

HOUSE BILL No. 5814

April 30, 1998, Introduced by Reps. DeVuyst, Baird, Jellema, Voorhees, Gernaat, Horton, Dalman, Hammerstrom, Brater, Birkholz, LaForge, Richner, Jansen, McBryde, Middleton, Jelinek, Sikkema, Middaugh, Byl, Llewellyn, Perricone and Green and referred to the Committee on Conservation, Environment and Recreation.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 319, 320, and 625b (MCL 257.319, 257.320, and 257.625b), section 319 as amended by 1996 PA 587, section 320 as amended by 1982 PA 310, and section 625b as amended by 1994 PA 450.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 319. (1) The secretary of state shall immediately sus-
2 pend a person's license for not less than 90 days or more than 2
3 years upon receiving a record of the person's conviction for any
4 of the following crimes or attempts to commit any of the follow-
5 ing crimes, whether the conviction is under a law of this state,
6 a local ordinance substantially corresponding to a law of this
7 state, or a law of another state substantially corresponding to a
8 law of this state:

1 (a) Fraudulently altering or forging documents pertaining to
2 motor vehicles, in violation of section 257.

3 (b) Perjury or making a false certification to the secretary
4 of state under any law requiring the registration of a motor
5 vehicle or regulating the operation of a motor vehicle on a
6 highway.

7 (c) A violation of section 413 or 414 of the Michigan penal
8 code, ~~Act No. 328 of the Public Acts of 1931, being sections~~
9 ~~750.413 and 750.414 of the Michigan Compiled Laws~~ 1931 PA 328,
10 MCL 750.413 AND 750.414, or a violation of section 1 of ~~Act~~
11 ~~No. 214 of the Public Acts of 1931, being section 752.191 of the~~
12 ~~Michigan Compiled Laws~~ 1931 PA 214, MCL 752.191.

13 (d) A conviction for reckless driving in violation of sec-
14 tion 626.

15 (e) Failing to stop and disclose identity at the scene of an
16 accident resulting in death or injury in violation of section 617
17 or 617a.

18 (f) A felony in which a motor vehicle was used. As used in
19 this section, "felony in which a motor vehicle was used" means a
20 felony during the commission of which the person convicted oper-
21 ated a motor vehicle and while operating the vehicle presented
22 real or potential harm to persons or property and 1 or more of
23 the following circumstances existed:

24 (i) The vehicle was used as an instrument of the felony.

25 (ii) The vehicle was used to transport a victim of the
26 felony.

1 (iii) The vehicle was used to flee the scene of the felony.

2 (iv) The vehicle was necessary for the commission of the
3 felony.

4 (2) The secretary of state shall suspend the license of a
5 person convicted of malicious destruction resulting from the
6 operation of a motor vehicle under section 382 of the Michigan
7 penal code, ~~Act No. 328 of the Public Acts of 1931, being sec-~~
8 ~~tion 750.382 of the Michigan Compiled Laws~~ 1931 PA 328, MCL
9 750.382, for not more than 1 year as ordered by the court as part
10 of the sentence.

11 (3) The secretary of state shall immediately suspend a
12 person's license for the period specified in the abstract of con-
13 viction upon receiving the person's license and abstract of con-
14 viction forwarded to the secretary of state pursuant to section
15 367c of the Michigan penal code, ~~Act No. 328 of the Public Acts~~
16 ~~of 1931, being section 750.367c of the Michigan Compiled Laws~~
17 1931 PA 328, MCL 750.367C.

18 (4) Except as otherwise provided in subsection (9), if a
19 court has not ordered a suspension of a person's license under
20 this act for a violation described in subdivision (a), (b), (c),
21 or (d) for a period equal to or greater than the suspension
22 period prescribed under subdivision (a), (b), (c), or (d) for the
23 violation, the secretary of state shall suspend the license as
24 follows, notwithstanding a court order issued under
25 section 625(1), (3), or (6), section 625b, former section 625(1)
26 or (2), or former section 625b or a local ordinance substantially

1 corresponding to section 625(1), (3), or (6), section 625b,
2 former section 625(1) or (2), or former section 625b:

3 (a) For not less than 90 days or more than 1 year upon
4 receiving a record of the person's conviction for a violation of
5 section 625(3), a local ordinance substantially corresponding to
6 section 625(3), or a law of another state substantially corre-
7 sponding to section 625(3) if the person has no prior convictions
8 within 7 years for a violation of section 625(1), (3), (4), or
9 (5), former section 625(1) or (2), or former section 625b, a
10 local ordinance substantially corresponding to section 625(1) or
11 (3), former section 625(1) or (2), or former section 625b, or a
12 law of another state substantially corresponding to section
13 625(1), (3), (4), or (5), former section 625(1) or (2), or former
14 section 625b. However, if the person is convicted of a violation
15 of section 625(3), a local ordinance substantially corresponding
16 to section 625(3), or a law of another state substantially corre-
17 sponding to section 625(3) for operating a vehicle when, due to
18 the consumption of a controlled substance or a combination of
19 intoxicating liquor and a controlled substance, the person's
20 ability to operate the vehicle was visibly impaired, the secre-
21 tary of state shall suspend the person's license under this sub-
22 division for not less than 6 months or more than 1 year.

23 (b) For not less than 6 months or more than 2 years upon
24 receiving a record of the person's conviction if the person has
25 the following convictions, whether under the law of this state, a
26 local ordinance substantially corresponding to a law of this

1 state, or a law of another state substantially corresponding to a
2 law of this state:

3 (i) One conviction under section 625(1) or former section
4 625(1) or (2).

5 (ii) Any combination of 2 convictions under section 625(3)
6 or former section 625b within a 7-year period.

7 (iii) One conviction under section 625(1) or former section
8 625(1) or (2) and 1 conviction under section 625(3) or former
9 section 625b within a 7-year period.

10 (iv) One conviction under section 625(4) or (5) followed by
11 1 conviction under section 625(3) within a 7-year period.

12 (c) For not less than 30 days or more than 90 days upon
13 receiving a record of the person's conviction for a violation of
14 section 625(6), a local ordinance substantially corresponding to
15 section 625(6), or a law of another state substantially corre-
16 sponding to section 625(6) if the person has no prior convictions
17 within 7 years for a violation of section 625(1), (3), (4), (5),
18 or (6), former section 625(1) or (2), or former section 625b, a
19 local ordinance substantially corresponding to section 625(1),
20 (3), or (6), former section 625(1) or (2), or former section
21 625b, or a law of another state substantially corresponding to
22 section 625(1), (3), (4), (5), or (6), former section 625(1) or
23 (2), or former section 625b.

24 (d) For not less than 90 days or more than 1 year upon
25 receiving a record of the person's conviction for a violation of
26 section 625(6), a local ordinance substantially corresponding to
27 section 625(6), or a law of another state substantially

1 corresponding to section 625(6) if the person has 1 or more prior
2 convictions within 7 years for a violation of section 625(1),
3 (3), (4), (5), or (6), former section 625(1) or (2), or former
4 section 625b, a local ordinance substantially corresponding to
5 section 625(1), (3), or (6), former section 625(1) or (2), or
6 former section 625b, or a law of another state substantially cor-
7 responding to section 625(1), (3), (4), (5), or (6), former sec-
8 tion 625(1) or (2), or former section 625b.

9 (5) Upon receiving a certificate of conviction under section
10 ~~33b(2)~~ 703(2) of the Michigan liquor control ~~act~~ CODE OF
11 1998, ~~Act No. 8 of the Public Acts of the Extra Session of 1933,~~
12 ~~being section 436.33b of the Michigan Compiled Laws~~ 1998 PA 58,
13 MCL 436.1703, or a local ordinance or law of another state sub-
14 stantially corresponding to section ~~33b(2)~~ 703(2) of ~~Act No. 8~~
15 ~~of the Public Acts of the Extra Session of 1933~~ THE MICHIGAN
16 LIQUOR CONTROL CODE OF 1998, 1998 PA 58, MCL 436.1703, the secre-
17 tary of state shall suspend pursuant to court order the person's
18 operator's or chauffeur's license for 90 days. A suspension
19 under this subsection shall be in addition to any other suspen-
20 sion of the person's license.

