

# HOUSE BILL No. 4289

February 20, 2007, Introduced by Reps. Constan, Polidori, Miller, Vagnozzi and Johnson and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled  
"Michigan vehicle code,"  
by amending sections 319, 322, 625, 625k, 625l, and 904 (MCL  
257.319, 257.322, 257.625, 257.625k, 257.625l, and 257.904),  
sections 319 and 904 as amended by 2004 PA 362, section 322 as  
amended by 2001 PA 159, section 625 as amended by 2006 PA 564, and  
sections 625k and 625l as amended by 2003 PA 61, and by adding  
sections 20b and 323f.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 20B. "IGNITION INTERLOCK DEVICE" MEANS AN ALCOHOL  
2        CONCENTRATION MEASURING DEVICE THAT PREVENTS A MOTOR VEHICLE FROM  
3        BEING STARTED AT ANY TIME WITHOUT FIRST DETERMINING THROUGH A DEEP  
4        LUNG SAMPLE THE OPERATOR'S ALCOHOL LEVEL, CALIBRATED SO THAT THE  
5        MOTOR VEHICLE CANNOT BE STARTED IF THE BREATH ALCOHOL LEVEL OF THE

1 OPERATOR, AS MEASURED BY THE TEST, REACHES A LEVEL OF 0.025 GRAMS  
2 PER 210 LITERS OF BREATH, AND TO WHICH ALL OF THE FOLLOWING APPLY:

3 (A) THE DEVICE IS BASED ON ALCOHOL-SPECIFIC ELECTROCHEMICAL  
4 FUEL CELL SENSOR TECHNOLOGY THAT MEETS OR EXCEEDS THE MODEL  
5 SPECIFICATIONS FOR BREATH ALCOHOL IGNITION INTERLOCK DEVICES  
6 (BAIID), 57 FR 11772 - 11787 (APRIL 7, 1992).

7 (B) THE DEVICE INCLUDES AT LEAST 1 OF THE FOLLOWING  
8 ANTICIRCUMVENTION FEATURES:

9 (i) HUM TONE.

10 (ii) BREATH PATTERN, INCLUDING, BUT NOT LIMITED TO, INHALE.

11 (iii) POSITIVE IDENTIFICATION BY PICTURE, RETINA, DNA, OR OTHER  
12 TECHNOLOGY APPROVED BY THE SECRETARY OF STATE.

13 Sec. 319. (1) The secretary of state shall immediately suspend  
14 a person's license as provided in this section upon receiving a  
15 record of the person's conviction for a crime described in this  
16 section, whether the conviction is under a law of this state, a  
17 local ordinance substantially corresponding to a law of this state,  
18 or a law of another state substantially corresponding to a law of  
19 this state.

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

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

24 (b) A violation of section 413 of the Michigan penal code,  
25 1931 PA 328, MCL 750.413.

26 (c) A violation of section 1 of former 1931 PA 214, MCL  
27 752.191, or section 626c.

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

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

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

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

10 (iv) The vehicle was necessary for the commission of the  
11 felony.

12 (e) A violation of section 602a(2) or (3) of this act or  
13 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL  
14 750.479a.

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

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

19 (b) A violation of section 601b(2), section 601c(1), section  
20 626, or section 653a(3).

21 (c) Malicious destruction resulting from the operation of a  
22 vehicle under section 382(1)(b), (c), or (d) of the Michigan penal  
23 code, 1931 PA 328, MCL 750.382.

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

26 (4) The secretary of state shall suspend the person's license  
27 for 30 days for malicious destruction resulting from the operation

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

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

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

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

13 (6) For a violation of section 414 of the Michigan penal code,  
14 1931 PA 328, MCL 750.414, the secretary of state shall suspend the  
15 person's license as follows:

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

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

20 (7) For a violation of section 624a or 624b of this act or  
21 section 703(1) of the Michigan liquor control code of 1998, 1998 PA  
22 58, MCL 436.1703, the secretary of state shall suspend the person's  
23 license as follows:

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

1 (b) If the person has 2 or more prior convictions for an  
2 offense described in this subsection or section 33b(1) of former  
3 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue  
4 the person a restricted license after the first 60 days of  
5 suspension.

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

8 (a) For 180 days for a violation of section 625(1) or (8) if  
9 the person has no prior convictions within 7 years. The secretary  
10 of state may issue the person a restricted license during a  
11 specified portion of the suspension, except that the secretary of  
12 state shall not issue a restricted license during the first 30 days  
13 of suspension.

14 (b) For 90 days for a violation of section 625(3) if the  
15 person has no prior convictions within 7 years. However, if the  
16 person is convicted of a violation of section 625(3), for operating  
17 a vehicle when, due to the consumption of a controlled substance or  
18 a combination of alcoholic liquor and a controlled substance, the  
19 person's ability to operate the vehicle was visibly impaired, the  
20 secretary of state shall suspend the person's license under this  
21 subdivision for 180 days. The secretary of state may issue the  
22 person a restricted license during all or a specified portion of  
23 the suspension.

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

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

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

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

12 (G) FOR 1 YEAR FOR A VIOLATION OF SECTION 625(1)(C) IF THE  
13 PERSON HAS NO PRIOR CONVICTIONS WITHIN 7 YEARS. THE SECRETARY OF  
14 STATE SHALL ISSUE THE PERSON A RESTRICTED LICENSE DURING A  
15 SPECIFIED PORTION OF THE SUSPENSION, EXCEPT THAT THE SECRETARY OF  
16 STATE SHALL NOT ISSUE A RESTRICTED LICENSE DURING THE FIRST 45 DAYS  
17 OF SUSPENSION.

