

HOUSE BILL No. 5274

August 19, 2009, Introduced by Reps. Lipton and Corriveau and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 303, 322, 625n, 732a, and 904d (MCL 257.303, 257.322, 257.625n, 257.732a, and 257.904d), sections 303, 732a, and 904d as amended by 2008 PA 463, section 322 as amended by 2008 PA 462, and section 625n as amended by 2008 PA 539.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 303. (1) The secretary of state shall not issue a license
2 under this act to any of the following persons:

3 (a) A person, as an operator, who is less than 18 years of
4 age, except as otherwise provided in this act.

5 (b) A person, as a chauffeur, who is less than 18 years of
6 age, except as otherwise provided in this act.

7 (c) A person whose license is suspended, revoked, denied, or

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

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

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

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

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

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

1 (i) A person who has failed to answer a citation or notice to
2 appear in court or for any matter pending or fails to comply with
3 an order or judgment of the court, including, but not limited to,
4 paying all fines, costs, fees, and assessments, in violation of
5 section 321a, until that person answers the citation or notice to
6 appear in court or for any matter pending or complies with an order
7 or judgment of the court, including, but not limited to, paying all
8 fines, costs, fees, and assessments, as provided under section
9 321a.

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

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

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

1 436.1703, or section 624a or 624b. ~~of this act.~~ The person shall be
2 denied a license under this subdivision for a period of time that
3 corresponds to the period of the licensing sanction that would have
4 been imposed under those sections had the person been licensed at
5 the time of the violation.

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

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

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

19 (a) Any combination of 2 convictions within 7 years for
20 reckless driving in violation of section **626 BEFORE OCTOBER 31,**
21 **2010 OR, BEGINNING OCTOBER 31, 2010**, 626(2).

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

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

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

1 (iii) Negligent homicide, manslaughter, or murder resulting from
2 the operation of a vehicle or an attempt to commit any of those
3 crimes.

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

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

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

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

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

19 (d) One conviction for a violation or attempted violation of
20 section 315(5), section 601b(3), section 601c(2), section 602a(4)
21 or (5), section 617, section 625(4) or (5), ~~section 626(3) or (4),~~
22 section 653a(4), ~~or~~ section 904(4) or (5), **OR, BEGINNING OCTOBER**
23 **31, 2010, SECTION 626(3) OR (4).**

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

27 (f) One conviction for a violation or attempted violation of

1 section 479a(4) or (5) of the Michigan penal code, 1931 PA 328, MCL
2 750.479a.

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

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

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

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

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

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

25 (a) The later of the following:

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

1 (ii) The expiration of not less than 5 years after the date of
2 a subsequent revocation or denial occurring within 7 years after
3 the date of any prior revocation or denial.

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

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

11 **(5) THE SECRETARY OF STATE SHALL ISSUE A RESTRICTED LICENSE TO**
12 **AN INDIVIDUAL WHOSE LICENSE WAS SUSPENDED OR REVOKED FOR HAVING 2**
13 **OR MORE VIOLATIONS OF SECTION 625(1) OR (3) AFTER THE INDIVIDUAL'S**
14 **LICENSE HAS BEEN REVOKED FOR 45 DAYS, IF A JUDGE WHO IS SITTING IN**
15 **A DWI/SOBRIETY COURT THAT IS PARTICIPATING IN THE DWI/SOBRIETY**
16 **COURT INTERLOCK PILOT PROJECT CERTIFIES TO THE SECRETARY OF STATE**
17 **THAT BOTH OF THE FOLLOWING CONDITIONS HAVE BEEN MET:**

18 **(A) THE INDIVIDUAL HAS BEEN ADMITTED INTO A DWI/SOBRIETY**
19 **COURT.**

20 **(B) AN IGNITION INTERLOCK DEVICE APPROVED, CERTIFIED, AND**
21 **INSTALLED AS REQUIRED UNDER SECTIONS 625K AND 625/ HAS BEEN**
22 **INSTALLED ON EACH OF THE MOTOR VEHICLES OWNED OR OPERATED, OR BOTH,**
23 **BY THE INDIVIDUAL, EXCEPT THAT THE DWI/SOBRIETY COURT JUDGE HAS THE**
24 **DISCRETION TO SELECT THE IGNITION INTERLOCK PROVIDER TO INSTALL THE**
25 **IGNITION INTERLOCK DEVICE FROM THE LIST OF IGNITION INTERLOCK**
26 **PROVIDERS APPROVED BY THE SECRETARY OF STATE UNDER SECTION 625K.**