21 (6) Upon receiving the record of a person's conviction for a
22 violation of section 602a(2) or (3) of this act or section
23 479a(2) or (3) of ~~Act No. 328 of the Public Acts of 1931, being~~
24 ~~section 750.479a of the Michigan Compiled Laws~~ THE MICHIGAN
25 PENAL CODE, 1931 PA 328, MCL 750.479A, the secretary of state
26 immediately shall suspend the person's license for ~~the~~ A period

1 ~~ordered by the court as part of the sentence or disposition~~ OF
2 1 YEAR.

3 (7) Upon receiving an abstract of conviction for a violation
4 of section ~~33b(1)~~ 703(1) of ~~Act No. 8 of the Public Acts of~~
5 ~~the Extra Session of 1933, being section 436.33b of the Michigan~~
6 ~~Compiled Laws~~ THE MICHIGAN LIQUOR CONTROL CODE OF 1998, 1998 PA
7 58, MCL 436.1703, or section 624a or 624b or a local ordinance
8 substantially corresponding to those sections, the secretary of
9 state shall suspend the person's operator's or chauffeur's
10 license for the period of time described in section ~~33b(4)~~
11 703(4) of ~~Act No. 8 of the Public Acts of the Extra Session of~~
12 ~~1933~~ THE MICHIGAN LIQUOR CONTROL CODE OF 1998, 1998 PA 58, MCL
13 436.1703, or section 624a or 624b notwithstanding any court order
14 to the contrary and, if applicable, issue a restricted license as
15 ordered by the court in the manner provided for in section ~~33b~~
16 703 of ~~Act No. 8 of the Public Acts of the Extra Session of~~
17 ~~1933~~ THE MICHIGAN LIQUOR CONTROL CODE OF 1998, 1998 PA 58, MCL
18 436.1703, or section 624a or 624b. If the person does not pos-
19 sess an operator's or chauffeur's license, the secretary of state
20 shall deny the person's application for an operator's or
21 chauffeur's license for the applicable suspension period.

22 (8) Except as provided in subsection (10), a suspension
23 under this section shall be imposed notwithstanding a court order
24 issued under section 625(1), (3), (4), (5), or (6) or section
25 625b or a local ordinance substantially corresponding to
26 section 625(1), (3), or (6) or section 625b.

1 (9) If the secretary of state receives records of more than
2 1 conviction of a person resulting from the same incident, a
3 suspension shall be imposed only for the violation to which the
4 longest period of suspension applies under this section.

5 (10) The secretary of state may waive a suspension of a
6 person's license imposed under subsection (4)(a), (b), (c), or
7 (d) if the person submits proof that a court in another state
8 revoked, suspended, or restricted his or her license for a period
9 equal to or greater than the period of a suspension prescribed
10 under subsection (4)(a), (b), (c), or (d) for the violation and
11 that the revocation, suspension, or restriction was served for
12 the violation, or may grant a restricted license.

13 (11) IN ADDITION TO A SUSPENSION OF A PERSON'S LICENSE UNDER
14 SUBSECTION (4), THE SECRETARY OF STATE SHALL SUSPEND THE PERSON'S
15 PRIVILEGE TO OPERATE A VESSEL, AN ORV, AND A SNOWMOBILE FOR THE
16 SAME PERIOD.

17 Sec. 320. (1) The secretary of state after notice as pro-
18 vided in this section may conduct an investigation and reexamina-
19 tion of a person, based upon 1 or more of the following:

20 (a) The secretary of state has reason to believe that the
21 person is incompetent to drive a motor vehicle or is afflicted
22 with a mental or physical infirmity or disability rendering it
23 unsafe for that person to drive a motor vehicle.

24 (b) The person, as a driver, has in 1 or more instances been
25 involved in an accident resulting in the death of a person.

26 (c) The person, within a 24-month period, has been involved
27 in 3 accidents resulting in personal injury or damage to the

1 property of a person, and the official police report indicates a
2 moving violation on the part of the driver in each of the
3 accidents.

4 (d) The person has charged against him or her a total of 12
5 or more points as provided in section 320a within a period of 2
6 years.

