

**SUBSTITUTE FOR
SENATE BILL NO. 809**

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 212, 304, 319, 319b, and 904 (MCL 257.212,
257.304, 257.319, 257.319b, and 257.904), section 212 as amended by
2002 PA 534, section 304 as added by 2010 PA 155, section 319 as
amended by 2010 PA 267, section 319b as amended by 2011 PA 159, and
section 904 as amended by 2008 PA 461.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 212. If the secretary of state is authorized or required
2 to give notice under this act or other law regulating the operation
3 of a vehicle, unless a different method of giving notice is
4 otherwise expressly prescribed, notice shall be given either by
5 personal delivery to the person to be notified or by first-class

1 United States mail addressed to the person at the address shown by
2 the record of the secretary of state. The giving of notice by mail
3 is complete upon the expiration of 5 days after mailing the notice.
4 ~~Proof of the giving of notice in either manner may be made by the~~
5 ~~certificate of a person 18 years of age or older, naming the person~~
6 ~~to whom notice was given and specifying the time, place, and manner~~
7 ~~of the giving of notice.~~

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

13 (a) Two or more convictions for violating section 625(1) or
14 (3) or a local ordinance of this state substantially corresponding
15 to section 625(1) or (3).

16 (b) One conviction for violating section 625(1) or (3) or a
17 local ordinance of this state substantially corresponding to
18 section 625(1) or (3), preceded by 1 or more convictions for
19 violating a local ordinance or law of another state substantially
20 corresponding to section 625(1), (3), or (6), or a law of the
21 United States substantially corresponding to section 625(1), (3),
22 or (6).

23 (2) A restricted license issued under subsection (1) shall not
24 be issued until after the person's operator's or chauffeur's
25 license has been suspended or revoked for 45 days and the judge
26 assigned to a DWI/sobriety court certifies to the secretary of
27 state that both of the following conditions have been met:

1 (a) The person has been admitted into a DWI/sobriety court
2 program.

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

7 (3) A restricted license shall not be issued under subsection
8 (1) if the person is otherwise ineligible for an operator's or
9 chauffeur's license under this act, unless the person's
10 ineligibility is based on 1 or more of the following:

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

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

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

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

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

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

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

18 (h) Section 323c.

19 (i) Section ~~625f(1)(a)~~-625F.

20 (j) Section 732a(5).

21 (k) Section 904(10).

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

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

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

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

7 (a) The person's residence.

8 (b) The person's workplace.

9 (c) The person's school.

10 (d) An alcohol or drug education or treatment program as
11 ordered by the court.

12 (5) Except as otherwise provided in this section, a restricted
13 license issued under subsection (1) is effective until a hearing
14 officer orders an unrestricted license under section 322. The
15 ~~person shall not be considered for~~ **HEARING OFFICER SHALL NOT ORDER**
16 an unrestricted license until the later of the following events
17 occurs:

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

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

23 **(C) THE PERSON SATISFIES THE REQUIREMENTS OF SECTION 303 AND R**
24 **257.313 OF THE MICHIGAN ADMINISTRATIVE CODE.**

25 **(6) IN DETERMINING WHETHER TO ORDER AN UNRESTRICTED LICENSE**
26 **UNDER SUBSECTION (5), THE SUCCESSFUL COMPLETION OF THE DWI/SOBRIETY**
27 **COURT PROGRAM AND A CERTIFICATE FROM THE DWI/SOBRIETY COURT JUDGE**

1 SHALL BE CONSIDERED POSITIVE EVIDENCE OF THE PETITIONER'S
2 ABSTINENCE WHILE THE PETITIONER PARTICIPATED IN THE DWI/SOBRIETY
3 COURT PROGRAM. AS USED IN THIS SUBSECTION, "CERTIFICATE" INCLUDES,
4 BUT IS NOT LIMITED TO, A STATEMENT THAT THE PARTICIPANT HAS
5 MAINTAINED A PERIOD OF ABSTINENCE FROM ALCOHOL FOR NOT LESS THAN 6
6 MONTHS AT THE TIME THE PARTICIPANT COMPLETED THE DWI/SOBRIETY COURT
7 PROGRAM.

8 (7) ~~(6)~~—If the secretary of state receives a notification from
9 the DWI/sobriety court under section 1084(6) of the revised
10 judicature act of 1961, 1961 PA 236, MCL 600.1084, the secretary of
11 state shall summarily impose 1 of the following license sanctions,
12 as applicable:

13 (a) Suspension for the full length of time provided under
14 section 319(8). However, a restricted license shall not be issued
15 as provided under section 319(8). This subdivision applies if the
16 underlying conviction or convictions would have subjected the
17 person to a license sanction under section 319(8) if this section
18 did not apply.

19 (b) A license revocation and denial for the full length of
20 time provided under section 303. The minimum period of license
21 revocation and denial imposed shall be the same as if this section
22 did not apply. This subdivision applies if the underlying
23 conviction or convictions would have caused a license revocation
24 and denial under section 303 if this section did not apply.

