

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4210

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 322, 625k, and 625l (MCL 257.322, 257.625k,
and 257.625l), sections 625k and 625l as amended by 1994 PA 450,
and by adding sections 622a and 625o.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 322. (1) The secretary of state shall appoint a hear-
2 ing officer to hear appeals from persons aggrieved by a final
3 determination of the secretary of state denying an application
4 for an operator's or chauffeur's license, suspending,
5 RESTRICTING, or revoking an operator's or chauffeur's license, or
6 other license action.

7 (2) THE APPEAL SHALL BE IN WRITING AND FILED WITH THE
8 SECRETARY OF STATE WITHIN 14 DAYS AFTER THE FINAL DETERMINATION.
9 UPON NOTICE OF THE APPEAL, THE HEARING OFFICER SHALL REQUIRE

HB 4210, As Passed Senate, September 22, 1998

House Bill No. 4210

2

1 PRODUCTION OF ALL DOCUMENTS FILED IN THE MATTER, TOGETHER WITH A
2 TRANSCRIPT OF ANY TESTIMONY TAKEN.

3 (3) ~~The~~ IN A HEARING OR MATTER PROPERLY BEFORE THE hearing
4 officer, HE OR SHE may ~~issue~~ DO ANY OF THE FOLLOWING:

5 (A) ISSUE subpoenas to compel attendance of witnesses. ~~in~~
6 ~~any matter or hearing properly pending before the officer, issue~~

7 (B) ISSUE process to compel attendance. ~~, and punish~~

8 (C) PUNISH for contempt any witness failing to appear or
9 testify in ~~accordance with~~ THE SAME MANNER AS PROVIDED BY the
10 rules and practice in THE circuit ~~courts so far as the same can~~
11 ~~be made to apply. The hearing officer may swear~~ COURT.

12 (D) SWEAR witnesses, ~~and~~ administer oaths, and exemplify
13 records in any matter ~~coming~~ before the officer.

14 (E) TAKE ADDITIONAL TESTIMONY HE OR SHE CONSIDERS
15 APPROPRIATE.

16 (4) A VERBATIM RECORD SHALL BE MADE OF THE HEARING.

17 (5) ~~The~~ AFTER A HEARING, THE hearing officer may ~~after~~
18 ~~hearing~~ affirm, modify, or set aside ~~,~~ a final determination
19 of the secretary of state denying an application for an
20 operator's or chauffeur's license, ~~or~~ suspending, RESTRICTING,
21 or revoking an operator's or chauffeur's license, or any other
22 license action. ~~The appeal shall be in writing and shall be~~
23 ~~filed with the secretary of state within 14 days after the final~~
24 ~~determination. The hearing officer shall thereupon require pro-~~
25 ~~duction of all documents filed in connection with the matter,~~
26 ~~together with a transcript of any testimony which may have been~~
27 ~~taken and may take such additional testimony as he may deem~~

HB 4210, As Passed Senate, September 22, 1998

House Bill No. 4210

3

1 ~~advisable.~~ THE HEARING OFFICER SHALL INCLUDE HIS OR HER FINDINGS
2 OF FACT AND CONCLUSIONS OF LAW IN THE RECORD.

3 (6) EXCEPT AS PROVIDED IN SUBSECTION (7), IF A PERSON WHOSE
4 LICENSE HAS BEEN DENIED OR REVOKED UNDER SECTION 303(1)(F) OR
5 SECTION 303(2)(C), (D), OR (F) APPLIES FOR A LICENSE OR REIN-
6 STATEMENT OF A LICENSE AFTER THE TIME PERIOD SPECIFIED IN SECTION
7 303(4) HAS ELAPSED, THE HEARING OFFICER MAY ISSUE A RESTRICTED
8 LICENSE TO THAT PERSON, SETTING RESTRICTIONS UPON OPERATING A
9 VEHICLE AS THE HEARING OFFICER DETERMINES ARE APPROPRIATE. IF
10 THE HEARING OFFICER ISSUES A RESTRICTED LICENSE FOLLOWING A HEAR-
11 ING HELD AFTER OCTOBER 1, 1999, HE OR SHE SHALL DO BOTH OF THE
12 FOLLOWING:

13 (A) REQUIRE INSTALLATION OF A FUNCTIONING IGNITION INTERLOCK
14 DEVICE THAT MEETS OR EXCEEDS THE MODEL SPECIFICATIONS OF THE
15 NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION SET FORTH IN 57
16 F.R. p.11772, APRIL 7, 1992, ON EACH MOTOR VEHICLE THE PERSON
17 OWNS OR INTENDS TO OPERATE, THE COSTS OF WHICH SHALL BE BORNE BY
18 THE PERSON WHOSE LICENSE IS RESTRICTED.

19 (B) CONDITION ISSUANCE OF A RESTRICTED LICENSE UPON VERIFI-
20 CATION BY THE SECRETARY OF STATE THAT AN IGNITION INTERLOCK
21 DEVICE HAS BEEN INSTALLED.

22 (7) THE HEARING OFFICER SHALL NOT ISSUE A RESTRICTED LICENSE
23 UNDER SUBSECTION (6) THAT WOULD PERMIT THE PERSON TO OPERATE A
24 COMMERCIAL MOTOR VEHICLE THAT HAULS HAZARDOUS MATERIAL.

25 (8) IF THE HEARING OFFICER ISSUES A RESTRICTED LICENSE TO A
26 PERSON WHO INTENDS TO OPERATE A VEHICLE OWNED BY HIS OR HER
27 EMPLOYER, THE SECRETARY OF STATE SHALL NOTIFY THE EMPLOYER OF THE

HB 4210, As Passed Senate, September 22, 1998

House Bill No. 4210

4

1 EMPLOYEE'S LICENSE RESTRICTION THAT REQUIRES THE INSTALLATION OF
2 AN IGNITION INTERLOCK DEVICE. AN EMPLOYER WHO RECEIVES NOTICE
3 UNDER THIS SUBSECTION IS NOT REQUIRED TO INSTALL AN IGNITION
4 INTERLOCK DEVICE ON THE EMPLOYER-OWNED VEHICLE. THIS SUBSECTION
5 DOES NOT APPLY TO A VEHICLE THAT IS OPERATED BY A SELF-EMPLOYED
6 INDIVIDUAL WHO USES THE VEHICLE FOR BOTH BUSINESS AND PERSONAL
7 USE.

8 (9) IF THE HEARING OFFICER ISSUES A RESTRICTED LICENSE
9 REQUIRING AN IGNITION INTERLOCK DEVICE, THE INITIAL PERIOD FOR
10 REQUIRING THE DEVICE SHALL BE 1 YEAR. AFTER THAT TIME, THE HEAR-
11 ING OFFICER MAY CONTINUE THE IGNITION INTERLOCK DEVICE REQUIRE-
12 MENT FOR ANY LENGTH OF TIME.

13 SEC. 622A. THE CRASH REPORT FORM REQUIRED BY THIS CHAPTER
14 SHALL INCLUDE, WHEN APPLICABLE, WHETHER AN IGNITION INTERLOCK
15 DEVICE WAS INSTALLED IN A VEHICLE INVOLVED IN A CRASH.

16 Sec. 625k. (1) The department shall approve an ignition
17 interlock device certified by a department-approved laboratory as
18 complying with the national highway traffic safety
19 administration's model specifications for breath alcohol ignition
20 interlock devices (BAIID), 57 F.R. p.11772,
21 ~~(April 7, 1992.)~~ Subject to subsection ~~(4)~~ (5), the
22 department shall publish a list of all manufacturers of approved
23 certified devices.

24 (2) THE SECRETARY OF STATE SHALL PROMULGATE RULES TO IMPLI-
25 MENT THIS SECTION IN COMPLIANCE WITH THE ADMINISTRATIVE PROCE-
26 DURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328.