27 **(6) A RESTRICTED LICENSE ISSUED UNDER SUBSECTION (5) PERMITS**

1 THE PERSON TO WHOM IT IS ISSUED TO OPERATE ONLY THE VEHICLE
2 EQUIPPED WITH AN IGNITION INTERLOCK DEVICE AND ONLY FOR THE PURPOSE
3 OF DRIVING TO OR FROM ANY OF THE FOLLOWING LOCATIONS:

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

5 (B) THE PERSON'S SCHOOL.

6 (C) THE PERSON'S ALCOHOL TREATMENT PROGRAM.

7 (7) A RESTRICTED LICENSE ISSUED UNDER SUBSECTION (5) SHALL
8 ALLOW THE PERSON TO ONLY OPERATE A VEHICLE EQUIPPED WITH AN
9 IGNITION INTERLOCK DEVICE, WHICH SHALL REMAIN INSTALLED ON THE
10 VEHICLE OR ANY REPLACEMENT VEHICLE UNTIL THE SECRETARY OF STATE
11 ISSUES AN UNRESTRICTED LICENSE OR IT IS ORDERED REMOVED UNDER
12 SECTION 322(10). FOLLOWING COMPLETION OF THE DWI/SOBRIETY COURT
13 PILOT PROGRAM, THE RESTRICTED LICENSE SHALL BE REVOKED IF ANY OF
14 THE FOLLOWING EVENTS OCCUR:

15 (A) THE PERSON OPERATES A MOTOR VEHICLE WITHOUT AN IGNITION
16 INTERLOCK DEVICE.

17 (B) THE PERSON REMOVES AN IGNITION INTERLOCK DEVICE FROM THE
18 VEHICLE.

19 (C) THE PERSON IS ARRESTED FOR A VIOLATION OF SECTION 625(1)
20 OR (3).

21 (8) ALL DRIVER RESPONSIBILITY FEES REQUIRED TO BE ASSESSED BY
22 THE SECRETARY OF STATE UNDER SECTION 732A SHALL BE HELD IN ABEYANCE
23 FOR THE FIRST YEAR THAT THE PARTICIPANT IS IN POSSESSION OF A
24 RESTRICTED LICENSE ISSUED UNDER SUBSECTION (5) WHILE BEING INVOLVED
25 IN THE DWI/SOBRIETY COURT PILOT PROJECT. ON THE FIRST ANNIVERSARY
26 OF BEING GRANTED THE RESTRICTED LICENSE, THE DRIVER RESPONSIBILITY
27 FEES SHALL BE ASSESSED AND PAID PURSUANT TO THE PAYMENT SCHEDULE

1 DESCRIBED UNDER SECTION 732A.

2 (9) THE VEHICLE OF AN INDIVIDUAL ADMITTED TO THE DWI/SOBRIETY
3 COURT PILOT PROJECT, WHOSE VEHICLE WOULD OTHERWISE BE SUBJECT TO
4 IMMOBILIZATION OR FORFEITURE UNDER THIS ACT IS EXEMPT FROM EITHER
5 VEHICLE IMMOBILIZATION OR VEHICLE FORFEITURE UNDER SECTIONS 625N
6 AND 904D IF THE INDIVIDUAL REMAINS IN GOOD STANDING WITH THE
7 DWI/SOBRIETY COURT PILOT PROJECT AND SUCCESSFULLY COMPLETES THE
8 DWI/SOBRIETY COURT PROGRAM.

9 (10) ~~(5)~~—The secretary of state may deny issuance of an
10 operator's license as follows:

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

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

1 (11) ~~(6)~~—The secretary of state shall deny issuance of a
2 vehicle group designation to a person if the person has been
3 disqualified by the United States secretary of transportation from
4 operating a commercial motor vehicle.