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

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

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

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

27 (11) For a violation or attempted violation of section 411a(2)

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

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

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

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

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

26 (16) The secretary of state shall not issue a restricted  
27 license to a person under subsection (8) that would permit the

1 person to operate a commercial motor vehicle.

2 (17) A restricted license issued under this section shall  
3 permit the person to whom it is issued to take any driving skills  
4 test required by the secretary of state and to drive under 1 or  
5 more of the following circumstances:

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

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

8 (i) The person's residence.

9 (ii) The person's work location.

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

12 (iv) The court probation department.

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

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

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

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

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



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

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

10 (ii) Section 625m.

11 (iii) Former section 625b.

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

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

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

24 Sec. 322. (1) The secretary of state shall appoint a hearing  
25 officer to hear appeals from persons aggrieved by a final  
26 determination of the secretary of state denying an application for  
27 an operator's or chauffeur's license, suspending, restricting, or

1   revoking an operator's or chauffeur's license, or other license  
2   action.

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

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

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

11          (b) Issue process to compel attendance.

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

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

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

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

19          (5) After a hearing, the hearing officer may affirm, modify,  
20   or set aside a final determination of the secretary of state  
21   denying an application for an operator's or chauffeur's license,  
22   suspending, restricting, or revoking an operator's or chauffeur's  
23   license, or any other license action. The hearing officer shall  
24   include his or her findings of fact and conclusions of law in the  
25   record.

26          (6) Except as provided in subsection (7), if a person whose  
27   license has been denied or revoked under section 303(2)(c), (d), or

1 (g) applies for a license or reinstatement of a license after the  
2 time period specified in section 303(4) has elapsed, the hearing  
3 officer may issue a restricted license to that person, setting  
4 restrictions upon operating a vehicle as the hearing officer  
5 determines are appropriate. If the hearing officer issues a  
6 restricted license following a hearing held after October 1, 1999,  
7 he or she shall do both of the following:

8 (a) Require ~~installation of a~~ **PROPERLY INSTALLED AND**  
9 functioning ignition interlock device ~~that meets or exceeds the~~  
10 ~~model specifications of the national highway traffic safety~~  
11 ~~administration set forth in 57 F.R. p.11772, April 7, 1992,~~ on each  
12 motor vehicle the person owns or intends to operate, the costs of  
13 which shall be borne by the person whose license is restricted.

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

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

20 (8) If the hearing officer issues a restricted license to a  
21 person who intends to operate a vehicle owned by his or her  
22 employer, the secretary of state shall notify the employer of the  
23 employee's license restriction that requires the installation of an  
24 ignition interlock device. An employer who receives notice under  
25 this subsection is not required to install an ignition interlock  
26 device on the employer-owned vehicle. This subsection does not  
27 apply to a vehicle that is operated by a self-employed individual

1 who uses the vehicle for both business and personal use.

2 (9) If the hearing officer issues a restricted license  
3 requiring an ignition interlock device, the initial period for  
4 requiring the device shall be **NOT LESS THAN** 1 year. ~~After that~~  
5 ~~time, THE DEVICE SHALL NOT BE REMOVED UNTIL~~ the hearing officer ~~may~~  
6 ~~continue~~ **ORDERS** the ignition interlock device ~~requirement for any~~  
7 ~~length of time~~ **REMOVED**.

8 **SEC. 323F. SUBJECT TO SECTION 322, WHEN THE HEARING OFFICER**  
9 **ISSUES A RESTRICTED LICENSE TO A PERSON WHO WAS CONVICTED OF**  
10 **VIOLATING SECTION 625(1)(C), ALL OF THE FOLLOWING APPLY:**

11 (A) SUBJECT TO THE 1-YEAR PERIOD DESCRIBED IN SECTION 322(9),  
12 THE IGNITION INTERLOCK DEVICE SHALL NOT BE REMOVED UNTIL THE PERSON  
13 HAS OPERATED A MOTOR VEHICLE FOR A PERIOD OF NOT LESS THAN 6  
14 CONTINUOUS MONTHS WITH NO INSTANCES OF REACHING OR EXCEEDING AN  
15 ALCOHOL LEVEL OF 0.025 GRAMS PER 210 LITERS OF BREATH.

16 (B) UNLESS THE PERSON PROVIDES THE SECRETARY OF STATE WITH  
17 VERIFICATION THAT THE PERSON HAS OPERATED A MOTOR VEHICLE FOR THE  
18 PERIOD OF NOT LESS THAN 6 CONTINUOUS MONTHS AS DESCRIBED IN  
19 SUBDIVISION (A), THE IGNITION INTERLOCK DEVICE SHALL BE CONTINUED,  
20 ALONG WITH ANY OTHER TREATMENT ORDERED UNDER SUBDIVISION (C), FOR 6  
21 ADDITIONAL MONTHS.

22 (C) THE HEARING OFFICER SHALL ORDER THE INDIVIDUAL TO  
23 PARTICIPATE IN AND COMPLETE AN ASSESSMENT AND A TREATMENT PROGRAM.  
24 AN INDIVIDUAL ORDERED TO COMPLETE AN ASSESSMENT AND A TREATMENT  
25 PROGRAM UNDER THIS SUBDIVISION SHALL PAY ALL PROGRAM FEES.