25 (8) ~~(7)~~—After the person completes the DWI/sobriety court
26 interlock pilot program, the following apply:

27 (A) THE SECRETARY OF STATE SHALL POSTPONE CONSIDERING THE

1 ISSUANCE OF AN UNRESTRICTED LICENSE UNDER SECTION 322 FOR A PERIOD
2 OF 3 MONTHS FOR EACH ACT THAT WOULD BE A MINOR VIOLATION IF THE
3 PERSON'S LICENSE HAD BEEN ISSUED UNDER SECTION 322(6). AS USED IN
4 THIS SUBDIVISION, "MINOR VIOLATION" MEANS THAT TERM AS DEFINED IN R
5 257.301A OF THE MICHIGAN ADMINISTRATIVE CODE.

6 (B) ~~(a)~~—The restricted license issued under this section shall
7 be suspended or revoked or denied as provided in subsection ~~(6)~~,
8 (7), unless set aside under subsection (5), if any of the following
9 events occur:

10 (i) The person operates a motor vehicle without an ignition
11 interlock device that meets the criteria under subsection (2)(b).

12 (ii) The person removes, or causes to be removed, an ignition
13 interlock device from a vehicle he or she owns or operates unless
14 the secretary of state has authorized its removal under section
15 322a.

16 (iii) THE PERSON COMMITS ANY OTHER ACT THAT WOULD BE A MAJOR
17 VIOLATION IF THE PERSON'S LICENSE HAD BEEN ISSUED UNDER SECTION
18 322(6). AS USED IN THIS SUBPARAGRAPH, "MAJOR VIOLATION" MEANS THAT
19 TERM AS DEFINED IN R 257.301A OF THE MICHIGAN ADMINISTRATIVE CODE.

20 (iv) ~~(iii)~~—The person is arrested for a violation of any of the
21 following:

22 (A) Section 625.

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

25 (C) A law of the United States substantially corresponding to
26 section 625.

27 (b) If the person is convicted of or found responsible for any

1 offense that requires the suspension, revocation, denial, or
2 cancellation of the person's operator's or chauffeur's license, the
3 restricted license issued under this section shall be suspended
4 until the requisite period of license suspension, revocation,
5 denial, or cancellation, as appropriate, has elapsed.

6 (c) If the person has failed to pay any court-ordered fines or
7 costs that resulted from the operation of a vehicle, the restricted
8 license issued under this section shall be suspended pending
9 payment of those fines and costs.

10 (9) ~~(8)~~—All driver responsibility fees required to be assessed
11 by the secretary of state under section 732a for the conviction or
12 convictions that led to the restricted license under this section
13 shall be held in abeyance as follows:

14 (a) The fees shall be held in abeyance during the time the
15 person has a restricted license under this section and is
16 participating in the DWI/sobriety court interlock pilot project.

17 (b) At the end of the person's participation in the
18 DWI/sobriety court program, the driver responsibility fees shall be
19 assessed and paid under the payment schedule described in section
20 732a.

21 (10) ~~(9)~~—The vehicle of an individual admitted to the
22 DWI/sobriety court interlock pilot project whose vehicle would
23 otherwise be subject to immobilization or forfeiture under this act
24 is exempt from both immobilization and forfeiture under sections
25 625n and 904d if both of the following apply:

26 (a) The person is a DWI/sobriety court interlock pilot program
27 participant in good standing or the person successfully

1 satisfactorily completes the DWI/sobriety court interlock pilot
2 program.

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

5 (11) ~~(10)~~ This section only applies to individuals arrested
6 for a violation of section 625 on or after ~~the effective date of~~
7 ~~the amendatory act that added this section.~~ **JANUARY 1, 2011.**

8 (12) ~~(11)~~ As used in this section:

9 (a) "DWI/sobriety court" means that term as defined in section
10 1084 of the revised judicature act of 1961, 1961 PA 236, MCL
11 600.1084.

12 (b) "DWI/sobriety court interlock pilot project" and
13 "DWI/sobriety court program" mean those terms as defined or
14 described in section 1084 of the revised judicature act of 1961,
15 1961 PA 236, MCL 600.1084.

16 Sec. 319. (1) The secretary of state shall immediately suspend
17 a person's license as provided in this section upon receiving a
18 record of the person's conviction for a crime described in this
19 section, whether the conviction is under a law of this state, a
20 local ordinance substantially corresponding to a law of this state,
21 a law of another state substantially corresponding to a law of this
22 state, or, beginning October 31, 2010, a law of the United States
23 substantially corresponding to a law of this state.

24 (2) The secretary of state shall suspend the person's license
25 for 1 year for any of the following crimes:

26 (a) Fraudulently altering or forging documents pertaining to
27 motor vehicles in violation of section 257.

1 (b) A violation of section 413 of the Michigan penal code,
2 1931 PA 328, MCL 750.413.

3 (c) A violation of section 1 of former 1931 PA 214, MCL
4 752.191, or section 626c.