5 (12) ~~(7)~~—Multiple convictions or civil infraction
6 determinations resulting from the same incident shall be treated as
7 a single violation for purposes of denial or revocation of a
8 license under this section.

9 (13) ~~(8)~~—As used in this section: ~~,"felony~~

10 (A) "DWI/SOBRIETY COURT" AND "DWI/SOBRIETY COURT PILOT
11 PROJECT" MEAN THOSE TERMS AS DESCRIBED UNDER SECTION 1084 OF THE
12 REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.1084.

13 (B) "FELONY in which a motor vehicle was used" means a felony
14 during the commission of which the person operated a motor vehicle
15 and while operating the vehicle presented real or potential harm to
16 persons or property and 1 or more of the following circumstances
17 existed:

18 (i) ~~(a)~~—The vehicle was used as an instrument of the felony.

19 (ii) ~~(b)~~—The vehicle was used to transport a victim of the
20 felony.

21 (iii) ~~(c)~~—The vehicle was used to flee the scene of the felony.

22 (iv) ~~(d)~~—The vehicle was necessary for the commission of the
23 felony.

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 a ~~properly installed and functioning~~ **AN** ignition
9 interlock device **THAT IS APPROVED, CERTIFIED, AND INSTALLED UNDER**
10 **SECTIONS 625K AND 625/ AND THAT, BEFORE OCTOBER 31, 2010, MEETS OR**
11 **EXCEEDS THE MODEL SPECIFICATIONS FOR BREATH ALCOHOL IGNITION**
12 **INTERLOCK DEVICES (BAIID), 57 FR P 11772 - 11787 (APRIL 7, 1992),**
13 on each motor vehicle the person owns or intends to operate, the
14 costs of which shall be borne by the person whose license is
15 restricted.

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

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

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

1 device on the employer-owned vehicle. This subsection does not
2 apply to a vehicle that is operated by a self-employed individual
3 who uses the vehicle for both business and personal use.

4 (9) If the hearing officer issues a restricted license
5 requiring an ignition interlock device, the initial period for
6 requiring the device shall be not less than 1 year.

7 **(10) AN IGNITION INTERLOCK DEVICE INSTALLED UNDER SECTION**
8 **303(5) SHALL NOT BE REMOVED UNTIL THE HEARING OFFICER OR**
9 **DWI/SOBRIETY COURT ORDERS ITS REMOVAL.**

10 Sec. 625n. (1) Except as otherwise provided in this section
11 **AND SECTION 303(9)** and in addition to any other penalty provided
12 for in this act, the judgment of sentence for a conviction for a
13 violation of section 625(1) described in section 625(9)(b) or (c),
14 a violation of section 625(3) described in section 625(11)(b) or
15 (c), a violation of section 625(4), (5), or (7), or a violation of
16 section 904(4) or (5), **OR, BEGINNING OCTOBER 31, 2010, A VIOLATION**
17 **OF SECTION 626(3) OR (4)**, may require 1 of the following with
18 regard to the vehicle used in the offense if the defendant owns the
19 vehicle in whole or in part or leases the vehicle:

20 (a) Forfeiture of the vehicle if the defendant owns the
21 vehicle in whole or in part.

22 (b) Return of the vehicle to the lessor if the defendant
23 leases the vehicle.

24 (2) The vehicle may be seized pursuant to an order of seizure
25 issued by the court having jurisdiction upon a showing of probable
26 cause that the vehicle is subject to forfeiture or return to the
27 lessor.

1 (3) The forfeiture of a vehicle is subject to the interest of
2 the holder of a security interest who did not have prior knowledge
3 of or consent to the violation.

4 (4) Within 14 days after the defendant's conviction for a
5 violation described in subsection (1), the prosecuting attorney may
6 file a petition with the court for the forfeiture of the vehicle or
7 to have the court order return of a leased vehicle to the lessor.
8 The prosecuting attorney shall give notice by first-class mail or
9 other process to the defendant and his or her attorney, to all
10 owners of the vehicle, and to any person holding a security
11 interest in the vehicle that the court may require forfeiture or
12 return of the vehicle.