26 Sec. 625. (1) A person, whether licensed or not, shall not  
27 operate a vehicle upon a highway or other place open to the general

1 public or generally accessible to motor vehicles, including an area  
2 designated for the parking of vehicles, within this state if the  
3 person is operating while intoxicated. As used in this section,  
4 "operating while intoxicated" means either of the following  
5 applies:

6 (a) The person is under the influence of alcoholic liquor, a  
7 controlled substance, or a combination of alcoholic liquor and a  
8 controlled substance.

9 (b) The person has an alcohol content of 0.08 grams or more  
10 per 100 milliliters of blood, per 210 liters of breath, or per 67  
11 milliliters of urine, or, beginning October 1, 2013, the person has  
12 an alcohol content of 0.10 grams or more per 100 milliliters of  
13 blood, per 210 liters of breath, or per 67 milliliters of urine.

14 **(C) THE PERSON HAS AN ALCOHOL CONTENT OF 0.15 GRAMS OR MORE**  
15 **PER 100 MILLILITERS OF BLOOD, FOR 210 LITERS OF BREATH, OR PER 67**  
16 **MILLILITERS OF URINE.**

17 (2) The owner of a vehicle or a person in charge or in control  
18 of a vehicle shall not authorize or knowingly permit the vehicle to  
19 be operated upon a highway or other place open to the general  
20 public or generally accessible to motor vehicles, including an area  
21 designated for the parking of motor vehicles, within this state by  
22 a person if any of the following apply:

23 (a) The person is under the influence of alcoholic liquor, a  
24 controlled substance, or a combination of alcoholic liquor and a  
25 controlled substance.

26 (b) The person has an alcohol content of 0.08 grams or more  
27 per 100 milliliters of blood, per 210 liters of breath, or per 67

1 milliliters of urine or, beginning October 1, 2013, the person has  
2 an alcohol content of 0.10 grams or more per 100 milliliters of  
3 blood, per 210 liters of breath, or per 67 milliliters of urine.

4 (c) The person's ability to operate the motor vehicle is  
5 visibly impaired due to the consumption of alcoholic liquor, a  
6 controlled substance, or a combination of alcoholic liquor and a  
7 controlled substance.

8 (3) A person, whether licensed or not, shall not operate a  
9 vehicle upon a highway or other place open to the general public or  
10 generally accessible to motor vehicles, including an area  
11 designated for the parking of vehicles, within this state when, due  
12 to the consumption of alcoholic liquor, a controlled substance, or  
13 a combination of alcoholic liquor and a controlled substance, the  
14 person's ability to operate the vehicle is visibly impaired. If a  
15 person is charged with violating subsection (1), a finding of  
16 guilty under this subsection may be rendered.

17 (4) A person, whether licensed or not, who operates a motor  
18 vehicle in violation of subsection (1), (3), or (8) and by the  
19 operation of that motor vehicle causes the death of another person  
20 is guilty of a crime as follows:

21 (a) Except as provided in subdivision (b), the person is  
22 guilty of a felony punishable by imprisonment for not more than 15  
23 years or a fine of not less than \$2,500.00 or more than \$10,000.00,  
24 or both. The judgment of sentence may impose the sanction permitted  
25 under section 625n. If the vehicle is not ordered forfeited under  
26 section 625n, the court shall order vehicle immobilization under  
27 section 904d in the judgment of sentence.

1 (b) If, at the time of the violation, the person is operating  
2 a motor vehicle in a manner proscribed under section 653a and  
3 causes the death of a police officer, firefighter, or other  
4 emergency response personnel, the person is guilty of a felony  
5 punishable by imprisonment for not more than 20 years or a fine of  
6 not less than \$2,500.00 or more than \$10,000.00, or both. This  
7 subdivision applies regardless of whether the person is charged  
8 with the violation of section 653a. The judgment of sentence may  
9 impose the sanction permitted under section 625n. If the vehicle is  
10 not ordered forfeited under section 625n, the court shall order  
11 vehicle immobilization under section 904d in the judgment of  
12 sentence.

13 (5) A person, whether licensed or not, who operates a motor  
14 vehicle in violation of subsection (1), (3), or (8) and by the  
15 operation of that motor vehicle causes a serious impairment of a  
16 body function of another person is guilty of a felony punishable by  
17 imprisonment for not more than 5 years or a fine of not less than  
18 \$1,000.00 or more than \$5,000.00, or both. The judgment of sentence  
19 may impose the sanction permitted under section 625n. If the  
20 vehicle is not ordered forfeited under section 625n, the court  
21 shall order vehicle immobilization under section 904d in the  
22 judgment of sentence.

23 (6) A person who is less than 21 years of age, whether  
24 licensed or not, shall not operate a vehicle upon a highway or  
25 other place open to the general public or generally accessible to  
26 motor vehicles, including an area designated for the parking of  
27 vehicles, within this state if the person has any bodily alcohol

1 content. As used in this subsection, "any bodily alcohol content"  
2 means either of the following:

3 (a) An alcohol content of 0.02 grams or more but less than  
4 0.08 grams per 100 milliliters of blood, per 210 liters of breath,  
5 or per 67 milliliters of urine, or, beginning October 1, 2013, the  
6 person has an alcohol content of 0.02 grams or more but less than  
7 0.10 grams per 100 milliliters of blood, per 210 liters of breath,  
8 or per 67 milliliters of urine.