5 (d) A felony in which a motor vehicle was used. As used in
6 this section, "felony in which a motor vehicle was used" means a
7 felony during the commission of which the person convicted operated
8 a motor vehicle and while operating the vehicle presented real or
9 potential harm to persons or property and 1 or more of the
10 following circumstances existed:

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

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

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

14 (iv) The vehicle was necessary for the commission of the
15 felony.

16 (e) A violation of section 602a(2) or (3) of this act or
17 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL
18 750.479a.

19 (f) Beginning October 31, 2010, a violation of section 601d.

20 (3) The secretary of state shall suspend the person's license
21 for 90 days for any of the following crimes:

22 (a) Failing to stop and disclose identity at the scene of an
23 accident resulting in injury in violation of section 617a.

24 (b) A violation of section 601b(2), section 601c(1), section
25 653a(3), section 626 before October 31, 2010, or, beginning October
26 31, 2010, section 626(2).

27 (c) Malicious destruction resulting from the operation of a

1 vehicle under section 382(1)(b), (c), or (d) of the Michigan penal
2 code, 1931 PA 328, MCL 750.382.

3 (d) A violation of section 703(2) of the Michigan liquor
4 control code of 1998, 1998 PA 58, MCL 436.1703.

5 (4) The secretary of state shall suspend the person's license
6 for 30 days for malicious destruction resulting from the operation
7 of a vehicle under section 382(1)(a) of the Michigan penal code,
8 1931 PA 328, MCL 750.382.

9 (5) For perjury or making a false certification to the
10 secretary of state under any law requiring the registration of a
11 motor vehicle or regulating the operation of a vehicle on a
12 highway, or for conduct prohibited under section 324(1) or a local
13 ordinance substantially corresponding to section 324(1), the
14 secretary shall suspend the person's license as follows:

15 (a) If the person has no prior conviction for an offense
16 described in this subsection within 7 years, for 90 days.

17 (b) If the person has 1 or more prior convictions for an
18 offense described in this subsection within 7 years, for 1 year.

19 (6) For a violation of section 414 of the Michigan penal code,
20 1931 PA 328, MCL 750.414, the secretary of state shall suspend the
21 person's license as follows:

22 (a) If the person has no prior conviction for that offense
23 within 7 years, for 90 days.

24 (b) If the person has 1 or more prior convictions for that
25 offense within 7 years, for 1 year.

26 (7) For a violation of section 624a or 624b of this act or
27 section 703(1) of the Michigan liquor control code of 1998, 1998 PA

1 58, MCL 436.1703, the secretary of state shall suspend the person's
2 license as follows:

3 (a) If the person has 1 prior conviction for an offense
4 described in this subsection or section 33b(1) of former 1933 (Ex
5 Sess) PA 8, for 90 days. The secretary of state may issue the
6 person a restricted license after the first 30 days of suspension.

7 (b) If the person has 2 or more prior convictions for an
8 offense described in this subsection or section 33b(1) of former
9 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue
10 the person a restricted license after the first 60 days of
11 suspension.

12 (8) The secretary of state shall suspend the person's license
13 for a violation of section 625 or 625m as follows:

14 (a) For 180 days for a violation of section 625(1) or (8)
15 before October 31, 2010 or, beginning October 31, 2010, section
16 625(1)(a) or (b) or (8) if the person has no prior convictions
17 within 7 years. The secretary of state may issue the person a
18 restricted license during a specified portion of the suspension,
19 except that the secretary of state shall not issue a restricted
20 license during the first 30 days of suspension.

21 (b) For 90 days for a violation of section 625(3) if the
22 person has no prior convictions within 7 years. However, if the
23 person is convicted of a violation of section 625(3), for operating
24 a vehicle when, due to the consumption of a controlled substance or
25 a combination of alcoholic liquor and a controlled substance, the
26 person's ability to operate the vehicle was visibly impaired, the
27 secretary of state shall suspend the person's license under this

1 subdivision for 180 days. The secretary of state may issue the
2 person a restricted license during all or a specified portion of
3 the suspension.

4 (c) For 30 days for a violation of section 625(6) if the
5 person has no prior convictions within 7 years. The secretary of
6 state may issue the person a restricted license during all or a
7 specified portion of the suspension.

8 (d) For 90 days for a violation of section 625(6) if the
9 person has 1 or more prior convictions for that offense within 7
10 years.

11 (e) For 180 days for a violation of section 625(7) if the
12 person has no prior convictions within 7 years. The secretary of
13 state may issue the person a restricted license after the first 90
14 days of suspension.

15 (f) For 90 days for a violation of section 625m if the person
16 has no prior convictions within 7 years. The secretary of state may
17 issue the person a restricted license during all or a specified
18 portion of the suspension.

19 (g) Beginning October 31, 2010, for 1 year for a violation of
20 section 625(1)(c) if the person has no prior convictions within 7
21 years or not more than 2 convictions within 10 years. The secretary
22 of state may issue the person a restricted license, except that the
23 secretary of state shall not issue a restricted license during the
24 first 45 days of suspension.

