

SUBSTITUTE FOR
HOUSE BILL NO. 4289

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 TO EACH PERSON WHO IS ISSUED A RESTRICTIVE LICENSE THAT PERMITS THE
2 PERSON TO DRIVE A VEHICLE ONLY IF IT IS EQUIPPED WITH AN IGNITION
3 INTERLOCK DEVICE. THE DEPARTMENT SHALL ROTATE THE ORDER OF THE
4 PROVIDERS WITH EACH LIST PROVIDED UNDER THIS SUBSECTION.

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

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

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

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

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

19 (i) A bond executed as provided in section 6250 or a letter of
20 credit.

21 (ii) Evidence of insurance as described in section 6251.

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

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

1 ~~———— (B) Calibrated to render the motor vehicle incapable of being~~
2 ~~started if the device detects an alcohol content of 0.025 grams or~~
3 ~~more per 210 liters of breath of the person who offers a breath~~
4 ~~sample.~~

5 (A) **MEETS THE DEFINITION IN SECTION 20B.**

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

8 ~~———— (I) Emit a warning signal when the device detects an alcohol~~
9 ~~content of 0.025 grams or more per 210 liters of breath in the~~
10 ~~person who offers a breath sample~~ **—OR IF A BREATH SAMPLE IS NOT**
11 **GIVEN WITHIN THE ALLOTTED TIME:**

12 (I) **EMIT A VISIBLE OR AUDIBLE WARNING SIGNAL.**

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

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

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

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

1 ~~established in the poverty guidelines issued by the secretary of~~
2 ~~health and human services under authority of section 673(2) of the~~
3 ~~community services block grant act, subtitle B of title VI of the~~
4 ~~omnibus budget reconciliation act of 1981, Public Law 97-35, 42~~
5 ~~U.S.C. 9902~~ IF THE COURT OR THE DEPARTMENT FINDS THAT PAYING THE
6 COST OF THE IGNITION INTERLOCK DEVICE WOULD CONSTITUTE A
7 SUBSTANTIAL FINANCIAL HARDSHIP. IN MAKING THIS DETERMINATION, THE
8 COURT OR THE DEPARTMENT SHALL CONSIDER THE PERSON'S INCOME,
9 HOUSEHOLD COMPOSITION, CHILD SUPPORT OBLIGATIONS, HOUSEHOLD
10 EXPENSES, TREATMENT EXPENSES, DRUG AND ALCOHOL TESTING EXPENSES,
11 COURT COSTS AND FINES, AND ANY OTHER RELEVANT INFORMATION. A person
12 in whose vehicle an ignition interlock device is installed without
13 cost under this subdivision shall pay a maintenance fee to the
14 installer, **BASED ON THE COURT'S OR THE DEPARTMENT'S FINDINGS**
15 **CONCERNING THE PERSON'S ABILITY TO PAY**, of not ~~more~~ **LESS** than ~~\$1.00~~
16 **\$2.00** per day.

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

19 (F) ~~(e)~~ **Agrees to periodically monitor installed ignition**
20 **interlock devices and if monitoring indicates that the device has**
21 **been circumvented OR THAT A PERSON WITH A BREATH ALCOHOL LEVEL OF**
22 **0.025 OR MORE GRAMS PER 210 LITERS OF BREATH HAS ATTEMPTED TO**
23 **OPERATE THE MOTOR VEHICLE, OR BOTH, to communicate that fact** ~~ALL OF~~
24 **THE RELEVANT INFORMATION CONCERNING THESE FACTS** to the secretary of
25 state or to the court, **OR BOTH**, as appropriate.

26 (6) A manufacturer that has made a filing under subsection (5)
27 shall immediately notify the department if the device no longer

1 meets the requirements of subsection (5).

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

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

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

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

21 **(11) THE DEPARTMENT SHALL INVESTIGATE AND EVALUATE THE**
22 **EFFECTIVENESS OF PHOTO IDENTIFICATION TECHNOLOGY IN IGNITION**
23 **INTERLOCK DEVICES.**

24 **(12) BEGINNING DECEMBER 31, 2011, AND BY DECEMBER 31 EVERY**
25 **FOURTH YEAR AFTER THAT, THE SECRETARY OF STATE SHALL CONVENE A**
26 **PANEL TO REVIEW CURRENT TECHNOLOGY AND INVESTIGATE PROGRAM**
27 **IMPROVEMENTS.**

1 Sec. 625/. (1) The manufacturer of an ignition interlock device
2 shall design a warning label, and the person who has an ignition
3 interlock device shall promptly affix that label to each ignition
4 interlock device upon installation. The label shall contain a
5 warning that any person tampering **WITH**, circumventing, or otherwise
6 misusing the device is guilty of a misdemeanor punishable as
7 provided by law.