9 (b) Any presence of alcohol within a person's body resulting  
10 from the consumption of alcoholic liquor, other than consumption of  
11 alcoholic liquor as a part of a generally recognized religious  
12 service or ceremony.

13 (7) A person, whether licensed or not, is subject to the  
14 following requirements:

15 (a) He or she shall not operate a vehicle in violation of  
16 subsection (1), (3), (4), (5), or (8) while another person who is  
17 less than 16 years of age is occupying the vehicle. A person who  
18 violates this subdivision is guilty of a crime punishable as  
19 follows:

20 (i) Except as provided in subparagraph (ii), a person who  
21 violates this subdivision is guilty of a misdemeanor and shall be  
22 sentenced to pay a fine of not less than \$200.00 or more than  
23 \$1,000.00 and to 1 or more of the following:

24 (A) Imprisonment for not less than 5 days or more than 1 year.  
25 Not less than 48 hours of this imprisonment shall be served  
26 consecutively. This term of imprisonment shall not be suspended.

27 (B) Community service for not less than 30 days or more than



1 90 days.

2 (ii) If the violation occurs within 7 years of a prior  
3 conviction or after 2 or more prior convictions, regardless of the  
4 number of years that have elapsed since any prior conviction, a  
5 person who violates this subdivision is guilty of a felony and  
6 shall be sentenced to pay a fine of not less than \$500.00 or more  
7 than \$5,000.00 and to either of the following:

8 (A) Imprisonment under the jurisdiction of the department of  
9 corrections for not less than 1 year or more than 5 years.

10 (B) Probation with imprisonment in the county jail for not  
11 less than 30 days or more than 1 year and community service for not  
12 less than 60 days or more than 180 days. Not less than 48 hours of  
13 this imprisonment shall be served consecutively. This term of  
14 imprisonment shall not be suspended.

15 (b) He or she shall not operate a vehicle in violation of  
16 subsection (6) while another person who is less than 16 years of  
17 age is occupying the vehicle. A person who violates this  
18 subdivision is guilty of a misdemeanor punishable as follows:

19 (i) Except as provided in subparagraph (ii), a person who  
20 violates this subdivision may be sentenced to 1 or more of the  
21 following:

22 (A) Community service for not more than 60 days.

23 (B) A fine of not more than \$500.00.

24 (C) Imprisonment for not more than 93 days.

25 (ii) If the violation occurs within 7 years of a prior  
26 conviction or after 2 or more prior convictions, regardless of the  
27 number of years that have elapsed since any prior conviction, a

1 person who violates this subdivision shall be sentenced to pay a  
2 fine of not less than \$200.00 or more than \$1,000.00 and to 1 or  
3 more of the following:

4 (A) Imprisonment for not less than 5 days or more than 1 year.  
5 Not less than 48 hours of this imprisonment shall be served  
6 consecutively. This term of imprisonment shall not be suspended.

7 (B) Community service for not less than 30 days or more than  
8 90 days.

9 (c) In the judgment of sentence under subdivision (a) (i) or  
10 (b) (i), the court may, unless the vehicle is ordered forfeited under  
11 section 625n, order vehicle immobilization as provided in section  
12 904d. In the judgment of sentence under subdivision (a) (ii) or  
13 (b) (ii), the court shall, unless the vehicle is ordered forfeited  
14 under section 625n, order vehicle immobilization as provided in  
15 section 904d.

16 (d) This subsection does not prohibit a person from being  
17 charged with, convicted of, or punished for a violation of  
18 subsection (4) or (5) that is committed by the person while  
19 violating this subsection. However, points shall not be assessed  
20 under section 320a for both a violation of subsection (4) or (5)  
21 and a violation of this subsection for conduct arising out of the  
22 same transaction.

23 (8) A person, whether licensed or not, shall not operate a  
24 vehicle upon a highway or other place open to the general public or  
25 generally accessible to motor vehicles, including an area  
26 designated for the parking of vehicles, within this state if the  
27 person has in his or her body any amount of a controlled substance

1 listed in schedule 1 under section 7212 of the public health code,  
2 1978 PA 368, MCL 333.7212, or a rule promulgated under that  
3 section, or of a controlled substance described in section  
4 7214(a)(iv) of the public health code, 1978 PA 368, MCL 333.7214.

5 (9) If a person is convicted of violating subsection (1) or  
6 (8), all of the following apply:

7 (a) Except as otherwise provided in subdivisions (b) and (c),  
8 the person is guilty of a misdemeanor punishable by 1 or more of  
9 the following:

10 (i) Community service for not more than 360 hours.

11 (ii) Imprisonment for not more than 93 days.

12 (iii) A fine of not less than \$100.00 or more than \$500.00.

13 (b) If the violation occurs within 7 years of a prior  
14 conviction, the person shall be sentenced to pay a fine of not less  
15 than \$200.00 or more than \$1,000.00 and 1 or more of the following:

16 (i) Imprisonment for not less than 5 days or more than 1 year.  
17 Not less than 48 hours of the term of imprisonment imposed under  
18 this subparagraph shall be served consecutively.

19 (ii) Community service for not less than 30 days or more than  
20 90 days.