25 (h) Beginning October 31, 2010, the department shall order a
26 person convicted of violating section 625(1)(c) not to operate a
27 motor vehicle under a restricted license issued under subdivision

1 (g) unless the vehicle is equipped with an ignition interlock
2 device approved, certified, and installed as required under
3 sections 625k and 625l. The ignition interlock device may be removed
4 after the interlock device provider provides the department with
5 verification that the person has operated the vehicle with no
6 instances of reaching or exceeding a blood alcohol level of 0.025
7 grams per 210 liters of breath. This subdivision does not prohibit
8 the removal of the ignition interlock device for any of the
9 following:

10 (i) A start-up test failure that occurs within the first 2
11 months after installation of the device. As used in this
12 subdivision, "start-up test failure" means that the ignition
13 interlock device has prevented the motor vehicle from being
14 started. Multiple unsuccessful attempts at 1 time to start the
15 vehicle shall be treated as 1 start-up test failure only under this
16 subparagraph.

17 (ii) A start-up test failure occurring more than 2 months after
18 installation of the device, if not more than 15 minutes after
19 detecting the start-up test failure the person delivers a breath
20 sample that the ignition interlock device analyzes as having an
21 alcohol level of less than 0.025 grams per 210 liters of breath.

22 (iii) A retest prompted by the device, if not more than 5
23 minutes after detecting the ~~start-up test~~ **RETEST** failure the person
24 delivers a breath sample that the ignition interlock device
25 analyzes as having an alcohol level of less than 0.025 grams per
26 210 liters of breath.

27 (i) Beginning October 31, 2010, if an individual violates the

1 conditions of the restricted license issued under subdivision (g)
2 or operates or attempts to operate a motor vehicle with a blood
3 alcohol level of 0.025 grams per 210 liters of breath, the
4 secretary of state shall impose an additional like period of
5 suspension and restriction as prescribed under subdivision (g).
6 This subdivision does not require an additional like period of
7 suspension and restriction for any of the following:

8 (i) A start-up test failure within the first 2 months after
9 installation of the ignition interlock device. As used in this
10 subdivision, "start-up test failure" means that the ignition
11 interlock device has prevented the motor vehicle from being
12 started. Multiple unsuccessful attempts at 1 time to start the
13 vehicle shall be treated as 1 start-up test failure only under this
14 subparagraph.

15 (ii) A start-up test failure occurring more than 2 months after
16 installation of the device, if not more than 15 minutes after
17 detecting the start-up test failure the person delivers a breath
18 sample that the ignition interlock device analyzes as having an
19 alcohol level of less than 0.025 grams per 210 liters of breath.

20 (iii) Any retest prompted by the device, if not more than 5
21 minutes after detecting the ~~start-up test~~ **RETEST** failure the person
22 delivers a breath sample that the ignition interlock device
23 analyzes as having an alcohol level of less than 0.025 grams per
24 210 liters of breath.

25 (9) For a violation of section 367c of the Michigan penal
26 code, 1931 PA 328, MCL 750.367c, the secretary of state shall
27 suspend the person's license as follows:

1 (a) If the person has no prior conviction for an offense
2 described in this subsection within 7 years, for 6 months.

3 (b) If the person has 1 or more convictions for an offense
4 described in this subsection within 7 years, for 1 year.

5 (10) For a violation of section 315(4), the secretary of state
6 may suspend the person's license for 6 months.

7 (11) For a violation or attempted violation of section 411a(2)
8 of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a
9 school, the secretary of state shall suspend the license of a
10 person 14 years of age or over but less than 21 years of age until
11 3 years after the date of the conviction or juvenile disposition
12 for the violation. The secretary of state may issue the person a
13 restricted license after the first 365 days of suspension.

14 (12) For a second or subsequent violation of section 701(1) of
15 the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701,
16 by an individual who is not a retail licensee or a retail
17 licensee's clerk, agent, or employee, the secretary of state shall
18 suspend the person's license for 180 days. The secretary of state
19 may issue a person a restricted license during all or a specified
20 portion of the suspension.

21 (13) Except as provided in subsection (15), a suspension under
22 this section shall be imposed notwithstanding a court order unless
23 the court order complies with section 323.

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

1 (15) The secretary of state may waive a restriction,
2 suspension, or revocation of a person's license imposed under this
3 act if the person submits proof that a court in another state
4 revoked, suspended, or restricted his or her license for a period
5 equal to or greater than the period of a restriction, suspension,
6 or revocation prescribed under this act for the violation and that
7 the revocation, suspension, or restriction was served for the
8 violation, or may grant a restricted license.

9 (16) The secretary of state shall not issue a restricted
10 license to a person whose license is suspended under this section
11 unless a restricted license is authorized under this section and
12 the person is otherwise eligible for a license.

13 (17) The secretary of state shall not issue a restricted
14 license to a person under subsection (8) that would permit the
15 person to operate a commercial motor vehicle.