13 (5) If a vehicle is seized before disposition of the criminal
14 proceedings, a defendant who is an owner or lessee of the vehicle
15 may move the court having jurisdiction over the proceedings to
16 require the seizing agency to file a lien against the vehicle and
17 to return the vehicle to the owner or lessee pending disposition of
18 the criminal proceedings. The court shall hear the motion within 7
19 days after the motion is filed. If the defendant establishes at the
20 hearing that he or she holds the legal title to the vehicle or that
21 he or she has a leasehold interest and that it is necessary for him
22 or her or a member of his or her family to use the vehicle pending
23 the outcome of the forfeiture action, the court may order the
24 seizing agency to return the vehicle to the owner or lessee. If the
25 court orders the return of the vehicle to the owner or lessee, the
26 court shall order the defendant to post a bond in an amount equal
27 to the retail value of the vehicle, and shall also order the

1 seizing agency to file a lien against the vehicle.

2 (6) Within 14 days after notice by the prosecuting attorney is
3 given under subsection (4), the defendant, an owner, lessee, or
4 holder of a security interest may file a claim of interest in the
5 vehicle with the court. Within 21 days after the expiration of the
6 period for filing claims, but before or at sentencing, the court
7 shall hold a hearing to determine the legitimacy of any claim, the
8 extent of any co-owner's equity interest, the liability of the
9 defendant to any co-lessee, and whether to order the vehicle
10 forfeited or returned to the lessor. In considering whether to
11 order forfeiture, the court shall review the defendant's driving
12 record to determine whether the defendant has multiple convictions
13 under section 625 or a local ordinance substantially corresponding
14 to section 625, or multiple suspensions, restrictions, or denials
15 under section 904, or both. If the defendant has multiple
16 convictions under section 625 or multiple suspensions,
17 restrictions, or denials under section 904, or both, that factor
18 shall weigh heavily in favor of forfeiture.

19 (7) If a vehicle is forfeited under this section, the unit of
20 government that seized the vehicle shall sell the vehicle pursuant
21 to the procedures under section 252g(1) and dispose of the proceeds
22 in the following order of priority:

23 (a) Pay any outstanding security interest of a secured party
24 who did not have prior knowledge of or consent to the commission of
25 the violation.

26 (b) Pay the equity interest of a co-owner who did not have
27 prior knowledge of or consent to the commission of the violation.

1 (c) Satisfy any order of restitution entered in the
2 prosecution for the violation.

3 (d) Pay any outstanding accrued towing and storage fees.

4 (e) Pay the claim of each person who shows that he or she is a
5 victim of the violation to the extent that the claim is not covered
6 by an order of restitution.

7 (f) Pay any outstanding lien against the property that has
8 been imposed by a governmental unit.

9 (g) Pay the proper expenses of the proceedings for forfeiture
10 and sale, including, but not limited to, expenses incurred during
11 the seizure process and expenses for maintaining custody of the
12 property, advertising, and court costs.

13 (h) The balance remaining after the payment of items (a)
14 through (g) shall be distributed by the court having jurisdiction
15 over the forfeiture proceedings to the unit or units of government
16 substantially involved in effecting the forfeiture. Seventy-five
17 percent of the money received by a unit of government under this
18 subdivision shall be used to enhance enforcement of the criminal
19 laws and 25% of the money shall be used to implement the **WILLIAM**
20 **VAN REGENMORTER** crime victim's rights act, 1985 PA 87, MCL 780.751
21 to 780.834. A unit of government receiving money under this
22 subdivision shall report annually to the department of management
23 and budget the amount of money received under this subdivision that
24 was used to enhance enforcement of the criminal laws and the amount
25 that was used to implement the **WILLIAM VAN REGENMORTER** crime
26 victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

27 (8) The court may order the defendant to pay to a co-lessee

1 any liability determined under subsection (6). The order may be
2 enforced in the same manner as a civil judgment.

3 (9) The return of a vehicle to the lessor under this section
4 does not affect or impair the lessor's rights or the defendant's
5 obligations under the lease.