21 (c) If the violation occurs after 2 or more prior convictions,  
22 regardless of the number of years that have elapsed since any prior  
23 conviction, the person is guilty of a felony and shall be sentenced  
24 to pay a fine of not less than \$500.00 or more than \$5,000.00 and  
25 to either of the following:

26 (i) Imprisonment under the jurisdiction of the department of  
27 corrections for not less than 1 year or more than 5 years.

1           (ii) Probation with imprisonment in the county jail for not  
2 less than 30 days or more than 1 year and community service for not  
3 less than 60 days or more than 180 days. Not less than 48 hours of  
4 the imprisonment imposed under this subparagraph shall be served  
5 consecutively.

6           (d) A term of imprisonment imposed under subdivision (b) or  
7 (c) shall not be suspended.

8           (e) In the judgment of sentence under subdivision (a), the  
9 court may order vehicle immobilization as provided in section 904d.  
10 In the judgment of sentence under subdivision (b) or (c), the court  
11 shall, unless the vehicle is ordered forfeited under section 625n,  
12 order vehicle immobilization as provided in section 904d.

13           (f) In the judgment of sentence under subdivision (b) or (c),  
14 the court may impose the sanction permitted under section 625n.

15           (10) A person who is convicted of violating subsection (2) is  
16 guilty of a crime as follows:

17           (a) Except as provided in subdivisions (b) and (c), a  
18 misdemeanor punishable by imprisonment for not more than 93 days or  
19 a fine of not less than \$100.00 or more than \$500.00, or both.

20           (b) If the person operating the motor vehicle violated  
21 subsection (4), a felony punishable by imprisonment for not more  
22 than 5 years or a fine of not less than \$1,500.00 or more than  
23 \$10,000.00, or both.

24           (c) If the person operating the motor vehicle violated  
25 subsection (5), a felony punishable by imprisonment for not more  
26 than 2 years or a fine of not less than \$1,000.00 or more than  
27 \$5,000.00, or both.

1           (11) If a person is convicted of violating subsection (3), all  
2 of the following apply:

3           (a) Except as otherwise provided in subdivisions (b) and (c),  
4 the person is guilty of a misdemeanor punishable by 1 or more of  
5 the following:

6           (i) Community service for not more than 360 hours.

7           (ii) Imprisonment for not more than 93 days.

8           (iii) A fine of not more than \$300.00.

9           (b) If the violation occurs within 7 years of 1 prior  
10 conviction, the person shall be sentenced to pay a fine of not less  
11 than \$200.00 or more than \$1,000.00, and 1 or more of the  
12 following:

13           (i) Imprisonment for not less than 5 days or more than 1 year.  
14 Not less than 48 hours of the term of imprisonment imposed under  
15 this subparagraph shall be served consecutively.

16           (ii) Community service for not less than 30 days or more than  
17 90 days.

18           (c) If the violation occurs after 2 or more prior convictions,  
19 regardless of the number of years that have elapsed since any prior  
20 conviction, the person is guilty of a felony and shall be sentenced  
21 to pay a fine of not less than \$500.00 or more than \$5,000.00 and  
22 either of the following:

23           (i) Imprisonment under the jurisdiction of the department of  
24 corrections for not less than 1 year or more than 5 years.

25           (ii) Probation with imprisonment in the county jail for not  
26 less than 30 days or more than 1 year and community service for not  
27 less than 60 days or more than 180 days. Not less than 48 hours of

1 the imprisonment imposed under this subparagraph shall be served  
2 consecutively.

3 (d) A term of imprisonment imposed under subdivision (b) or  
4 (c) shall not be suspended.

5 (e) In the judgment of sentence under subdivision (a), the  
6 court may order vehicle immobilization as provided in section 904d.  
7 In the judgment of sentence under subdivision (b) or (c), the court  
8 shall, unless the vehicle is ordered forfeited under section 625n,  
9 order vehicle immobilization as provided in section 904d.

10 (f) In the judgment of sentence under subdivision (b) or (c),  
11 the court may impose the sanction permitted under section 625n.

12 (12) If a person is convicted of violating subsection (6), all  
13 of the following apply:

14 (a) Except as otherwise provided in subdivision (b), the  
15 person is guilty of a misdemeanor punishable by 1 or both of the  
16 following:

17 (i) Community service for not more than 360 hours.

18 (ii) A fine of not more than \$250.00.

19 (b) If the violation occurs within 7 years of 1 or more prior  
20 convictions, the person may be sentenced to 1 or more of the  
21 following:

22 (i) Community service for not more than 60 days.

23 (ii) A fine of not more than \$500.00.

24 (iii) Imprisonment for not more than 93 days.

25 (13) In addition to imposing the sanctions prescribed under  
26 this section, the court may order the person to pay the costs of  
27 the prosecution under the code of criminal procedure, 1927 PA 175,

1 MCL 760.1 to 777.69.

2 (14) A person sentenced to perform community service under  
3 this section shall not receive compensation and shall reimburse the  
4 state or appropriate local unit of government for the cost of  
5 supervision incurred by the state or local unit of government as a  
6 result of the person's activities in that service.

7 (15) If the prosecuting attorney intends to seek an enhanced  
8 sentence under this section or a sanction under section 625n based  
9 upon the defendant having 1 or more prior convictions, the  
10 prosecuting attorney shall include on the complaint and  
11 information, or an amended complaint and information, filed in  
12 district court, circuit court, municipal court, or family division  
13 of circuit court, a statement listing the defendant's prior  
14 convictions.