HB 4210, As Passed Senate, September 22, 1998

House Bill No. 4210

5

1 (3) ~~-(2)-~~ The manufacturer of an ignition interlock device
2 shall bear the cost of that device's certification.

3 (4) ~~-(3)-~~ A laboratory that certifies an ignition interlock
4 device as provided in this section shall immediately notify the
5 department of that certification.

6 (5) ~~-(4)-~~ The department shall not include the manufacturer
7 of a certified ignition interlock device on the list of manufac-
8 turers published ~~pursuant to~~ UNDER subsection (1) unless the
9 manufacturer COMPLIES WITH ALL OF THE FOLLOWING:

10 (A) THE MANUFACTURER has filed COPIES OF ALL OF THE
11 FOLLOWING with the department: ~~copies of an affidavit that the~~
12 ~~ignition interlock device is both of the following:-~~

13 (i) A BOND EXECUTED AS PROVIDED IN SECTION 6250 OR A LETTER
14 OF CREDIT.

15 (ii) EVIDENCE OF INSURANCE AS DESCRIBED IN SECTION 6251.

16 (iii) AN AFFIDAVIT THAT THE IGNITION INTERLOCK DEVICE IS ALL
17 OF THE FOLLOWING:

18 (A) ~~-(a)-~~ An alcohol concentration measuring device that
19 prevents a motor vehicle from being started at any time without
20 first determining through a deep lung sample the operator's
21 breath alcohol level.

22 (B) ~~-(b)-~~ Calibrated to ~~prevent the motor vehicle from~~
23 ~~starting if the operator's breath alcohol level reaches a level~~
24 ~~of 0.02 grams per 210 liters of breath as measured by the test-~~
25 RENDER THE MOTOR VEHICLE INCAPABLE OF BEING STARTED IF THE DEVICE
26 DETECTS AN ALCOHOL CONTENT OF 0.025 GRAMS OR MORE PER 210 LITERS
27 OF BREATH OF THE PERSON WHO OFFERS A BREATH SAMPLE.

HB 4210, As Passed Senate, September 22, 1998

House Bill No. 4210

6

1 (C) SET TO PERIODICALLY TAKE SAMPLES WHILE THE VEHICLE IS IN
2 OPERATION AND TO DO 1 OR BOTH OF THE FOLLOWING:

3 (I) EMIT A WARNING SIGNAL WHEN THE DEVICE DETECTS AN ALCOHOL
4 CONTENT OF 0.025 GRAMS OR MORE PER 210 LITERS OF BREATH IN THE
5 PERSON WHO OFFERS A BREATH SAMPLE.

6 (II) IF IT DETECTS AN ALCOHOL CONTENT OF 0.04 GRAMS OR MORE
7 PER 210 LITERS OF BREATH OF THE PERSON WHO OFFERS THE BREATH
8 SAMPLE, RENDER THE VEHICLE INOPERABLE AS SOON AS THE VEHICLE IS
9 NO LONGER BEING OPERATED.

10 (B) THE MANUFACTURER OF IGNITION INTERLOCK DEVICES PROVIDES
11 A LIST OF INSTALLERS WHO ARE AUTHORIZED TO INSTALL AND SERVICE
12 ITS IGNITION INTERLOCK DEVICES TO THE SECRETARY OF STATE.

13 (C) AGREES TO HAVE SERVICE LOCATIONS WITHIN 50 MILES OF ANY
14 LOCATION WITHIN THIS STATE.