8 **(2) A PERSON WHO IS ONLY PERMITTED TO DRIVE A MOTOR VEHICLE**
9 **EQUIPPED WITH AN IGNITION INTERLOCK DEVICE SHALL NOT OPERATE A**
10 **MOTOR VEHICLE ON WHICH AN IGNITION INTERLOCK DEVICE IS NOT PROPERLY**
11 **INSTALLED.**

12 (3) ~~(2)~~—A person who has an ignition interlock device
13 installed and whose driving privilege is restricted shall not
14 request or solicit any other person to blow into an ignition
15 interlock device or to start a vehicle equipped with the device for
16 the purpose of providing the person whose driving privilege is
17 restricted with an operable vehicle.

18 (4) ~~(3)~~—A person shall not blow into an ignition interlock
19 device or start a motor vehicle equipped with the device for the
20 purpose of providing an operable vehicle to a person who has an
21 interlock device installed and whose driving privilege is
22 restricted.

23 (5) ~~(4)~~—A person shall not tamper with or circumvent the
24 operation of an ignition interlock device.

25 (6) ~~(5)~~—A person who violates subsection (2), (3), ~~or~~ (4), **OR**
26 (5) is guilty of a misdemeanor punishable by imprisonment for not
27 more than 6 months or a fine of not more than \$5,000.00, or both.

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

9 (7) IF A LAW ENFORCEMENT OFFICER DETAINS THE OPERATOR OF A
10 MOTOR VEHICLE FOR VIOLATING A LAW OF THIS STATE OR A LOCAL
11 ORDINANCE AND THE OPERATOR IS A PERSON REQUIRED TO ONLY OPERATE A
12 MOTOR VEHICLE WITH AN IGNITION INTERLOCK DEVICE PROPERLY INSTALLED,
13 BUT NO IGNITION INTERLOCK DEVICE IS PROPERLY INSTALLED ON THE MOTOR
14 VEHICLE, THE LAW ENFORCEMENT OFFICER SHALL IMPOUND THE MOTOR
15 VEHICLE. IF A MOTOR VEHICLE IMPOUNDED UNDER THIS SUBSECTION IS
16 INDIVIDUALLY OR JOINTLY OWNED BY THE OPERATOR, THE LAW ENFORCEMENT
17 OFFICER SHALL DO ALL OF THE FOLLOWING:

18 (A) IMMEDIATELY CONFISCATE THE MOTOR VEHICLE REGISTRATION
19 PLATE AND DESTROY IT.

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

23 (C) PLACE THE TEMPORARY REGISTRATION PLATE ISSUED UNDER
24 SUBDIVISION (B) ON THE MOTOR VEHICLE IN THE MANNER PRESCRIBED BY
25 THE SECRETARY OF STATE.

26 (D) NOTIFY THE SECRETARY OF STATE THROUGH THE LAW ENFORCEMENT
27 INFORMATION NETWORK IN A FORM PRESCRIBED BY THE SECRETARY OF STATE

1 THAT THE REGISTRATION PLATE WAS DESTROYED AND A TEMPORARY
2 REGISTRATION PLATE WAS ISSUED TO THE MOTOR VEHICLE.

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

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

12 (10) THE OWNER OF A MOTOR VEHICLE IMPOUNDED UNDER THIS SECTION
13 IS LIABLE FOR THE EXPENSES INCURRED IN THE REMOVAL AND STORAGE OF
14 THE MOTOR VEHICLE WHETHER OR NOT IT IS RETURNED TO HIM OR HER. THE
15 MOTOR VEHICLE SHALL BE RETURNED TO THE OWNER ONLY IF THE OWNER PAYS
16 THE EXPENSES OF REMOVAL AND STORAGE. IF REDEMPTION IS NOT MADE OR
17 THE VEHICLE IS NOT RETURNED AS DESCRIBED UNDER THIS SUBSECTION, IT
18 SHALL BE CONSIDERED AN ABANDONED VEHICLE AND DISPOSED OF UNDER
19 SECTION 252A.

