order vehicle immobilization under section 904d in the judgment of sentence.

(7) A person shall not knowingly permit a motor vehicle owned by the person to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state, by a person whose license or registration certificate is suspended or revoked, whose application for license has been denied, or who has never been licensed except as permitted by this act. If a person permitted to operate a motor vehicle in violation of this subsection causes the serious impairment of a body function

1 of another person by operation of that motor vehicle, the person
2 knowingly permitting the operation of that motor vehicle is guilty
3 of a felony punishable by imprisonment for not more than 2 years,
4 or a fine of not less than \$1,000.00 or more than \$5,000.00, or
5 both. If a person permitted to operate a motor vehicle in violation
6 of this subsection causes the death of another person by operation
7 of that motor vehicle, the person knowingly permitting the
8 operation of that motor vehicle is guilty of a felony punishable by
9 imprisonment for not more than 5 years, or a fine of not less than
10 \$1,000.00 or more than \$5,000.00, or both.

11 (8) If the prosecuting attorney intends to seek an enhanced
12 sentence under this section based upon the defendant having 1 or
13 more prior convictions, the prosecuting attorney shall include on
14 the complaint and information, or an amended complaint and
15 information, filed in district court, circuit court, municipal
16 court, or family division of circuit court, a statement listing the
17 defendant's prior convictions.

18 (9) A prior conviction under this section shall be established
19 at or before sentencing by 1 or more of the following:

20 (A) A COPY OF A JUDGMENT OF CONVICTION.

21 (B) ~~(a)~~—An abstract of conviction.

22 (C) A TRANSCRIPT OF A PRIOR TRIAL, PLEA, OR SENTENCING.

23 (D) A COPY OF A COURT REGISTER OF ACTION.

24 (E) ~~(b)~~—A copy of the defendant's driving record.

25 (F) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

26 (G) ~~(c)~~—An admission by the defendant.

27 (10) Upon receiving a record of a person's conviction or civil

1 infraction determination for the unlawful operation of a motor
2 vehicle or a moving violation reportable under section 732 while
3 the person's operator's or chauffeur's license is suspended or
4 revoked, the secretary of state immediately shall impose an
5 additional like period of suspension or revocation. This subsection
6 applies only if the violation occurs during a suspension of
7 definite length or if the violation occurs before the person is
8 approved for a license following a revocation.

9 (11) Upon receiving a record of a person's conviction or civil
10 infraction determination for the unlawful operation of a motor
11 vehicle or a moving violation reportable under section 732 while
12 the person's operator's or chauffeur's license is indefinitely
13 suspended or whose application for a license has been denied, the
14 secretary of state immediately shall impose a 30-day period of
15 suspension or denial.

16 (12) Upon receiving a record of the conviction, bond
17 forfeiture, or a civil infraction determination of a person for
18 unlawful operation of a motor vehicle requiring a vehicle group
19 designation while the designation is suspended or revoked pursuant
20 to ~~to~~ **UNDER** section 319b, or while the person is disqualified from
21 operating a commercial motor vehicle by the United States secretary
22 of transportation or under 49 USC 31301 to 31317, the secretary of
23 state immediately shall impose an additional like period of
24 suspension or revocation. This subsection applies only if the
25 violation occurs during a suspension of definite length or if the
26 violation occurs before the person is approved for a license
27 following a revocation.

1 (13) If the secretary of state receives records of more than 1
2 conviction or civil infraction determination resulting from the
3 same incident, all of the convictions or civil infraction
4 determinations shall be treated as a single violation for purposes
5 of imposing an additional period of suspension or revocation under
6 subsection (10), (11), or (12).

7 (14) Before a person is arraigned before a district court
8 magistrate or judge on a charge of violating this section, the
9 arresting officer shall obtain the person's driving record from the
10 secretary of state and shall furnish the record to the court. The
11 driving record of the person may be obtained from the secretary of
12 state's computer information network.

13 (15) This section does not apply to a person who operates a
14 vehicle solely for the purpose of protecting human life or property
15 if the life or property is endangered and summoning prompt aid is
16 essential.

17 (16) A person whose vehicle group designation is suspended or
18 revoked and who has been notified as provided in section 212 of
19 that suspension or revocation, or whose application for a vehicle
20 group designation has been denied as provided in this act, or who
21 has never applied for a vehicle group designation and who operates
22 a commercial motor vehicle within this state, except as permitted
23 under this act, while any of those conditions exist is guilty of a
24 misdemeanor punishable, except as otherwise provided in this
25 section, by imprisonment for not less than 3 days or more than 93
26 days or a fine of not more than \$100.00, or both.