15 (D) AGREES TO PROVIDE AN IGNITION INTERLOCK DEVICE WITHOUT
16 COST TO A PERSON WHOSE GROSS INCOME FOR THE IMMEDIATELY PRECEDING
17 TAX YEAR BASED ON HIS OR HER STATE INCOME TAX RETURN WAS LESS
18 THAN 150% OF THE OFFICIAL POVERTY LINE FOR THAT SAME TAX YEAR
19 ESTABLISHED IN THE POVERTY GUIDELINES ISSUED BY THE SECRETARY OF
20 HEALTH AND HUMAN SERVICES UNDER AUTHORITY OF SECTION 673(2) OF
21 THE COMMUNITY SERVICES BLOCK GRANT ACT, SUBTITLE B OF TITLE VI OF
22 THE OMNIBUS BUDGET RECONCILIATION ACT OF 1981, PUBLIC LAW 97-35,
23 42 U.S.C. 9902. A PERSON IN WHOSE VEHICLE AN IGNITION INTERLOCK
24 DEVICE IS INSTALLED WITHOUT COST UNDER THIS SUBDIVISION SHALL PAY
25 A MAINTENANCE FEE TO THE INSTALLER OF NOT MORE THAN \$1.00 PER
26 DAY.

HB 4210, As Passed Senate, September 22, 1998

House Bill No. 4210

7

1 (E) AGREES TO PERIODICALLY MONITOR INSTALLED IGNITION
2 INTERLOCK DEVICES AND IF MONITORING INDICATES THAT THE DEVICE HAS
3 BEEN CIRCUMVENTED, TO COMMUNICATE THAT FACT TO THE SECRETARY OF
4 STATE.

5 (6) ~~(5)~~ A manufacturer that has made a filing under sub-
6 section ~~(4)~~ (5) shall immediately notify the department if the
7 device no longer meets the requirements of subsection ~~(4)~~ (5).

8 (7) A PERSON WHO KNOWINGLY PROVIDES FALSE INFORMATION TO THE
9 DEPARTMENT UNDER SUBSECTION (4) OR (5) IS GUILTY OF A FELONY PUN-
10 ISHABLE BY IMPRISONMENT FOR NOT LESS THAN 5 YEARS OR MORE THAN 10
11 YEARS OR A FINE OF NOT LESS THAN \$5,000.00 OR MORE THAN
12 \$10,000.00, OR BOTH, TOGETHER WITH COSTS OF THE PROSECUTION.

13 (8) A PERSON WHO NEGLIGENTLY PROVIDES FALSE INFORMATION TO
14 THE DEPARTMENT UNDER SUBSECTION (4) OR (5) IS GUILTY OF A MISDE-
15 MEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A
16 FINE OF NOT MORE THAN \$1,000.00, OR BOTH, TOGETHER WITH COSTS OF
17 THE PROSECUTION.

18 (9) A PERSON WHO KNOWINGLY FAILS TO COMPLY WITH SUBSECTION
19 (6) IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT LESS
20 THAN 5 YEARS OR MORE THAN 10 YEARS OR A FINE OF NOT LESS THAN
21 \$5,000.00 OR MORE THAN \$10,000.00, OR BOTH, TOGETHER WITH COSTS
22 OF THE PROSECUTION.

23 (10) A PERSON WHO NEGLIGENTLY FAILS TO COMPLY WITH SUBSEC-
24 TION (6) IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT
25 FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN \$1,000.00, OR
26 BOTH, TOGETHER WITH COSTS OF THE PROSECUTION.

HB 4210, As Passed Senate, September 22, 1998

House Bill No. 4210

8

1 Sec. 625l. (1) The manufacturer of an ignition interlock
2 device shall design a warning label, and the person who has ~~a~~
3 ~~court-ordered~~ AN ignition interlock device shall promptly affix
4 that label to each ignition interlock device upon installation.
5 The label shall contain a warning that any person tampering, cir-
6 cumventing, or otherwise misusing the device is guilty of a mis-
7 demeanor punishable as provided by law.

8 (2) A person who has ~~a court-ordered~~ AN ignition interlock
9 device installed and whose driving privilege is restricted
10 ~~pursuant to section 625b~~ shall not request or solicit any other
11 person to blow into an ignition interlock device or to start a
12 vehicle equipped with the device for the purpose of providing the
13 person whose driving privilege is restricted with an operable
14 vehicle.