15 (16) If a person is charged with a violation of subsection  
16 (1), (3), (4), (5), (7), or (8) or section 625m, the court shall  
17 not permit the defendant to enter a plea of guilty or nolo  
18 contendere to a charge of violating subsection (6) in exchange for  
19 dismissal of the original charge. This subsection does not prohibit  
20 the court from dismissing the charge upon the prosecuting  
21 attorney's motion.

22 (17) A prior conviction shall be established at sentencing by  
23 1 or more of the following:

24 (a) A copy of a judgment of conviction.

25 (b) An abstract of conviction.

26 (c) A transcript of a prior trial or a plea-taking or  
27 sentencing proceeding.

1 (d) A copy of a court register of actions.

2 (e) A copy of the defendant's driving record.

3 (f) Information contained in a presentence report.

4 (g) An admission by the defendant.

5 (18) Except as otherwise provided in subsection (20), if a  
6 person is charged with operating a vehicle while under the  
7 influence of a controlled substance or a combination of alcoholic  
8 liquor and a controlled substance in violation of subsection (1) or  
9 a local ordinance substantially corresponding to subsection (1),  
10 the court shall require the jury to return a special verdict in the  
11 form of a written finding or, if the court convicts the person  
12 without a jury or accepts a plea of guilty or nolo contendere, the  
13 court shall make a finding as to whether the person was under the  
14 influence of a controlled substance or a combination of alcoholic  
15 liquor and a controlled substance at the time of the violation.

16 (19) Except as otherwise provided in subsection (20), if a  
17 person is charged with operating a vehicle while his or her ability  
18 to operate the vehicle was visibly impaired due to his or her  
19 consumption of a controlled substance or a combination of alcoholic  
20 liquor and a controlled substance in violation of subsection (3) or  
21 a local ordinance substantially corresponding to subsection (3),  
22 the court shall require the jury to return a special verdict in the  
23 form of a written finding or, if the court convicts the person  
24 without a jury or accepts a plea of guilty or nolo contendere, the  
25 court shall make a finding as to whether, due to the consumption of  
26 a controlled substance or a combination of alcoholic liquor and a  
27 controlled substance, the person's ability to operate a motor



1 vehicle was visibly impaired at the time of the violation.

2 (20) A special verdict described in subsections (18) and (19)  
3 is not required if a jury is instructed to make a finding solely as  
4 to either of the following:

5 (a) Whether the defendant was under the influence of a  
6 controlled substance or a combination of alcoholic liquor and a  
7 controlled substance at the time of the violation.

8 (b) Whether the defendant was visibly impaired due to his or  
9 her consumption of a controlled substance or a combination of  
10 alcoholic liquor and a controlled substance at the time of the  
11 violation.

12 (21) If a jury or court finds under subsection (18), (19), or  
13 (20) that the defendant operated a motor vehicle under the  
14 influence of or while impaired due to the consumption of a  
15 controlled substance or a combination of a controlled substance and  
16 an alcoholic liquor, the court shall do both of the following:

17 (a) Report the finding to the secretary of state.

18 (b) On a form or forms prescribed by the state court  
19 administrator, forward to the department of state police a record  
20 that specifies the penalties imposed by the court, including any  
21 term of imprisonment, and any sanction imposed under section 625n  
22 or 904d.

23 (22) Except as otherwise provided by law, a record described  
24 in subsection (21)(b) is a public record and the department of  
25 state police shall retain the information contained on that record  
26 for not less than 7 years.

27 (23) In a prosecution for a violation of subsection (6), the

1 defendant bears the burden of proving that the consumption of  
2 alcoholic liquor was a part of a generally recognized religious  
3 service or ceremony by a preponderance of the evidence.

4 (24) The court may order as a condition of probation that a  
5 person convicted of violating subsection (1) or (8), or a local  
6 ordinance substantially corresponding to subsection (1) or (8),  
7 shall not operate a motor vehicle unless that vehicle is equipped  
8 with an ignition interlock device approved, certified, and  
9 installed as required under sections 625k and 625l.

10 (25) Subject to subsection (27), as used in this section,  
11 "prior conviction" means a conviction for any of the following,  
12 whether under a law of this state, a local ordinance substantially  
13 corresponding to a law of this state, or a law of another state  
14 substantially corresponding to a law of this state:

15 (a) Except as provided in subsection (26), a violation or  
16 attempted violation of any of the following:

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

24 (ii) Section 625m.

25 (iii) Former section 625b.

26 (b) Negligent homicide, manslaughter, or murder resulting from  
27 the operation of a vehicle or an attempt to commit any of those

1 crimes.

2 (26) Except for purposes of the enhancement described in  
3 subsection (12)(b), only 1 violation or attempted violation of  
4 subsection (6), a local ordinance substantially corresponding to  
5 subsection (6), or a law of another state substantially  
6 corresponding to subsection (6) may be used as a prior conviction.

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

11 Sec. 625k. (1) The department shall approve an ignition  
12 interlock device certified by a department-approved laboratory as  
13 complying with the ~~national highway traffic safety administration's~~  
14 model specifications for breath alcohol ignition interlock devices  
15 (BAIID), ~~57 F.R. p. 11772, April 7, 1992~~ **57 FR 11772 - 11787 (APRIL**  
16 **7, 1992)**. Subject to subsection (5), the department shall publish a  
17 list of all manufacturers of approved certified devices.