27 (17) If a person has a second or subsequent suspension or

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1 revocation under this section within 7 years as indicated on the
2 person's Michigan driving record, the court shall proceed as
3 provided in section 904d.

4 (18) Any period of suspension or revocation required under
5 subsection (10), (11), or (12) does not apply to a person who has
6 only 1 currently effective suspension or denial on his or her
7 Michigan driving record under section 321a and was convicted of or
8 received a civil infraction determination for a violation that
9 occurred during that suspension or denial. This subsection may only
10 be applied once during the person's lifetime.

11 (19) For purposes of this section, a person who never applied
12 for a license includes a person who applied for a license, was
13 denied, and never applied again.

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

15 (a) For a conviction under section 625(1), (3), (7), or (8) or
16 a local ordinance substantially corresponding to section 625(1) or
17 (3) with no prior convictions, the court may order vehicle
18 immobilization for not more than 180 days.

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

22 (c) For a conviction under section 625(1), (3), (4), (5), (7),
23 or (8) within 7 years after a prior conviction, **OR FOR A CONVICTION**
24 **<<UNDER>> SECTION 625/(2)**, the court shall order vehicle immobilization
for
25 not less than 90 days or more than 180 days.

26 (d) For a conviction under section 625(1), (3), (4), (5), (7),
27 or (8) within 10 years after 2 or more prior convictions, the court

1 shall order vehicle immobilization for not less than 1 year or more
2 than 3 years.

3 (2) For a conviction or civil infraction determination
4 resulting from a violation that occurred during a period of
5 suspension, revocation, or denial, the following apply:

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

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

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

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

23 (3) The defendant shall provide to the court the vehicle
24 identification number and registration plate number of the vehicle
25 involved in the violation.

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

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

3 (b) The owner, co-owner, lessee, or co-lessee knowingly
4 permitted the vehicle to be operated in violation of section 625(2)
5 or section 904(2) regardless of whether a conviction resulted.

6 (5) ~~An~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (11), AN**
7 order required to be issued under this section shall not be
8 suspended.

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

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

13 (a) A suspension, revocation, or denial based on a violation
14 of the support and parenting time enforcement act, 1982 PA 295, MCL
15 552.601 to 552.650.

16 (b) A vehicle that is registered in another state or that is a
17 rental vehicle.

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

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

21 (e) Any of the following:

22 (i) A violation of chapter II.

23 (ii) A violation of chapter V.

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

25 (iv) A parking violation.

26 (v) A bad check violation.

27 (vi) An equipment violation.

1 (vii) A pedestrian, passenger, or bicycle violation, other than
2 a violation of section 703(1) or (2) of the Michigan liquor control
3 code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance
4 substantially corresponding to section 703(1) or (2) of the
5 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or
6 section 624a or 624b or a local ordinance substantially
7 corresponding to section 624a or 624b.

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

10 (8) As used in this section:

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

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

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

25 (B) Section 625m.

26 (C) Former section 625b.

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

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as amended December 18, 2008

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

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

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

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

(11) IF THE PERSON OBTAINS A RESTRICTED OPERATOR'S <<OR CHAUFFEUR'S>> LICENSE FROM THE SECRETARY OF STATE AND AN IGNITION INTERLOCK DEVICE IS PROPERLY INSTALLED IN THE VEHICLE, THE COURT SHALL SUSPEND THE IMMOBILIZATION ORDER <<ISSUED UNDER SUBSECTION (1)(C) FOR A CONVICTION UNDER SECTION 625/(2)>>.

(12) THE COURT MAY REINSTATE VEHICLE IMMOBILIZATION <<ISSUED UNDER SUBSECTION (1)(C) FOR A CONVICTION UNDER SECTION 625/(2)>> IF AN IGNITION INTERLOCK DEVICE IS TAMPERED WITH, CIRCUMVENTED, OR DISABLED, OR IF THE PERSON'S RESTRICTED OPERATOR'S <<OR CHAUFFEUR'S>> LICENSE IS SUSPENDED OR REVOKED.

Enacting section 1. This amendatory act takes effect [October] 31, 2010.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 1134 of the 94th Legislature is enacted into law.