15 (3) A person shall not blow into an ignition interlock
16 device or start a motor vehicle equipped with the device for the
17 purpose of providing an operable vehicle to a person who has ~~a~~
18 ~~court-ordered~~ AN interlock device installed and whose driving
19 privilege is restricted. ~~pursuant to section 625b.~~

20 (4) A person shall not tamper with or circumvent the opera-
21 tion of an ignition interlock device.

22 (5) A person who violates ~~this section~~ SUBSECTION (2),
23 (3), OR (4) is guilty of a misdemeanor punishable by imprisonment
24 for not more than 6 months or a fine of not more than \$5,000.00,
25 or both.

26 (6) As used in this ~~section and sections 625b and 625k~~
27 ACT, "ignition interlock device" or "device" means an alcohol

HB 4210, As Passed Senate, September 22, 1998

House Bill No. 4210

9

1 concentration measuring device that prevents a motor vehicle from
2 being started at any time without first determining through a
3 deep lung sample the operator's breath alcohol level. The system
4 shall be calibrated so that the motor vehicle may not be started
5 if the breath alcohol level of the operator, as measured by the
6 test, reaches a level of ~~0.02~~ 0.025 grams per 210 liters of
7 breath.

8 (7) THE STATE, OR THE DEPARTMENT, ITS OFFICERS, EMPLOYEES,
9 OR AGENTS ARE NOT LIABLE IN ANY CLAIM OR ACTION THAT MAY ARISE,
10 DIRECTLY OR INDIRECTLY, OUT OF ANY ACT OR OMISSION BY A MANUFAC-
11 TURER, INSTALLER, OR SERVICING AGENT OF AN IGNITION INTERLOCK
12 DEVICE THAT RESULTS IN DAMAGE TO PERSONS OR PROPERTY.

13 (8) A PERSON SHALL NOT SELL, LEASE, INSTALL, OR MONITOR IN A
14 VEHICLE IN THIS STATE AN IGNITION INTERLOCK DEVICE UNLESS THE
15 IGNITION INTERLOCK DEVICE MANUFACTURER AND PROVIDER CARRIES
16 LIABILITY INSURANCE COVERING PRODUCT LIABILITY, INCLUDING, BUT
17 NOT LIMITED TO, INSURANCE TO INDEMNIFY THE DEPARTMENT AND ANY
18 PERSON INJURED AS A RESULT OF A DESIGN DEFECT OR THE CALIBRATION
19 OR REMOVAL OF THE IGNITION INTERLOCK DEVICE OR A MISREPRESENTA-
20 TION ABOUT THE IGNITION INTERLOCK DEVICE. THE INSURANCE REQUIRED
21 BY THIS SUBSECTION SHALL BE IN AN AMOUNT OF NOT LESS THAN
22 \$1,000,000.00 PER INCIDENT.

23 (9) THE PROVIDER OF INSURANCE DESCRIBED IN THIS SECTION MAY
24 CANCEL THE INSURANCE UPON 30 DAYS' WRITTEN NOTICE TO THE DEPART-
25 MENT AND IS NOT LIABLE FOR A CLAIM ARISING FROM AN EVENT THAT
26 OCCURS AFTER THE EFFECTIVE DATE OF A CANCELLATION MADE IN
27 COMPLIANCE WITH THIS SECTION.

HB 4210, As Passed Senate, September 22, 1998

House Bill No. 4210

10

1 (10) AN IGNITION INTERLOCK DEVICE SHALL BE SERVICED
2 ACCORDING TO MANUFACTURER'S STANDARDS. SERVICE SHALL INCLUDE,
3 BUT NOT BE LIMITED TO, PHYSICAL INSPECTION OF THE DEVICE AND
4 VEHICLE FOR TAMPERING, CALIBRATION OF THE DEVICE AND MONITORING
5 OF THE DATA CONTAINED WITHIN THE DEVICE'S MEMORY. ONLY AUTHO-
6 RIZED EMPLOYEES OF THE MANUFACTURER OR THE DEPARTMENT MAY OBSERVE
7 THE INSTALLATION OF A DEVICE. REASONABLE SECURITY MEASURES MUST
8 BE TAKEN TO PREVENT THE CUSTOMER FROM OBSERVING THE INSTALLATION
9 OF A DEVICE OR OBTAINING ACCESS TO INSTALLATION MATERIALS.