20 (11) ~~(7)~~—The state, or the department, its officers,
21 employees, or agents, or a court, its officers, employees, or
22 agents are not liable in any claim or action that may arise,
23 directly or indirectly, out of any act or omission by a
24 manufacturer, installer, or servicing agent of an ignition
25 interlock device that results in damage to persons or property.

26 (12) ~~(8)~~—A person shall not sell, lease, install, or monitor
27 in a vehicle in this state an ignition interlock device unless the

1 ignition interlock device manufacturer and provider carries
2 liability insurance covering product liability, including, but not
3 limited to, insurance to indemnify the department and any person
4 injured as a result of a design defect or the calibration or
5 removal of the ignition interlock device or a misrepresentation
6 about the ignition interlock device. The insurance required by this
7 subsection shall be in an amount of not less than \$1,000,000.00 per
8 incident.

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

14 (14) ~~(10)~~—An ignition interlock device shall be serviced
15 according to manufacturer's standards. Service shall include, but
16 not be limited to, physical inspection of the device and vehicle
17 for tampering, calibration of the device, and monitoring of the
18 data contained within the device's memory. Only authorized
19 employees of the manufacturer or the department, or other persons
20 approved by the court, may observe the installation of a device.
21 Reasonable security measures ~~must~~ **SHALL** be taken to prevent the
22 customer from observing the installation of a device or obtaining
23 access to installation materials.

24 Sec. 904. (1) A person whose operator's or chauffeur's license
25 or registration certificate has been suspended or revoked and who
26 has been notified as provided in section 212 of that suspension or
27 revocation, whose application for license has been denied, or who

1 has never applied for a license, shall not operate a motor vehicle
2 upon a highway or other place open to the general public or
3 generally accessible to motor vehicles, including an area
4 designated for the parking of motor vehicles, within this state.

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

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

16 (a) For a first violation, by imprisonment for not more than
17 93 days or a fine of not more than \$500.00, or both. Unless the
18 vehicle was stolen or used with the permission of a person who did
19 not knowingly permit an unlicensed driver to operate the vehicle,
20 the registration plates of the vehicle shall be canceled by the
21 secretary of state upon notification by a peace officer.

22 (b) For a violation that occurs after a prior conviction, by
23 imprisonment for not more than 1 year or a fine of not more than
24 \$1,000.00, or both. Unless the vehicle was stolen, the registration
25 plates of the vehicle shall be canceled by the secretary of state
26 upon notification by a peace officer.

27 (4) A person who operates a motor vehicle in violation of

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

8 (5) A person who operates a motor vehicle in violation of
9 subsection (1) and who, by operation of that motor vehicle, causes
10 the serious impairment of a body function of another person is
11 guilty of a felony punishable by imprisonment for not more than 5
12 years or a fine of not less than \$1,000.00 or more than \$5,000.00,
13 or both. This subsection does not apply to a person whose
14 operator's or chauffeur's license was suspended because that person
15 failed to answer a citation or comply with an order or judgment
16 pursuant to section 321a. ~~[As used in this subsection and subsection~~
17 ~~(7), "serious impairment of a body function" includes, but is not~~
18 ~~limited to, 1 or more of the following:~~
19 ~~—— (a) Loss of a limb or loss of use of a limb.~~
20 ~~—— (b) Loss of a foot, hand, finger, or thumb or loss of use of a~~
21 ~~foot, hand, finger, or thumb.~~
22 ~~—— (c) Loss of an eye or ear or loss of use of an eye or ear.~~
23 ~~—— (d) Loss or substantial impairment of a bodily function.~~
24 ~~—— (e) Serious visible disfigurement.~~
25 ~~—— (f) A comatose state that lasts for more than 3 days.~~
26 ~~—— (g) Measurable brain or mental impairment.~~
27 ~~—— (h) A skull fracture or other serious bone fracture.~~

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

1
2 (6) In addition to being subject to any other penalty provided
3 for in this act, if a person is convicted under subsection (4) or
4 (5), the court may impose the sanction permitted under section
5 625n. If the vehicle is not ordered forfeited under section 625n,
6 the court shall order vehicle immobilization under section 904d in
7 the judgment of sentence.