6 (10) A person who knowingly conceals, sells, gives away, or
7 otherwise transfers or disposes of a vehicle with the intent to
8 avoid forfeiture or return of the vehicle to the lessor under this
9 section is guilty of a misdemeanor punishable by imprisonment for
10 not more than 1 year or a fine of not more than \$1,000.00, or both.

11 (11) The failure of the court or prosecutor to comply with any
12 time limit specified in this section does not preclude the court
13 from ordering forfeiture of a vehicle or its return to a lessor,
14 unless the court finds that the owner or claimant suffered
15 substantial prejudice as a result of that failure.

16 (12) The forfeiture provisions of this section do not preclude
17 the prosecuting attorney from pursuing a forfeiture proceeding
18 under any other law of this state or a local ordinance
19 substantially corresponding to this section.

20 Sec. 732a. (1) An individual, whether licensed or not, who
21 accumulates 7 or more points on his or her driving record pursuant
22 to sections 320a and 629c within a 2-year period for any violation
23 not listed under subsection (2) shall be assessed a \$100.00 driver
24 responsibility fee. For each additional point accumulated above 7
25 points not listed under subsection (2), an additional fee of \$50.00
26 shall be assessed. The secretary of state shall collect the fees
27 described in this subsection once each year that the point total on

1 an individual driving record is 7 points or more.

2 (2) An individual, whether licensed or not, who violates any
3 of the following sections or another law or local ordinance that
4 substantially corresponds to those sections shall be assessed a
5 driver responsibility fee as follows:

6 (a) Upon posting an abstract indicating that an individual has
7 been found guilty for a violation of law listed or described in
8 this subdivision, the secretary of state shall assess a \$1,000.00
9 driver responsibility fee each year for 2 consecutive years:

10 (i) Manslaughter, negligent homicide, or a felony resulting
11 from the operation of a motor vehicle, ORV, or snowmobile.

12 (ii) Section 601b(2) or (3), 601c(1) or (2), ~~601d, 626(3) or~~
13 ~~(4),~~ or 653a(3) or (4) **OR, BEGINNING OCTOBER 31, 2010, SECTION 601D**
14 **OR 626(3) OR (4).**

15 (iii) Section 625(1), (4), or (5), section 625m, or section
16 81134 of the natural resources and environmental protection act,
17 1994 PA 451, MCL 324.81134, or a law or ordinance substantially
18 corresponding to section 625(1), (4), or (5), section 625m, or
19 section 81134 of the natural resources and environmental protection
20 act, 1994 PA 451, MCL 324.81134.

21 (iv) Failing to stop and disclose identity at the scene of an
22 accident when required by law.

23 (v) Fleeing or eluding an officer.

24 (b) Upon posting an abstract indicating that an individual has
25 been found guilty for a violation of law listed in this
26 subdivision, the secretary of state shall assess a \$500.00 driver
27 responsibility fee each year for 2 consecutive years:

1 (i) Section 625(3), (6), (7), or (8).

2 (ii) Section **626 OR, BEGINNING OCTOBER 31, 2010, SECTION**
3 626(2).

4 (iii) Section 904.

5 (iv) Section 3101, 3102(1), or 3103 of the insurance code of
6 1956, 1956 PA 218, MCL 500.3101, 500.3102, and 500.3103.

7 (c) Upon posting an abstract indicating that an individual has
8 been found guilty for a violation of section 301, the secretary of
9 state shall assess a \$150.00 driver responsibility fee each year
10 for 2 consecutive years.

11 (d) Upon posting an abstract indicating that an individual has
12 been found guilty or determined responsible for a violation listed
13 in section 328, the secretary of state shall assess a \$200.00
14 driver responsibility fee each year for 2 consecutive years.

15 (3) The secretary of state shall send a notice of the driver
16 responsibility assessment, as prescribed under subsection (1) or
17 (2), to the individual by regular mail to the address on the
18 records of the secretary of state. If payment is not received
19 within 30 days after the notice is mailed, the secretary of state
20 shall send a second notice that indicates that if payment is not
21 received within the next 30 days, the driver's driving privileges
22 will be suspended.

