

# 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.

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.

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.

13

14 (b) Senate Bill No. 437.

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16 (c) Senate Bill No. 438.

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