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

27 (8) If the prosecuting attorney intends to seek an enhanced

1 sentence under this section based upon the defendant having 1 or
2 more prior convictions, the prosecuting attorney shall include on
3 the complaint and information, or an amended complaint and
4 information, filed in district court, circuit court, municipal
5 court, or family division of circuit court, a statement listing the
6 defendant's prior convictions.

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

9 (A) **A COPY OF A JUDGMENT OF CONVICTION.**

10 (B) ~~(a)~~An abstract of conviction.

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

12 (D) **A COPY OF A COURT REGISTER OF ACTION.**

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

14 (F) **INFORMATION CONTAINED IN A PRESENTENCE REPORT.**

15 (G) ~~(e)~~An admission by the defendant.

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

25 (11) Upon receiving a record of a person's conviction or civil
26 infraction determination for the unlawful operation of a motor
27 vehicle or a moving violation reportable under section 732 while

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

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

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

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

1 state's computer information network.

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

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

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

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

27 (19) For purposes of this section, a person who never applied

1 for a license includes a person who applied for a license, was
2 denied, and never applied again.

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

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

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

11 (c) For a conviction under section 625(1), (3), (4), (5), (7),
12 or (8) within 7 years after a prior conviction, **OR FOR A CONVICTION**
13 **OF SECTION 625(2)**, the court shall order vehicle immobilization for
14 not less than 90 days or more than 180 days.

15 (d) For a conviction under section 625(1), (3), (4), (5), (7),
16 or (8) within 10 years after 2 or more prior convictions, the court
17 shall order vehicle immobilization for not less than 1 year or more
18 than 3 years.

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

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

26 (b) Except as provided in subdivisions (c) and (d), if the
27 person is convicted under section 904(4) or (5), the court shall

1 order vehicle immobilization for not more than 180 days.

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

7 (d) For any combination of 4 or more 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 1 year or more
11 than 3 years.

12 (3) The defendant shall provide to the court the vehicle
13 identification number and registration plate number of the vehicle
14 involved in the violation.

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

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

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

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

25 (6) If a defendant is ordered imprisoned for the violation for
26 which immobilization is ordered, the period of immobilization shall
27 begin at the end of the period of imprisonment.

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

2 (a) A suspension, revocation, or denial based on a violation
3 of the support and parenting time enforcement act, 1982 PA 295, MCL
4 552.601 to 552.650.

5 (b) A vehicle that is registered in another state or that is a
6 rental vehicle.

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

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

10 (e) Any of the following:

11 (i) A violation of chapter II.

12 (ii) A violation of chapter V.

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

14 (iv) A parking violation.

15 (v) A bad check violation.

16 (vi) An equipment violation.

17 (vii) A pedestrian, passenger, or bicycle violation, other than
18 a violation of section 703(1) or (2) of the Michigan liquor control
19 code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance
20 substantially corresponding to section 703(1) or (2) of the
21 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or
22 section 624a or 624b or a local ordinance substantially
23 corresponding to section 624a or 624b.

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

26 (8) As used in this section:

27 (a) Subject to subsections (9) and (10), "prior conviction"

1 means a conviction for any of the following, whether under a law of
2 this state, a local ordinance substantially corresponding to a law
3 of this state, or a law of another state substantially
4 corresponding to a law of this state:

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

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

14 (B) Section 625m.

15 (C) Former section 625b.

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

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

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

26 (10) Only 1 violation or attempted violation of section
27 625(6), a local ordinance substantially corresponding to section

1 625(6), or a law of another state substantially corresponding to
2 section 625(6) may be used as a prior conviction.

3 (11) IF THE PERSON OBTAINS A RESTRICTED OPERATOR'S LICENSE
4 FROM THE SECRETARY OF STATE AND AN IGNITION INTERLOCK DEVICE IS
5 PROPERLY INSTALLED IN THE VEHICLE, THE COURT SHALL SUSPEND THE
6 IMMOBILIZATION ORDER.

7 (12) THE COURT MAY REINSTATE VEHICLE IMMOBILIZATION IF AN
8 IGNITION INTERLOCK DEVICE IS TAMPERED WITH, CIRCUMVENTED, OR
9 DISABLED, OR IF THE PERSON'S RESTRICTED OPERATOR'S LICENSE IS
10 SUSPENDED OR REVOKED.

11 Enacting section 1. This amendatory act takes effect October
12 1, 2008.

13 Enacting section 2. This amendatory act does not take effect
14 unless House Bill No. 4920 of the 94th Legislature is enacted into
15 law.