16 (18) Except as provided in subsection (17), a restricted
17 license issued under this section shall permit the person to whom
18 it is issued to take any driving skills test required by the
19 secretary of state and to operate a vehicle under 1 or more of the
20 following circumstances:

21 (a) In the course of the person's employment or occupation.

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

23 (i) The person's residence.

24 (ii) The person's work location.

25 (iii) An alcohol or drug education or treatment program as
26 ordered by the court.

27 (iv) The court probation department.

1 (v) A court-ordered community service program.

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

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

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

11 (20) Subject to subsection (22), as used in subsection (8),
12 "prior conviction" means a conviction for any of the following,
13 whether under a law of this state, a local ordinance substantially
14 corresponding to a law of this state, or a law of another state
15 substantially corresponding to a law of this state:

16 (a) Except as provided in subsection (21), a violation or
17 attempted violation of any of the following:

18 (i) Section 625, except a violation of section 625(2), or a
19 violation of any prior enactment of section 625 in which the
20 defendant operated a vehicle while under the influence of
21 intoxicating or alcoholic liquor or a controlled substance, or a
22 combination of intoxicating or alcoholic liquor and a controlled
23 substance, or while visibly impaired, or with an unlawful bodily
24 alcohol content.

25 (ii) Section 625m.

26 (iii) Former section 625b.

27 (b) Negligent homicide, manslaughter, or murder resulting from

1 the operation of a vehicle or an attempt to commit any of those
2 crimes.

3 (c) Beginning October 31, 2010, a violation of section 601d or
4 section 626(3) or (4).

5 (21) Except for purposes of the suspensions described in
6 subsection (8)(c) and (d), only 1 violation or attempted violation
7 of section 625(6), a local ordinance substantially corresponding to
8 section 625(6), or a law of another state substantially
9 corresponding to section 625(6) may be used as a prior conviction.

10 (22) If 2 or more convictions described in subsection (20) are
11 convictions for violations arising out of the same transaction,
12 only 1 conviction shall be used to determine whether the person has
13 a prior conviction.

14 Sec. 319b. (1) The secretary of state shall immediately
15 suspend or revoke, as applicable, all vehicle group designations on
16 the operator's or chauffeur's license of a person upon receiving
17 notice of a conviction, bond forfeiture, or civil infraction
18 determination of the person, or notice that a court or
19 administrative tribunal has found the person responsible, for a
20 violation described in this subsection of a law of this state, a
21 local ordinance substantially corresponding to a law of this state
22 while the person was operating a commercial motor vehicle, or a law
23 of another state substantially corresponding to a law of this
24 state, or notice that the person has refused to submit to a
25 chemical test of his or her blood, breath, or urine for the purpose
26 of determining the amount of alcohol or presence of a controlled
27 substance or both in the person's blood, breath, or urine while the

1 person was operating a commercial motor vehicle as required by a
2 law or local ordinance of this or another state. The period of
3 suspension or revocation is as follows:

4 (a) Suspension for 60 days if the person is convicted of or
5 found responsible for 1 of the following while operating a
6 commercial motor vehicle:

7 (i) Two serious traffic violations arising from separate
8 incidents within 36 months.

9 (ii) A violation of section 667, 668, 669, or 669a.

10 (iii) A violation of motor carrier safety regulations 49 CFR
11 392.10 or 392.11, as adopted by section 1a of the motor carrier
12 safety act of 1963, 1963 PA 181, MCL 480.11a.

13 (iv) A violation of section 57 of the pupil transportation act,
14 1990 PA 187, MCL 257.1857.

15 (v) A violation of motor carrier safety regulations 49 CFR
16 392.10 or 392.11, as adopted by section 31 of the motor bus
17 transportation act, 1982 PA 432, MCL 474.131.

18 (vi) A violation of motor carrier safety regulations 49 CFR
19 392.10 or 392.11 while operating a commercial motor vehicle other
20 than a vehicle covered under subparagraph (iii), (iv), or (v).

21 (b) Suspension for 120 days, to be served consecutively with a
22 60-day suspension imposed under ~~subsection (1) (a) (i)~~, **SUBDIVISION**
23 **(A) (i)**, if the person is convicted of or found responsible for 1 of
24 the following arising from separate incidents within 36 months
25 while operating a commercial motor vehicle:

26 (i) Three serious traffic violations.

27 (ii) Any combination of 2 violations described in subdivision

1 (a) (ii) .

2 (c) Suspension for 1 year if the person is convicted of or
3 found responsible for 1 of the following:

4 (i) A violation of section 625(1), (3), (4), (5), (6), (7), or
5 (8), section 625m, or former section 625(1) or (2), or former
6 section 625b, while operating a commercial or noncommercial motor
7 vehicle.

8 (ii) Leaving the scene of an accident involving a commercial or
9 noncommercial motor vehicle operated by the person.

10 (iii) Except for a felony described in 49 CFR 383.51(b)(9), a
11 felony in which a commercial or noncommercial motor vehicle was
12 used.