23 (4) The secretary of state may authorize payment by
24 installment for a period not to exceed 24 months.

25 (5) Except as otherwise provided under this subsection, if
26 payment is not received or an installment plan is not established
27 after the time limit required by the second notice prescribed under

1 subsection (3) expires, the secretary of state shall suspend the
2 driving privileges until the assessment and any other fees
3 prescribed under this act are paid. However, if the individual's
4 license to operate a motor vehicle is not otherwise required under
5 this act to be denied, suspended, or revoked, the secretary of
6 state shall reinstate the individual's operator's driving
7 privileges if the individual requests an installment plan under
8 subsection (4) and makes proper payment under that plan. Fees
9 required to be paid for the reinstatement of an individual's
10 operator's driving privileges as described under this subsection
11 shall, at the individual's request, be included in the amount to be
12 paid under the installment plan. If the individual establishes a
13 payment plan as described in this subsection and subsection (4) but
14 fails to make full or timely payments under that plan, the
15 secretary of state shall suspend the individual's driving
16 privileges. The secretary of state shall only reinstate a license
17 under this subsection once.

18 (6) A fee shall not be assessed under this section for 7
19 points or more on a driving record on October 1, 2003. Points
20 assigned after October 1, 2003 shall be assessed as prescribed
21 under subsections (1) and (2).

22 (7) A driver responsibility fee shall be assessed under this
23 section in the same manner for a conviction or determination of
24 responsibility for a violation or an attempted violation of a law
25 of this state, of a local ordinance substantially corresponding to
26 a law of this state, or of a law of another state substantially
27 corresponding to a law of this state.

1 (8) The fire protection fund is created within the state
2 treasury. The state treasurer may receive money or other assets
3 from any source for deposit into the fund. The state treasurer
4 shall direct the investment of the fund. The state treasurer shall
5 credit to the fund interest and earnings from fund investments.
6 Money in the fund at the close of the fiscal year shall remain in
7 the fund and shall not lapse to the general fund. The department of
8 energy, labor, and economic growth shall expend money from the
9 fund, upon appropriation, only for fire protection grants to
10 cities, villages, and townships with state owned facilities for
11 fire services, as provided in 1977 PA 289, MCL 141.951 to 141.956.

12 (9) The secretary of state shall transmit the fees collected
13 under this section to the state treasurer. The state treasurer
14 shall credit fee money received under this section in each fiscal
15 year as follows:

16 (a) The first \$65,000,000.00 shall be credited to the general
17 fund.

18 (b) If more than \$65,000,000.00 is collected under this
19 section, the next amount collected in excess of \$65,000,000.00 up
20 to \$68,500,000.00 shall be credited to the fire protection fund
21 created in this section.

22 (c) If more than \$100,000,000.00 is collected under this
23 section, the next amount collected in excess of \$100,000,000.00 up
24 to \$105,000,000.00 shall be credited to the fire protection fund
25 created in this section.

26 (d) Any amount collected after crediting the amounts under
27 subdivisions (a), (b), and (c) shall be credited to the general

1 fund.

2 (10) THE COLLECTION OF ASSESSMENTS UNDER THIS SECTION IS
3 SUBJECT TO SECTION 303(9).

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

5 (a) For a conviction under section 625(1), (3), (7), or (8) or
6 a local ordinance substantially corresponding to section 625(1) or
7 (3) with no prior convictions, or, **BEGINNING OCTOBER 31, 2010, FOR**
8 **A CONVICTION** under section 626(3) or (4), the court may order
9 vehicle immobilization for not more than 180 days.

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

13 (c) For a conviction under section 625(1), (3), (4), (5), (7),
14 or (8) within 7 years after a prior conviction, or, **BEGINNING**
15 **OCTOBER 31, 2010**, for a conviction under section 625(2), the court
16 shall order vehicle immobilization for not less than 90 days or
17 more than 180 days.