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

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

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

26 (5) The department shall not include the manufacturer of a  
27 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 started if the device detects an alcohol content of 0.025 grams or more per 210 liters of breath of the person who offers a breath sample.~~

**(A) SATISFIES THE CONDITIONS IN SECTION 20B.**

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

(I) Emit a warning signal when the device detects an alcohol content of 0.025 grams or more per 210 liters of breath in the person who offers a breath sample.

(II) If it detects an alcohol content of 0.04 grams or more per 210 liters of breath of the person who offers the breath sample, render the vehicle inoperable as soon as the vehicle is no longer being operated.

1 (b) The manufacturer of ignition interlock devices provides a  
2 list of installers who are authorized to install and service its  
3 ignition interlock devices to the secretary of state.

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

6 (d) Agrees to provide an ignition interlock device without  
7 cost to a person whose gross income for the immediately preceding  
8 tax year based on his or her state income tax return was less than  
9 150% of the official poverty line for that same tax year  
10 established in the poverty guidelines issued by the secretary of  
11 health and human services under ~~authority of section 673(2) of the~~  
12 ~~community services block grant act, subtitle B of title VI of the~~  
13 ~~omnibus budget reconciliation act of 1981, Public Law 97-35, 42~~  
14 ~~U.S.C. 9902-42~~ **USC 9902**. A person in whose vehicle an ignition  
15 interlock device is installed without cost under this subdivision  
16 shall pay a maintenance fee to the installer of not more than ~~\$1.00~~  
17 **\$2.00** per day.

18 **(E) AGREES TO COMPLY WITH THE REPORTING REQUIREMENTS OF THE**  
19 **SECRETARY OF STATE.**

20 **(F)** ~~(e)~~ Agrees to periodically monitor installed ignition  
21 interlock devices and if monitoring indicates that the device has  
22 been circumvented, to communicate that fact to the secretary of  
23 state or to the court, **OR BOTH**, as appropriate.

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

27 (7) A person who knowingly provides false information to the

1 department under subsection (4) or (5) is guilty of a felony  
2 punishable by imprisonment for not less than 5 years or more than  
3 10 years or a fine of not less than \$5,000.00 or more than  
4 \$10,000.00, or both, together with costs of the prosecution.

5 (8) A person who negligently provides false information to the  
6 department under subsection (4) or (5) is guilty of a misdemeanor  
7 punishable by imprisonment for not more than 1 year or a fine of  
8 not more than \$1,000.00, or both, together with costs of the  
9 prosecution.

10 (9) A person who knowingly fails to comply with subsection (6)  
11 is guilty of a felony punishable by imprisonment for not less than  
12 5 years or more than 10 years or a fine of not less than \$5,000.00  
13 or more than \$10,000.00, or both, together with costs of the  
14 prosecution.

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

19 **(11) BEGINNING DECEMBER 31, 2008, AND BY DECEMBER 31 EVERY**  
20 **FIFTH YEAR AFTER THAT, THE SECRETARY OF STATE SHALL CONVENE A PANEL**  
21 **TO REVIEW CURRENT TECHNOLOGY AND INVESTIGATE PROGRAM IMPROVEMENTS.**

22 Sec. 625/. (1) The manufacturer of an ignition interlock device  
23 shall design a warning label, and the person who has an ignition  
24 interlock device shall promptly affix that label to each ignition  
25 interlock device upon installation. The label shall contain a  
26 warning that any person tampering, circumventing, or otherwise  
27 misusing the device is guilty of a misdemeanor punishable as

1 provided by law.

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

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

12 (4) A person shall not tamper with or circumvent the operation  
13 of an ignition interlock device.

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

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

25 (6) ~~(7)~~ The state, or the department, its officers, employees,  
26 or agents, or a court, its officers, employees, or agents are not  
27 liable in any claim or action that may arise, directly or

1 indirectly, out of any act or omission by a manufacturer,  
2 installer, or servicing agent of an ignition interlock device that  
3 results in damage to persons or property.

4       (7) ~~(8)~~—A person shall not sell, lease, install, or monitor in  
5 a vehicle in this state an ignition interlock device unless the  
6 ignition interlock device manufacturer and provider carries  
7 liability insurance covering product liability, including, but not  
8 limited to, insurance to indemnify the department and any person  
9 injured as a result of a design defect or the calibration or  
10 removal of the ignition interlock device or a misrepresentation  
11 about the ignition interlock device. The insurance required by this  
12 subsection shall be in an amount of not less than \$1,000,000.00 per  
13 incident.

14       (8) ~~(9)~~—The provider of insurance described in this section  
15 may cancel the insurance upon 30 days' written notice to the  
16 department and is not liable for a claim arising from an event that  
17 occurs after the effective date of a cancellation made in  
18 compliance with this section.

19       (9) ~~(10)~~—An ignition interlock device shall be serviced  
20 according to manufacturer's standards. Service shall include, but  
21 not be limited to, physical inspection of the device and vehicle  
22 for tampering, calibration of the device, and monitoring of the  
23 data contained within the device's memory. Only authorized  
24 employees of the manufacturer or the department, or other persons  
25 approved by the court, may observe the installation of a device.  
26 Reasonable security measures must be taken to prevent the customer  
27 from observing the installation of a device or obtaining access to



1 installation materials.