13 (iv) A refusal of a peace officer's request to submit to a
14 chemical test of his or her blood, breath, or urine to determine
15 the amount of alcohol or presence of a controlled substance or both
16 in his or her blood, breath, or urine while he or she was operating
17 a commercial or noncommercial motor vehicle as required by a law or
18 local ordinance of this state or another state.

19 (v) Operating a commercial motor vehicle in violation of a
20 suspension, revocation, denial, or cancellation that was imposed
21 for previous violations committed while operating a commercial
22 motor vehicle.

23 (vi) Causing a fatality through the negligent or criminal
24 operation of a commercial motor vehicle, including, but not limited
25 to, the crimes of motor vehicle manslaughter, motor vehicle
26 homicide, and negligent homicide.

27 ~~(vii) A 6 point violation as provided in section 320a while~~

1 ~~operating a commercial motor vehicle.~~

2 (vii) ~~(viii)~~ Any combination of 3 violations described in
3 subdivision (a) (ii) arising from separate incidents within 36 months
4 while operating a commercial motor vehicle.

5 (d) Suspension for 3 years if the person is convicted of or
6 found responsible for an offense enumerated in subdivision (c) (i) to
7 ~~(vii)~~ (vi) in which a commercial motor vehicle was used if the
8 vehicle was carrying hazardous material required to have a placard
9 under 49 CFR parts 100 to 199.

10 (e) Revocation for life, but with eligibility for reissue of a
11 group vehicle designation after not less than 10 years and after
12 approval by the secretary of state, if the person is convicted of
13 or found responsible for 2 violations or a combination of any 2
14 violations arising from 2 or more separate incidents involving any
15 of the following:

16 (i) Section 625(1), (3), (4), (5), (6), (7), or (8), section
17 625m, or former section 625(1) or (2), or former section 625b,
18 while operating a commercial or noncommercial motor vehicle.

19 (ii) Leaving the scene of an accident involving a commercial or
20 noncommercial motor vehicle operated by the licensee.

21 (iii) Except for a felony described in 49 CFR 383.51(b) (9), a
22 felony in which a commercial or noncommercial motor vehicle was
23 used.

24 (iv) A refusal of a request of a police officer to submit to a
25 chemical test of his or her blood, breath, or urine for the purpose
26 of determining the amount of alcohol or presence of a controlled
27 substance or both in his or her blood while he or she was operating

1 a commercial or noncommercial motor vehicle in this state or
2 another state.

3 (v) Operating a commercial motor vehicle in violation of a
4 suspension, revocation, denial, or cancellation that was imposed
5 for previous violations committed while operating a commercial
6 motor vehicle.

7 (vi) Causing a fatality through the negligent or criminal
8 operation of a commercial motor vehicle, including, but not limited
9 to, the crimes of motor vehicle manslaughter, motor vehicle
10 homicide, and negligent homicide.

11 ~~—— (vii) Six point violations as provided in section 320a while~~
12 ~~operating a commercial motor vehicle.~~

13 (f) Revocation for life if a person is convicted of or found
14 responsible for any of the following:

15 (i) One violation of a felony in which a commercial motor
16 vehicle was used and that involved the manufacture, distribution,
17 or dispensing of a controlled substance or possession with intent
18 to manufacture, distribute, or dispense a controlled substance.

19 (ii) A conviction of any offense described in subdivision (c)
20 or (d) after having been approved for the reissuance of a vehicle
21 group designation under subdivision (e).

22 (iii) A conviction of a violation of chapter LXXXIII-A of the
23 Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z.

24 (2) The secretary of state shall immediately deny, cancel, or
25 revoke a hazardous material indorsement on the operator's or
26 chauffeur's license of a person with a vehicle group designation
27 upon receiving notice from a federal government agency that the

1 person poses a security risk warranting denial, cancellation, or
2 revocation under the uniting and strengthening America by providing
3 appropriate tools required to intercept and obstruct terrorism (USA
4 PATRIOT ACT) act of 2001, Public Law 107-56. The denial,
5 cancellation, or revocation cannot be appealed under section 322 or
6 323 and remains in effect until the secretary of state receives a
7 federal government notice that the person does not pose a security
8 risk in the transportation of hazardous materials.

9 (3) The secretary of state shall immediately suspend all
10 vehicle group designations on a person's operator's or chauffeur's
11 license upon receiving notice of a conviction, bond forfeiture, or
12 civil infraction determination of the person, or notice that a
13 court or administrative tribunal has found the person responsible,
14 for a violation of section 319d(4) or 319f, a local ordinance
15 substantially corresponding to section 319d(4) or 319f, or a law or
16 local ordinance of another state, the United States, Canada, the
17 United Mexican States, or a local jurisdiction of either of these
18 countries substantially corresponding to section 319d(4) or 319f,
19 while operating a commercial motor vehicle. The period of
20 suspension or revocation is as follows:

21 (a) Suspension for 180 days if the person is convicted of or
22 found responsible for a violation of section 319d(4) or 319f while
23 operating a commercial motor vehicle.