18 (d) ~~For~~ **BEFORE OCTOBER 31, 2010, FOR** a conviction under
19 section 625(1), (3), (4), (5), (7), or (8) after 2 or more prior
20 convictions **WITHIN 10 YEARS, OR, BEGINNING OCTOBER 31, 2010, FOR A**
21 **CONVICTION UNDER SECTION 625(1), (3), (4), (5), (7), OR (8) AFTER 2**
22 **OR MORE PRIOR CONVICTIONS**, the court shall order vehicle
23 immobilization for not less than 1 year or more than 3 years.

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

27 (a) Except as provided in subdivision (b), for 1 prior

1 suspension, revocation, or denial under section 904(10), (11), or
2 (12) or former section 904(2) or (4) within the past 7 years, the
3 court may order vehicle immobilization for not more than 180 days.

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

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

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

17 (3) The defendant shall provide to the court the vehicle
18 identification number and registration plate number of the vehicle
19 involved in the violation.

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

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

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

27 (5) Except as otherwise provided in ~~subsection~~ **SUBSECTIONS**

1 (11) **AND (13)**, an order required to be issued under this section
2 shall not be suspended.

3 (6) If a defendant is ordered imprisoned for the violation for
4 which immobilization is ordered, the period of immobilization shall
5 begin at the end of the period of imprisonment.

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

7 (a) A suspension, revocation, or denial based on a violation
8 of the support and parenting time enforcement act, 1982 PA 295, MCL
9 552.601 to 552.650.

10 (b) A vehicle that is registered in another state or that is a
11 rental vehicle.

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

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

15 (e) Any of the following:

16 (i) A violation of chapter II.

17 (ii) A violation of chapter V.

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

19 (iv) A parking violation.

20 (v) A bad check violation.

21 (vi) An equipment violation.

22 (vii) A pedestrian, passenger, or bicycle violation, other than
23 a violation of section 703(1) or (2) of the Michigan liquor control
24 code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance
25 substantially corresponding to section 703(1) or (2) of the
26 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or
27 section 624a or 624b or a local ordinance substantially

1 corresponding to section 624a or 624b.

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

4 (8) As used in this section:

5 (a) Subject to subsections (9) and (10), "prior conviction"
6 means a conviction for any of the following, whether under a law of
7 this state, a local ordinance substantially corresponding to a law
8 of this state, or a law of another state substantially
9 corresponding to a law of this state:

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

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

19 (B) Section 625m.

20 (C) Former section 625b.

21 (ii) Negligent homicide, manslaughter, or murder resulting from
22 the operation of a vehicle or an attempt to commit any of those
23 crimes.

24 (iii) ~~A~~**BEGINNING OCTOBER 31, 2010, A** violation of section 601d
25 or section 626(3) or (4).

26 (b) "Vehicle immobilization" means requiring the motor vehicle
27 involved in the violation immobilized in a manner provided in

1 section 904e.

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

6 (10) Only 1 violation or attempted violation of section
7 625(6), a local ordinance substantially corresponding to section
8 625(6), or a law of another state substantially corresponding to
9 section 625(6) may be used as a prior conviction.

10 (11) ~~If~~**BEGINNING OCTOBER 31, 2010, IF** the person obtains a
11 restricted operator's or chauffeur's license from the secretary of
12 state and an ignition interlock device is properly installed in the
13 vehicle, the court shall suspend the immobilization order issued
14 under subsection (1)(c) for a conviction under section 625(2).

15 (12) ~~The~~**BEGINNING OCTOBER 31, 2010, THE** court may reinstate
16 vehicle immobilization issued under subsection (1)(c) for a
17 conviction under section 625(2) if an ignition interlock device is
18 tampered with, circumvented, or disabled, or if the person's
19 restricted operator's or chauffeur's license is suspended or
20 revoked.

21 **(13) VEHICLE IMMOBILIZATION UNDER THIS SECTION IS SUBJECT TO**
22 **SECTION 303(9) IF THE DEFENDANT OBTAINS A RESTRICTED LICENSE UNDER**
23 **SECTION 303(5).**

24 Enacting section 1. This amendatory act does not take effect
25 unless Senate Bill No.____ or House Bill No.____ (request no.
26 02863'09 *) of the 95th Legislature is enacted into law.