7 (e) The person has been convicted of violating restrictions,
8 terms, or conditions of the person's license.

9 (2) The secretary of state, upon good cause, may restrict,
10 suspend, revoke, or impose other terms and conditions on the
11 license of a person subject to reexamination and require the
12 immediate surrender of the license of that person. The secretary
13 of state shall, in all cases, prescribe the period of restric-
14 tion, suspension, revocation, or other terms and conditions. IF
15 THE SECRETARY OF STATE REVOKES THE LICENSE OF A PERSON UNDER THIS
16 SUBSECTION IN LIEU OF A COURT ORDERED REVOCATION UNDER SECTION
17 625B(6), THE SECRETARY OF STATE SHALL ALSO REVOKE THE PRIVILEGE
18 OF THE PERSON TO OPERATE A VESSEL, AN ORV, AND A SNOWMOBILE.

19 (3) Service of notice shall be made by regular mail to the
20 last known address of the licensee as shown on the most recent
21 license application or change of address on the license as pro-
22 vided by section 315.

23 (4) A license shall not be suspended under this section for
24 a period of more than 1 year.

25 (5) The reexamination may be held by the secretary of state
26 pursuant to this section notwithstanding any restriction,
27 suspension, revocation, or denial of a license under this

1 section, section 303 or 319, chapter V, section 625 or 625b, or
2 under any other law of this state. A suspension ordered pursuant
3 to this section shall be in addition to other suspensions.

4 (6) If a licensed operator or chauffeur fails to appear for
5 a reexamination scheduled by the secretary of state pursuant to
6 this section, the licensed operator's or chauffeur's license may
7 be suspended immediately and shall remain suspended until the
8 licensed operator or chauffeur appears for a reexamination by the
9 secretary of state. However, the secretary of state may
10 restrict, suspend, or revoke the license based solely on the
11 licensed operator's or chauffeur's driving record.

12 Sec. 625b. (1) A person arrested for a misdemeanor viola-
13 tion of section 625(1), (3), or (6) or section 625m or a local
14 ordinance substantially corresponding to section 625(1), (3), or
15 (6) or section 625m shall be arraigned on the citation, com-
16 plaint, or warrant not more than 14 days after the arrest for the
17 violation or, if an arrest warrant is issued or reissued, not
18 more than 14 days after the issued or reissued arrest warrant is
19 served, whichever is later. The court shall not dismiss a case
20 or impose any other sanction for a failure to comply with this
21 time limit. The time limit does not apply to a violation of
22 section 625(1) punishable under section 625(7)(d) or a violation
23 of section 625(1), (3), or (6) or section 625m joined with a
24 felony charge.

25 (2) The court shall schedule a pretrial conference between
26 the prosecuting attorney, the defendant, and the defendant's
27 attorney in each case in which the defendant is charged with a

1 misdemeanor violation of section 625(1), (3), or (6) or
2 section 625m or a local ordinance substantially corresponding to
3 section 625(1), (3), or (6) or section 625m. The pretrial con-
4 ference shall be held not more than 35 days after the person's
5 arrest for the violation or, if an arrest warrant is issued or
6 reissued, not more than 35 days after the issued or reissued
7 arrest warrant is served, whichever is later. If the court has
8 only 1 judge who sits in more than 1 location in that district,
9 the pretrial conference shall be held not more than 42 days after
10 the person's arrest for the violation or, if an arrest warrant is
11 issued or reissued, not more than 42 days after the date the
12 issued or reissued arrest warrant is served, whichever is later.
13 The court shall not dismiss a case or impose any other sanction
14 for a failure to comply with the applicable time limit. The 35-
15 and 42-day time limits do not apply to a violation of
16 section 625(1) punishable under section 625(7)(d) or a violation
17 of section 625(1), (3), or (6) or section 625m joined with a
18 felony charge. The court shall order the defendant to attend the
19 pretrial conference and may accept a plea by the defendant at the
20 conclusion of the pretrial conference. The court may adjourn the
21 pretrial conference upon the motion of a party for good cause
22 shown. Not more than 1 adjournment shall be granted to a party,
23 and the length of an adjournment shall not exceed 14 days.