24 (b) Suspension for 180 days if the person is convicted of or
25 found responsible for a violation of section 319d(4) or 319f while
26 operating a commercial motor vehicle that is either carrying
27 hazardous material required to have a placard under 49 CFR parts

1 100 to 199 or designed to carry 16 or more passengers, including
2 the driver.

3 (c) Suspension for 2 years if the person is convicted of or
4 found responsible for 2 violations, in any combination, of section
5 319d(4) or 319f while operating a commercial motor vehicle arising
6 from 2 or more separate incidents during a 10-year period.

7 (d) Suspension for 3 years if the person is convicted of or
8 found responsible for 3 or more violations, in any combination, of
9 section 319d(4) or 319f while operating a commercial motor vehicle
10 arising from 3 or more separate incidents during a 10-year period.

11 (e) Suspension for 3 years if the person is convicted of or
12 found responsible for 2 or more violations, in any combination, of
13 section 319d(4) or 319f while operating a commercial motor vehicle
14 carrying hazardous material required to have a placard under 49 CFR
15 parts 100 to 199, or designed to carry 16 or more passengers,
16 including the driver, arising from 2 or more separate incidents
17 during a 10-year period.

18 (4) The secretary of state shall suspend or revoke, as
19 applicable, any privilege to operate a commercial motor vehicle as
20 directed by the federal government or its designee.

21 (5) For the purpose of this section only, a bond forfeiture or
22 a determination by a court of original jurisdiction or an
23 authorized administrative tribunal that a person has violated the
24 law is considered a conviction.

25 (6) The secretary of state shall suspend or revoke a vehicle
26 group designation under subsection (1) or deny, cancel, or revoke a
27 hazardous material indorsement under subsection (2) notwithstanding

1 a suspension, restriction, revocation, or denial of an operator's
2 or chauffeur's license or vehicle group designation under another
3 section of this act or a court order issued under another section
4 of this act or a local ordinance substantially corresponding to
5 another section of this act.

6 (7) A conviction, bond forfeiture, or civil infraction
7 determination, or notice that a court or administrative tribunal
8 has found a person responsible for a violation described in this
9 subsection while the person was operating a noncommercial motor
10 vehicle counts against the person who holds a license to operate a
11 commercial motor vehicle the same as if the person had been
12 operating a commercial motor vehicle at the time of the violation.
13 For the purpose of this subsection, a noncommercial motor vehicle
14 does not include a recreational vehicle used off-road. This
15 subsection applies to the following state law violations or a local
16 ordinance substantially corresponding to any of those violations or
17 a law of another state or out-of-state jurisdiction substantially
18 corresponding to any of those violations:

19 (a) Operating a vehicle in violation of section 625.

20 (b) Refusing to submit to a chemical test of his or her blood,
21 breath, or urine for the purpose of determining the amount of
22 alcohol or the presence of a controlled substance or both in the
23 person's blood, breath, or urine as required by a law or local
24 ordinance of this or another state.

25 (c) Leaving the scene of an accident.

26 (d) Using a vehicle to commit a felony.

27 (8) When determining the applicability of conditions listed in

1 this section, the secretary of state shall consider only violations
2 that occurred after January 1, 1990.

3 (9) When determining the applicability of conditions listed in
4 subsection (1)(a) or (b), the secretary of state shall count only
5 from incident date to incident date.

6 (10) As used in this section:

7 (a) "Felony in which a commercial motor vehicle was used"
8 means a felony during the commission of which the person convicted
9 operated a commercial motor vehicle and while the person was
10 operating the vehicle 1 or more of the following circumstances
11 existed:

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

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

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

15 (iv) The vehicle was necessary for the commission of the
16 felony.

17 (b) "Serious traffic violation" means any of the following:

18 (i) A traffic violation that occurs in connection with an
19 accident in which a person died.

20 (ii) Reckless driving.

21 (iii) Excessive speeding as defined in regulations promulgated
22 under 49 USC 31301 to 31317.

23 (iv) Improper lane use.

24 (v) Following too closely.

25 (vi) Operating a commercial motor vehicle without obtaining any
26 vehicle group designation on the person's license.

27 (vii) Operating a commercial motor vehicle without either

1 having an operator's or chauffeur's license in the person's
2 possession or providing proof to the court, not later than the date
3 by which the person must appear in court or pay a fine for the
4 violation, that the person held a valid vehicle group designation
5 and indorsement on the date that the citation was issued.

6 (viii) Operating a commercial motor vehicle while in possession
7 of an operator's or chauffeur's license that has a vehicle group
8 designation but does not have the appropriate vehicle group
9 designation or indorsement required for the specific vehicle group
10 being operated or the passengers or type of cargo being
11 transported.

12 (ix) Beginning October 28, 2013, a violation of section
13 602b(2).

14 (x) Any other serious traffic violation as defined in 49 CFR
15 383.5 or as prescribed under this act.