10 SEC. 6250. (1) A PERSON SHALL NOT SELL, LEASE, OR INSTALL
11 IN A VEHICLE IN THIS STATE AN IGNITION INTERLOCK DEVICE UNLESS
12 THE MANUFACTURER OF THE DEVICE HAS OBTAINED AN EXECUTED BOND
13 DESCRIBED IN SUBSECTION (2) OR A RENEWAL CERTIFICATE FOR THAT
14 BOND.

15 (2) THE BOND REQUIRED UNDER SUBSECTION (1) SHALL BE IN THE
16 AMOUNT OF \$50,000.00 WITH A SURETY APPROVED BY THE DEPARTMENT AND
17 SHALL BE CONDITIONED TO INDEMNIFY OR REIMBURSE A PERSON WHO HAS
18 AN IGNITION INTERLOCK DEVICE INSTALLED ON HIS OR HER VEHICLE FOR
19 MONETARY LOSS CAUSED BY THE MANUFACTURER'S FRAUD, CHEATING, MIS-
20 REPRESENTATION, OR DEFAULTING ON A CONTRACTUAL OBLIGATION,
21 WHETHER THE FRAUD, CHEATING, MISREPRESENTATION, OR DEFAULTING WAS
22 DONE BY THE MANUFACTURER OR BY AN EMPLOYEE OR AGENT OF THE
23 MANUFACTURER.

24 (3) THE SURETY ON THE BOND DESCRIBED IN SUBSECTION (2) IS
25 REQUIRED TO MAKE INDEMNIFICATION OR REIMBURSEMENT FOR A MONETARY
26 LOSS ONLY AFTER FINAL JUDGMENT HAS BEEN ENTERED IN A COURT OF
27 RECORD AGAINST THE MANUFACTURER OR AN EMPLOYEE OR AGENT OF THE

HB 4210, As Passed Senate, September 22, 1998

House Bill No. 4210

11

1 MANUFACTURER. THE SURETY ON THE BOND MAY CANCEL THE BOND UPON 30
2 DAYS' WRITTEN NOTICE TO THE DEPARTMENT AND IS NOT LIABLE FOR A
3 LOSS ARISING FROM AN EVENT THAT OCCURS AFTER THE EFFECTIVE DATE
4 OF THE CANCELLATION.

5 Enacting section 1. This amendatory act takes effect
6 October 1, 1999.

7 Enacting section 2. This amendatory act does not take
8 effect unless all of the following bills of the 89th Legislature
9 are enacted into law:

- 10 (a) Senate Bill No. 268.
- 11 (b) Senate Bill No. 269.
- 12 (c) Senate Bill No. 625.
- 13 (d) Senate Bill No. 627.
- 14 (e) Senate Bill No. 869.
- 15 (f) Senate Bill No. 870.
- 16 (g) Senate Bill No. 953.
- 17 (h) House Bill No. 4576.
- 18 (i) House Bill No. 4959.
- 19 (j) House Bill No. 4960.
- 20 (k) House Bill No. 4961.
- 21 (l) House Bill No. 5122.
- 22 (m) House Bill No. 5123.
- 23 (n) House Bill No. 5951.
- 24 (o) House Bill No. 5952.
- 25 (p) House Bill No. 5953.
- 26 (q) House Bill No. 5954.

HB 4210, As Passed Senate, September 22, 1998

House Bill No. 4210 12

1 (r) House Bill No. 5955.

2 (s) House Bill No. 5956.