24 (3) Except for delay attributable to the unavailability of
25 the defendant, a witness, or material evidence or due to an
26 interlocutory appeal or exceptional circumstances, but not a
27 delay caused by docket congestion, the court shall finally

1 adjudicate, by a plea of guilty or nolo contendere, entry of a
2 verdict, or other final disposition, a case in which the
3 defendant is charged with a misdemeanor violation of
4 section 625(1), (3), or (6) or section 625m or a local ordinance
5 substantially corresponding to section 625(1), (3), or (6) or
6 section 625m, within 77 days after the person is arrested for the
7 violation or, if an arrest warrant is issued or reissued, not
8 more than 77 days after the date the issued or reissued arrest
9 warrant is served, whichever is later. The court shall not dis-
10 miss a case or impose any other sanction for a failure to comply
11 with this time limit. The 77-day time limit does not apply to a
12 violation of section 625(1) punishable under section 625(7)(d) or
13 a violation of section 625(1), (3), or (6) or section 625m joined
14 with a felony charge.

15 (4) Before accepting a plea of guilty or nolo contendere
16 under section 625 or a local ordinance substantially correspond-
17 ing to section 625(1), (2), (3), or (6), the court shall advise
18 the accused of the maximum possible term of imprisonment and the
19 maximum possible fine that may be imposed for the violation, and
20 shall advise the defendant that the maximum possible license
21 sanctions that may be imposed will be based upon the master driv-
22 ing record maintained by the secretary of state pursuant to
23 section 204a.

24 (5) Before imposing sentence, other than court-ordered
25 license sanctions, for a violation of section 625(1), (3), (4),
26 (5), or (6) or a local ordinance substantially corresponding to
27 section 625(1), (3), or (6), the court shall order the person to

1 undergo screening and assessment by a person or agency designated
2 by the office of substance abuse services to determine whether
3 the person is likely to benefit from rehabilitative services,
4 including alcohol or drug education and alcohol or drug treatment
5 programs. As part of the sentence, the court may order the
6 person to participate in and successfully complete 1 or more
7 appropriate rehabilitative programs. The person shall pay for
8 the costs of the screening, reassessment, and rehabilitative
9 services.

10 (6) Immediately upon acceptance by the court of a plea of
11 guilty or nolo contendere or upon entry of a verdict of guilty
12 for a violation of section 625(1), (3), (4), (5), or (6) or a
13 local ordinance substantially corresponding to section 625(1),
14 (3), or (6), whether or not the person is eligible to be sen-
15 tenced as a multiple offender, the court shall consider all prior
16 convictions currently entered upon the person's Michigan driving
17 record, except convictions the court determines upon the
18 defendant's motion to be constitutionally invalid, and shall
19 impose the following licensing sanctions:

20 (a) For a conviction under section 625(4) or (5), the court
21 shall order the secretary of state to revoke the person's
22 operator's or chauffeur's license and shall not order the secre-
23 tary of state to issue a restricted license to the person.

24 (b) For a conviction under section 625(1) or a local ordi-
25 nance substantially corresponding to section 625(1):

26 (i) If the court finds that the person has no prior
27 convictions within 7 years for a violation of section 625(1),

1 (3), (4), or (5), former section 625(1) or (2), or former section
2 625b, a local ordinance substantially corresponding to section
3 625(1) or (3), former section 625(1) or (2), or former section
4 625b, or a law of another state substantially corresponding to
5 section 625(1), (3), (4), or (5), former section 625(1) or (2),
6 or former section 625b, the court shall order the secretary of
7 state to suspend the person's operator's or chauffeur's license
8 for not less than 6 months or more than 2 years. If the court
9 finds compelling circumstances under subsection (10) sufficient
10 to warrant the issuance of a restricted license to a person, the
11 court may order the secretary of state to issue to the person a
12 restricted license during all or a specified portion of the sus-
13 pension, except that a restricted license shall not be issued
14 during the first 30 days of the suspension.