16 Sec. 904. (1) A person whose operator's or chauffeur's license
17 or registration certificate has been suspended or revoked, ~~and who~~
18 ~~has been notified as provided in section 212 of that suspension or~~
19 ~~revocation,~~ whose application for license has been denied, or who
20 has never applied for a license, shall not operate a motor vehicle
21 upon a highway or other place open to the general public or
22 generally accessible to motor vehicles, including an area
23 designated for the parking of motor vehicles, within this state.

24 (2) A person shall not knowingly permit a motor vehicle owned
25 by the person to be operated upon a highway or other place open to
26 the general public or generally accessible to motor vehicles,
27 including an area designated for the parking of vehicles, within

1 this state by a person whose license or registration certificate is
2 suspended or revoked, whose application for license has been
3 denied, or who has never applied for a license, except as permitted
4 under this act.

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

8 (a) For a first violation, by imprisonment for not more than
9 93 days or a fine of not more than \$500.00, or both. Unless the
10 vehicle was stolen or used with the permission of a person who did
11 not knowingly permit an unlicensed driver to operate the vehicle,
12 the registration plates of the vehicle shall be canceled by the
13 secretary of state upon notification by a peace officer.

14 (b) For a violation that occurs after a prior conviction, by
15 imprisonment for not more than 1 year or a fine of not more than
16 \$1,000.00, or both. Unless the vehicle was stolen, the registration
17 plates of the vehicle shall be canceled by the secretary of state
18 upon notification by a peace officer.

19 (4) A person who operates a motor vehicle in violation of
20 subsection (1) and who, by operation of that motor vehicle, causes
21 the death of another person is guilty of a felony punishable by
22 imprisonment for not more than 15 years or a fine of not less than
23 \$2,500.00 or more than \$10,000.00, or both. This subsection does
24 not apply to a person whose operator's or chauffeur's license was
25 suspended because that person failed to answer a citation or comply
26 with an order or judgment pursuant to section 321a.

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

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

9 (6) In addition to being subject to any other penalty provided
10 for in this act, if a person is convicted under subsection (4) or
11 (5), the court may impose the sanction permitted under section
12 625n. If the vehicle is not ordered forfeited under section 625n,
13 the court shall order vehicle immobilization under section 904d in
14 the judgment of sentence.

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

1 both. If a person permitted to operate a motor vehicle in violation
2 of this subsection causes the death of another person by operation
3 of that motor vehicle, the person knowingly permitting the
4 operation of that motor vehicle is guilty of a felony punishable by
5 imprisonment for not more than 5 years, or a fine of not less than
6 \$1,000.00 or more than \$5,000.00, or both.

7 (8) If the prosecuting attorney intends to seek an enhanced
8 sentence under this section based upon the defendant having 1 or
9 more prior convictions, the prosecuting attorney shall include on
10 the complaint and information, or an amended complaint and
11 information, filed in district court, circuit court, municipal
12 court, or family division of circuit court, a statement listing the
13 defendant's prior convictions.

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

- 16 (a) A copy of a judgment of conviction.
- 17 (b) An abstract of conviction.
- 18 (c) A transcript of a prior trial, plea, or sentencing.
- 19 (d) A copy of a court register of action.
- 20 (e) A copy of the defendant's driving record.
- 21 (f) Information contained in a presentence report.
- 22 (g) An admission by the defendant.

23 (10) Upon receiving a record of a person's conviction or civil
24 infraction determination for the unlawful operation of a motor
25 vehicle or a moving violation reportable under section 732 while
26 the person's operator's or chauffeur's license is suspended or
27 revoked, the secretary of state immediately shall impose an

1 additional like period of suspension or revocation. This subsection
2 applies only if the violation occurs during a suspension of
3 definite length or if the violation occurs before the person is
4 approved for a license following a revocation.

5 (11) Upon receiving a record of a person's conviction or civil
6 infraction determination for the unlawful operation of a motor
7 vehicle or a moving violation reportable under section 732 while
8 the person's operator's or chauffeur's license is indefinitely
9 suspended or whose application for a license has been denied, the
10 secretary of state immediately shall impose a 30-day period of
11 suspension or denial.

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

24 (13) If the secretary of state receives records of more than 1
25 conviction or civil infraction determination resulting from the
26 same incident, all of the convictions or civil infraction
27 determinations shall be treated as a single violation for purposes

1 of imposing an additional period of suspension or revocation under
2 subsection (10), (11), or (12).

3 (14) Before a person is arraigned before a district court
4 magistrate or judge on a charge of violating this section, the
5 arresting officer shall obtain the person's driving record from the
6 secretary of state and shall furnish the record to the court. The
7 driving record of the person may be obtained from the secretary of
8 state's computer information network.

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

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

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

27 (18) Any period of suspension or revocation required under

1 subsection (10), (11), or (12) does not apply to a person who has
2 only 1 currently effective suspension or denial on his or her
3 Michigan driving record under section 321a and was convicted of or
4 received a civil infraction determination for a violation that
5 occurred during that suspension or denial. This subsection may only
6 be applied once during the person's lifetime.

7 (19) For purposes of this section, a person who never applied
8 for a license includes a person who applied for a license, was
9 denied, and never applied again.