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

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

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

21       (a) For a first violation, by imprisonment for not more than  
22 93 days or a fine of not more than \$500.00, or both. Unless the  
23 vehicle was stolen or used with the permission of a person who did  
24 not knowingly permit an unlicensed driver to operate the vehicle,  
25 the registration plates of the vehicle shall be canceled by the  
26 secretary of state upon notification by a peace officer.

27       (b) For a violation that occurs after a prior conviction, by

1 imprisonment for not more than 1 year or a fine of not more than  
2 \$1,000.00, or both. Unless the vehicle was stolen, the registration  
3 plates of the vehicle shall be canceled by the secretary of state  
4 upon notification by a peace officer.

5 (4) A person who operates a motor vehicle in violation of  
6 subsection (1) and who, by operation of that motor vehicle, causes  
7 the death of another person is guilty of a felony punishable by  
8 imprisonment for not more than 15 years or a fine of not less than  
9 \$2,500.00 or more than \$10,000.00, or both. This subsection does  
10 not apply to a person whose operator's or chauffeur's license was  
11 suspended because that person failed to answer a citation or comply  
12 with an order or judgment pursuant to section 321a.

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

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

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

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

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

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

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

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

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

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

7 (6) In addition to being subject to any other penalty provided  
8 for in this act, if a person is convicted under subsection (4) or  
9 (5), the court may impose the sanction permitted under section  
10 625n. If the vehicle is not ordered forfeited under section 625n,  
11 the court shall order vehicle immobilization under section 904d in  
12 the judgment of sentence.

13 (7) A person shall not knowingly permit a motor vehicle owned  
14 by the person to be operated upon a highway or other place open to  
15 the general public or generally accessible to motor vehicles,  
16 including an area designated for the parking of vehicles, within  
17 this state, by a person whose license or registration certificate  
18 is suspended or revoked, whose application for license has been  
19 denied, or who has never been licensed except as permitted by this  
20 act. If a person permitted to operate a motor vehicle in violation  
21 of this subsection causes the serious impairment of a body function  
22 of another person by operation of that motor vehicle, the person  
23 knowingly permitting the operation of that motor vehicle is guilty  
24 of a felony punishable by imprisonment for not more than 2 years,  
25 or a fine of not less than \$1,000.00 or more than \$5,000.00, or  
26 both. If a person permitted to operate a motor vehicle in violation  
27 of this subsection causes the death of another person by operation

1 of that motor vehicle, the person knowingly permitting the  
2 operation of that motor vehicle is guilty of a felony punishable by  
3 imprisonment for not more than 5 years, or a fine of not less than  
4 \$1,000.00 or more than \$5,000.00, or both.

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

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

14 (a) An abstract of conviction.

15 (b) A copy of the defendant's driving record.

16 (c) An admission by the defendant.

17 (10) Upon receiving a record of a person's conviction or civil  
18 infraction determination for the unlawful operation of a motor  
19 vehicle or a moving violation reportable under section 732 while  
20 the person's operator's or chauffeur's license is suspended or  
21 revoked, the secretary of state immediately shall impose an  
22 additional like period of suspension or revocation. This subsection  
23 applies only if the violation occurs during a suspension of  
24 definite length or if the violation occurs before the person is  
25 approved for a license following a revocation.

26 (11) Upon receiving a record of a person's conviction or civil  
27 infraction determination for the unlawful operation of a motor

1 vehicle or a moving violation reportable under section 732 while  
2 the person's operator's or chauffeur's license is indefinitely  
3 suspended or whose application for a license has been denied, the  
4 secretary of state immediately shall impose a 30-day period of  
5 suspension or denial.

6 (12) Upon receiving a record of the conviction, bond  
7 forfeiture, or a civil infraction determination of a person for  
8 unlawful operation of a motor vehicle requiring a vehicle group  
9 designation while the designation is suspended or revoked pursuant  
10 to section 319b, or while the person is disqualified from operating  
11 a commercial motor vehicle by the United States secretary of  
12 transportation or under 49 USC 31301 to 31317, the secretary of  
13 state immediately shall impose an additional like period of  
14 suspension or revocation. This subsection applies only if the  
15 violation occurs during a suspension of definite length or if the  
16 violation occurs before the person is approved for a license  
17 following a revocation.

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

24 (14) Before a person is arraigned before a district court  
25 magistrate or judge on a charge of violating this section, the  
26 arresting officer shall obtain the person's driving record from the  
27 secretary of state and shall furnish the record to the court. The

1 driving record of the person may be obtained from the secretary of  
2 state's computer information network.

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

7 (16) A person whose vehicle group designation is suspended or  
8 revoked and who has been notified as provided in section 212 of  
9 that suspension or revocation, or whose application for a vehicle  
10 group designation has been denied as provided in this act, or who  
11 has never applied for a vehicle group designation and who operates  
12 a commercial motor vehicle within this state, except as permitted  
13 under this act, while any of those conditions exist is guilty of a  
14 misdemeanor punishable, except as otherwise provided in this  
15 section, by imprisonment for not less than 3 days or more than 93  
16 days or a fine of not more than \$100.00, or both.

17 (17) If a person has a second or subsequent suspension or  
18 revocation under this section within 7 years as indicated on the  
19 person's Michigan driving record, the court shall proceed as  
20 provided in section 904d.

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

1           (19) For purposes of this section, a person who never applied  
2 for a license includes a person who applied for a license, was  
3 denied, and never applied again.