15 (ii) If the court finds that the person has 1 prior convic-
16 tion within 7 years for a violation of section 625(3) or former
17 section 625b, a local ordinance substantially corresponding to
18 section 625(3) or former section 625b, or a law of another state
19 substantially corresponding to section 625(3) or former
20 section 625b, the court shall order the secretary of state to
21 suspend the person's operator's or chauffeur's license for not
22 less than 6 months or more than 2 years. If the court finds com-
23 pelling circumstances under subsection (10) sufficient to warrant
24 the issuance of a restricted license to a person, the court may
25 order the secretary of state to issue to the person a restricted
26 license during all or any portion of the suspension, except that

1 a restricted license shall not be issued during the first 60 days
2 of the suspension.

3 (iii) If the court finds that the person has 1 or more prior
4 convictions within 7 years for a violation of section 625(1),
5 (4), or (5) or former section 625(1) or (2), a local ordinance
6 substantially corresponding to section 625(1) or former section
7 625(1) or (2), or a law of another state substantially corre-
8 sponding to section 625(1), (4), or (5) or former section 625(1)
9 or (2), or that the person has 2 or more prior convictions within
10 10 years for a violation of section 625(1), (3), (4), or (5),
11 former section 625(1) or (2), or former section 625b, a local
12 ordinance substantially corresponding to section 625(1) or (3),
13 former section 625(1) or (2), or former section 625b, or a law of
14 another state substantially corresponding to section 625(1), (3),
15 (4), or (5), former section 625(1) or (2), or former section
16 625b, the court shall order the secretary of state to revoke the
17 person's operator's or chauffeur's license and shall not order
18 the secretary of state to issue a restricted license to the
19 person.

20 (c) For a conviction under section 625(3) or a local ordi-
21 nance substantially corresponding to section 625(3):

22 (i) If the court finds that the convicted person has no
23 prior conviction within 7 years for a violation of section
24 625(1), (3), (4), or (5), former section 625(1) or (2), or former
25 section 625b, a local ordinance substantially corresponding to
26 section 625(1) or (3), former section 625(1) or (2), or former
27 section 625b, or a law of another state substantially

1 corresponding to section 625(1), (3), (4), or (5), former section
2 625(1) or (2), or former section 625b, the court shall order the
3 secretary of state to suspend the person's operator's or
4 chauffeur's license for not less than 90 days or more than
5 1 year. However, if the person is convicted of a violation of
6 section 625(3) or a local ordinance substantially corresponding
7 to section 625(3) for operating a vehicle when, due to the con-
8 sumption of a controlled substance or a combination of intoxicat-
9 ing liquor and a controlled substance, the person's ability to
10 operate the vehicle was visibly impaired, the court shall order
11 the secretary of state to suspend the operator's or chauffeur's
12 license of the person for not less than 6 months or more than 1
13 year. If the court finds compelling circumstances under subsec-
14 tion (10) sufficient to warrant the issuance of a restricted
15 license to a person, the court may order the secretary of state
16 to issue to the person a restricted license during all or a spec-
17 ified portion of the suspension.

18 (ii) If the court finds that the person has 1 prior convic-
19 tion within 7 years for a violation of section 625(1), (3), (4),
20 or (5), former section 625(1) or (2), or former section 625b, a
21 local ordinance substantially corresponding to section 625(1) or
22 (3), former section 625(1) or (2), or former section 625b, or a
23 law of another state substantially corresponding to section
24 625(1), (3), (4), or (5), former section 625(1) or (2), or former
25 section 625b, the court shall order the secretary of state to
26 suspend the person's operator's or chauffeur's license for not
27 less than 6 months or more than 2 years. If the court finds

1 compelling circumstances under subsection (10) sufficient to
2 warrant the issuance of a restricted license to a person, the
3 court may order the secretary of state to issue to the person a
4 restricted license during all or any portion of the suspension,
5 except that a restricted license shall not be issued during the
6 first 60 days of the suspension.

7 (iii) If the court finds that the person has 2 or more prior
8 convictions within 10 years for a violation of section 625(1),
9 (3), (4), or (5), former section 625(1) or (2), or former section
10 625b, a local ordinance substantially corresponding to section
11 625(1) or (3), former section 625(1) or (2), or former section
12 625b, or a law of another state substantially corresponding to
13 section 625(1), (3), (4), or (5), former section 625(1) or (2),
14 or former section 625b, the court shall order the secretary of
15 state to revoke the person's operator's or chauffeur's license
16 and shall not order the secretary of state to issue a restricted
17 license to the person.

