

SENATE BILL No. 436

June 7, 2017, Introduced by Senator SCHUITMAKER and referred to the Committee on
Judiciary.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending section 304 (MCL 257.304), as amended by 2016 PA 32.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

9 (b) One conviction for violating section 625(1) or (3) or a
10 local ordinance of this state substantially corresponding to
11 section 625(1) or (3), preceded by 1 or more convictions for

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

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

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

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

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

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

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

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

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

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

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

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

1 (h) Section 323c.

2 (i) Section 625f.

3 (j) Section 732a(5).

4 (k) Section 904(10).

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

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

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

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

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

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

21 (i) The person's residence.

22 (ii) The person's work location.

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

25 (iv) Alcoholics ~~anonymous, narcotics anonymous,~~ **ANONYMOUS,**
26 **NARCOTICS ANONYMOUS,** or other court-ordered self-help programs.

27 (v) Court hearings and probation appointments.

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1 (vi) Court-ordered community service.

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

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

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

8 (x) ~~Ignition~~ **AN IGNITION** interlock service provider as
9 required.

<<(xi) AT THE DISCRETION OF THE JUDGE, THE CUSTODIAN OF A MINOR CHILD MAY DRIVE TO AND FROM THE FACILITIES OF A PROVIDER OF DAY CARE SERVICES AT WHICH THE CUSTODIAN'S MINOR CHILD IS ENROLLED, OR AN EDUCATIONAL INSTITUTION AT WHICH THE CUSTODIAN'S MINOR CHILD IS ENROLLED AS A STUDENT FOR THE PURPOSES OF CLASSES, ACADEMIC MEETINGS OR CONFERENCES, AND ATHLETIC OR OTHER EXTRACURRICULAR ACTIVITIES SANCTIONED BY THE EDUCATIONAL INSTITUTION IN WHICH THE MINOR CHILD IS A PARTICIPANT. AS USED IN THIS SUBPARAGRAPH, "MINOR CHILD" MEANS AN INDIVIDUAL WHO IS LESS THAN 18 YEARS OF AGE.>>

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

14 (6) Except as otherwise provided in this section, a restricted
15 license issued under subsection (1) is effective until a hearing
16 officer orders an unrestricted license under section 322. Subject
17 to subsection (7), the hearing officer shall not order an
18 unrestricted license until the later of the following events
19 occurs:

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

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

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

27 (d) The person satisfies the requirements of section 303 and R

1 257.313 of the Michigan ~~administrative code~~. **ADMINISTRATIVE CODE.**

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

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

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

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

25 (9) If the secretary of state receives a notification from the
26 DWI/sobriety court under section ~~1084(6)~~ **1084(7)** of the revised
27 judicature act of 1961, 1961 PA 236, MCL 600.1084, the secretary of

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

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

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

15 (10) After the person completes the DWI/sobriety court
16 program, the following apply:

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

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

27 (i) The person operates a motor vehicle without an ignition

1 interlock device that meets the criteria under subsection (2) (b).

2 (ii) The person removes, or causes to be removed, an ignition
3 interlock device from a vehicle he or she owns or operates unless
4 the secretary of state has authorized its removal under section
5 322a.

6 (iii) The person commits any other act that would be a major
7 violation if the person's license had been issued under section
8 322(6). As used in this subparagraph, "major violation" means that
9 term as defined in R 257.301a of the Michigan ~~administrative~~
10 ~~code~~. **ADMINISTRATIVE CODE.**

11 (iv) The person is arrested for a violation of any of the
12 following:

13 (A) Section 625.

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

16 (C) A law of the United States substantially corresponding to
17 section 625.

18 (c) If the person is convicted of or found responsible for any
19 offense that requires the suspension, revocation, denial, or
20 cancellation of the person's operator's or chauffeur's license, the
21 restricted license issued under this section ~~shall~~ **MUST** be
22 suspended until the requisite period of license suspension,
23 revocation, denial, or cancellation, as appropriate, has elapsed.

24 (d) If the person has failed to pay any court-ordered fines or
25 costs that resulted from the operation of a vehicle, the restricted
26 license issued under this section ~~shall~~ **MUST** be suspended pending
27 payment of those fines and costs.

1 (11) All driver responsibility fees required to be assessed by
2 the secretary of state under section 732a for the conviction or
3 convictions that led to the restricted license under this section
4 ~~shall~~**MUST** be held in abeyance as follows:

5 (a) The fees ~~shall~~**MUST** be held in abeyance during the time
6 the person has a restricted license under this section and is
7 participating in the DWI/sobriety court program.

8 (b) At the end of the person's participation in the
9 DWI/sobriety court program, the driver responsibility fees ~~shall~~
10 **MUST** be assessed and paid under the payment schedule described in
11 section 732a.

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

17 (a) The person is a DWI/sobriety court program participant in
18 good standing or the person successfully satisfactorily completes
19 the DWI/sobriety court program.

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

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

24 (14) As used in this section:

25 (a) "DWI/sobriety court" means that term as defined in section
26 1084 of the revised judicature act of 1961, 1961 PA 236, MCL
27 600.1084. **BEGINNING JANUARY 1, 2018, DWI/SOBRIETY COURT INCLUDES**

1 ONLY A DWI/SOBRIETY COURT THAT IS CERTIFIED BY THE STATE COURT
2 ADMINISTRATIVE OFFICE AS PROVIDED IN SECTION 1084(3) OF THE REVISED
3 JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.1084.

4 (b) "DWI/sobriety court program" means "program" as that term
5 is defined in section 1084 of the revised judicature act of 1961,
6 1961 PA 236, MCL 600.1084.

7 Enacting section 1. This amendatory act takes effect 90 days
8 after the date it is enacted into law.

9 Enacting section 2. This amendatory act does not take effect
10 unless all of the following bills of the 99th Legislature are
11 enacted into law:

12 (a) Senate Bill No. 435.

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14 (b) Senate Bill No. 437.

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16 (c) Senate Bill No. 438.

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