18 (d) For a conviction under section 625(6) or a local ordi-
19 nance substantially corresponding to section 625(6):

20 (i) If the court finds that the convicted person has no
21 prior conviction within 7 years for a violation of section
22 625(1), (3), (4), (5), or (6), former section 625(1) or (2), or
23 former section 625b, a local ordinance substantially correspond-
24 ing to section 625(1), (3), or (6), former section 625(1) or (2),
25 or former section 625b, or a law of another state substantially
26 corresponding to section 625(1), (3), (4), (5), or (6), former
27 section 625(1) or (2), or former section 625b, the court shall

1 order the secretary of state to suspend the operator's or
2 chauffeur's license of the person for not less than 30 days or
3 more than 90 days. The court may order the secretary of state to
4 issue to the person a restricted license during all or a speci-
5 fied portion of the suspension.

6 (ii) If the court finds that the person has 1 or more prior
7 convictions within 7 years for a violation of section 625(1),
8 (3), (4), (5), or (6), former section 625(1) or (2), or former
9 section 625b, a local ordinance substantially corresponding to
10 section 625(1), (3), or (6), former section 625(1) or (2), or
11 former section 625b, or a law of another state substantially cor-
12 responding to section 625(1), (3), (4), (5), or (6), former sec-
13 tion 625(1) or (2), or former section 625b, the court shall order
14 the secretary of state to suspend the operator's or chauffeur's
15 license of the person for not less than 90 days or more than
16 1 year. The court may order the secretary of state to issue to
17 the person a restricted license during all or any portion of the
18 suspension, except that a restricted license shall not be issued
19 during the first 90 days of the suspension.

20 (7) A restricted license issued pursuant to an order under
21 subsection (6) shall permit the person to whom it is issued to
22 drive under 1 or more of the following circumstances:

- 23 (a) To and from the person's residence and work location.
24 (b) In the course of the person's employment or occupation.
25 (c) To and from the person's residence and an alcohol or
26 drug education or treatment program as ordered by the court.

1 (d) To and from the person's residence and the court
2 probation department or a court-ordered community service
3 program, or both.

4 (e) To and from the person's residence and an educational
5 institution at which the person is enrolled as a student.

6 (f) To and from the person's residence or work location and
7 a place of regularly occurring medical treatment for a serious
8 condition for the person or a member of the person's household or
9 immediate family.

10 (8) The court may order that the restricted license issued
11 pursuant to subsection (6) include the requirement that the
12 person shall not operate a motor vehicle unless the vehicle is
13 equipped with a functioning ignition interlock device. The
14 device shall be set to render the motor vehicle inoperable if the
15 device detects an alcohol content of 0.02 grams or more per 210
16 liters of breath of the person who offers a breath sample. The
17 court may order installation of an ignition interlock device on
18 any motor vehicle that the person owns or operates, the costs of
19 which the person whose license is restricted shall bear.

20 (9) The court shall not order the secretary of state under
21 subsection (6) to issue a restricted license that would permit a
22 person to operate a commercial motor vehicle that hauls hazardous
23 materials.

24 (10) The court shall not order the secretary of state to
25 issue a restricted license unless the person states under oath,
26 and the court finds pursuant to testimony taken in open court or
27 pursuant to statements contained in a sworn affidavit on a form

1 prescribed by the state court administrator, that both of the
2 following are true:

3 (a) The person needs vehicular transportation to and from
4 his or her work location, place of alcohol or drug education
5 treatment, court probation department, court-ordered community
6 service program, or educational institution, or a place of regu-
7 larly occurring medical treatment for a serious condition, or in
8 the course of the person's employment or occupation.

9 (b) The person is unable to take public transportation and
10 does not have any family members or other individuals able to
11 provide transportation to a destination or for a purpose
12 described in subdivision (a).

13 (11) The court order issued under subsection (6) and the
14 restricted license shall indicate the permitted destinations of
15 the person or the permitted purposes for which the person may
16 operate a vehicle, the approved route or routes if specified by
17 the court, and permitted times of travel.

18 (12) Immediately upon acceptance by the court of a plea of
19 guilty or nolo contendere or upon entry of a verdict of guilty
20 for a violation of section 625(1), (3), (4), (5), or (6) or a
21 local ordinance substantially corresponding to section 625(1),
22 (3), or (6), the person shall surrender to the court his or her
23 operator's or chauffeur's license or permit. The court shall
24 immediately destroy the license or permit and forward an abstract
25 of conviction with court-ordered license sanctions to the secre-
26 tary of state. Upon ~~receipt of~~ RECEIVING, and pursuant to, the
27 abstract of conviction with court-ordered license sanctions, the

1 secretary of state shall suspend or revoke the person's license
2 and, if ordered by the court and the person is otherwise eligible
3 for a license, issue to the person a restricted license stating
4 the limited driving privileges indicated on the abstract. If the
5 judgment and sentence is appealed to circuit court, the court may
6 ex parte order the secretary of state to stay the suspension,
7 revocation, or restricted license issued pursuant to this section
8 pending the outcome of the appeal.

9 (13) In addition to any other suspension or revocation
10 ordered under this section and as part of the sentence imposed
11 upon a person who violates section 625(1), (3), (4), or (5) or a
12 local ordinance substantially corresponding to section 625(1) or
13 (3) while operating a commercial motor vehicle, the court shall
14 order the secretary of state to suspend the vehicle group desig-
15 nations on the person's operator's or chauffeur's license in
16 accordance with section 319b(1)(c). If the vehicle was trans-
17 porting hazardous material required to have a placard pursuant to
18 49 C.F.R. parts 100 to 199, the court shall order the secretary
19 of state to suspend the vehicle group designations on the
20 person's operator's or chauffeur's license in accordance with
21 section 319b(1)(d). The court shall not order the secretary of
22 state to issue a restricted license that would permit the person
23 to operate a commercial motor vehicle.

24 (14) In addition to any other suspension or revocation
25 ordered under this section and as part of the sentence imposed
26 upon a person who is convicted of a violation of section 625(1),
27 (3), (4), or (5) or a local ordinance substantially corresponding

1 to section 625(1) or (3) while operating a commercial motor
2 vehicle within 10 years of a prior conviction, the court shall
3 order the secretary of state to revoke the vehicle group designa-
4 tions on the person's operator's or chauffeur's license in
5 accordance with section 319b(1)(e). The court shall not order
6 the secretary of state to issue a restricted license that would
7 permit the person to operate a commercial motor vehicle. As used
8 in this subsection, "prior conviction" means a conviction under
9 section 625(1), (3), (4), or (5), former section 625(1) or (2),
10 or former section 625b, a local ordinance substantially corre-
11 sponding to section 625(1) or (3), former section 625(1) or (2),
12 or former section 625b, or a law of another state substantially
13 corresponding to section 625(1), (3), (4), or (5), former section
14 625(1) or (2), or former section 625b involving the operation of
15 a commercial motor vehicle, or a conviction under section 625m, a
16 local ordinance substantially corresponding to section 625m, or a
17 law of another state substantially corresponding to section
18 625m.

19 (15) IN ADDITION TO A SUSPENSION OR REVOCATION OF A PERSON'S
20 LICENSE UNDER THIS SECTION, THE COURT SHALL SUSPEND OR REVOKE, AS
21 APPLICABLE, THE PERSON'S PRIVILEGE TO OPERATE A VESSEL, AN ORV,
22 AND A SNOWMOBILE FOR THE SAME PERIOD.

23 (16) ~~(15)~~ As used in this section, "work location" means,
24 as applicable, the specific place or places of employment or the
25 territory or territories regularly visited by the person in pur-
26 suance of the person's occupation, or both.

1 Enacting section 1. This amendatory act does not take
2 effect unless Senate Bill No. _____ or House Bill No. _____
3 (request no. 04891'97 a) of the 89th Legislature is enacted into
4 law.