

HOUSE BILL NO. 5103

October 05, 2023, Introduced by Reps. McKinney, Shannon, Tyrone Carter, Coffia, Hood, Morgan, Andrews, McFall and Aiyash and referred to the Committee on Transportation, Mobility and Infrastructure.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 303 and 304 (MCL 257.303 and 257.304), section 303 as amended by 2020 PA 376 and section 304 as amended by 2023 PA 125.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 303. (1) The secretary of state shall not issue a license
2 under this act to any of the following individuals:

3 (a) An individual, as an operator, who is less than 18 years
4 of age, except as otherwise provided in this act.

1 (b) An individual, as a chauffeur, who is less than 18 years
2 of age, except as otherwise provided in this act.

3 (c) An individual whose license is suspended, revoked, denied,
4 or canceled in any state. If the suspension, revocation, denial, or
5 cancellation is not from the jurisdiction that issued the last
6 license to the individual, the secretary of state may issue a
7 license after the expiration of 5 years from the effective date of
8 the most recent suspension, revocation, denial, or cancellation.

9 (d) An individual who in the opinion of the secretary of state
10 is afflicted with or suffering from a physical or mental disability
11 or disease that prevents the individual from exercising reasonable
12 and ordinary control over a motor vehicle while operating the motor
13 vehicle on the highways.

14 (e) An individual who is unable to understand highway warning
15 or direction signs in the English language.

16 (f) An individual who is unable to pass a knowledge, skill, or
17 ability test administered by the secretary of state in connection
18 with issuing an original operator's or chauffeur's license,
19 original motorcycle indorsement, or an original or renewal of a
20 vehicle group designation or vehicle indorsement.

21 ~~(g) An individual who has been convicted of, has received a~~
22 ~~juvenile disposition for, or has been determined responsible for 2~~
23 ~~or more moving violations under a law of this state, a local~~
24 ~~ordinance substantially corresponding to a law of this state, or a~~
25 ~~law of another state substantially corresponding to a law of this~~
26 ~~state within the preceding 3 years, if the violations occurred~~
27 ~~before issuance of an original license to the person in this state,~~
28 ~~another state, or another country.~~

29 (g) ~~(h)~~A nonresident, including, but not limited to, a

1 foreign exchange student.

2 **(h)** ~~(i)~~—An individual who has failed to answer a citation or
3 notice to appear in court or for any matter pending or fails to
4 comply with an order or judgment of the court, including, but not
5 limited to, paying all fines, costs, fees, and assessments, in
6 violation of section 321a, until that individual answers the
7 citation or notice to appear in court or for any matter pending or
8 complies with an order or judgment of the court, including, but not
9 limited to, paying all fines, costs, fees, and assessments, as
10 provided under section 321a.

11 **(i)** ~~(j)~~—An individual not licensed under this act who has been
12 convicted of, has received a juvenile disposition for, or has been
13 determined responsible for a crime or civil infraction described in
14 section 319, 324, or 904. An individual shall be denied a license
15 under this subdivision for the length of time corresponding to the
16 period of the licensing sanction that would have been imposed under
17 section 319, 324, or 904 if the individual had been licensed at the
18 time of the violation.

19 **(j)** ~~(k)~~—An individual not licensed under this act who is
20 determined to have violated section 624a or 624b. The individual
21 shall be denied a license under this subdivision for a period of
22 time that corresponds to the period of the licensing sanction that
23 would have been imposed under those sections had the individual
24 been licensed at the time of the violation.

25 **(k)** ~~(l)~~—An individual whose commercial driver license
26 application is canceled under section 324(2).

27 **(l)** ~~(m)~~—Unless otherwise eligible under section 307(1), an
28 individual who is not a citizen of the United States.

29 (2) On receiving the appropriate records of conviction, the

1 secretary of state shall revoke the operator's or chauffeur's
2 license of an individual and deny issuance of an operator's or
3 chauffeur's license to an individual who has any of the following,
4 whether under a law of this state, a local ordinance that
5 substantially corresponds to a law of this state, a law of another
6 state that substantially corresponds to a law of this state, or,
7 beginning October 31, 2010, a law of the United States that
8 substantially corresponds to a law of this state:

9 (a) Any combination of 2 convictions within 7 years for
10 reckless driving in violation of section 626 before October 31,
11 2010 or, beginning October 31, 2010, 626(2).

12 (b) Any combination of 2 or more convictions within 7 years
13 for any of the following:

14 (i) A felony in which a motor vehicle was used.

15 (ii) A violation or attempted violation of section 601b(2) or
16 (3), section 601c(1) or (2), section 602a(4) or (5), section 617,
17 section 653a(3) or (4), or section 904(4) or (5).

18 (iii) Negligent homicide, manslaughter, or murder that results
19 from the operation of a vehicle or an attempt to commit any of
20 those crimes.

21 (iv) A violation or attempted violation of section 479a(4) or
22 (5) of the Michigan penal code, 1931 PA 328, MCL 750.479a.

23 (c) Any combination of 2 convictions within 7 years for any of
24 the following or a combination of 1 conviction for a violation or
25 attempted violation of section 625(6) and 1 conviction for any of
26 the following within 7 years:

27 (i) A violation or attempted violation of section 625, except a
28 violation of section 625(2), or a violation of any prior enactment
29 of section 625 in which the defendant operated a vehicle while

1 under the influence of intoxicating or alcoholic liquor or a
2 controlled substance, or a combination of intoxicating or alcoholic
3 liquor and a controlled substance, or while visibly impaired, or
4 with an unlawful bodily alcohol content.

5 (ii) A violation or attempted violation of section 625m.

6 (iii) A violation or attempted violation of former section 625b.

7 (d) One conviction for a violation or attempted violation of
8 section 315(5), section 601b(3), section 601c(2), section 602a(4)
9 or (5), section 617, section 625(4) or (5), section 653a(4),
10 section 904(4) or (5), or, beginning October 31, 2010, section
11 626(3) or (4).

12 (e) One conviction of negligent homicide, manslaughter, or
13 murder that results from the operation of a vehicle or an attempt
14 to commit any of those crimes.

15 (f) One conviction for a violation or attempted violation of
16 section 479a(4) or (5) of the Michigan penal code, 1931 PA 328, MCL
17 750.479a.

18 (g) Any combination of 3 convictions within 10 years for any
19 of the following or 1 conviction for a violation or attempted
20 violation of section 625(6) and any combination of 2 convictions
21 for any of the following within 10 years, if any of the convictions
22 resulted from an arrest on or after January 1, 1992:

23 (i) A violation or attempted violation of section 625, except a
24 violation of section 625(2), or a violation of any prior enactment
25 of section 625 in which the defendant operated a vehicle while
26 under the influence of intoxicating or alcoholic liquor or a
27 controlled substance, or a combination of intoxicating or alcoholic
28 liquor and a controlled substance, or while visibly impaired, or
29 with an unlawful bodily alcohol content.

1 (ii) A violation or attempted violation of section 625m.

2 (iii) A violation or attempted violation of former section 625b.

3 (3) The secretary of state shall revoke a license under
4 subsection (2) notwithstanding a court order unless the court order
5 complies with section 323.

6 (4) Except as otherwise provided under section 304, the
7 secretary of state shall not issue a license under this act to an
8 individual whose license has been revoked under this act or revoked
9 and denied under subsection (2) until all of the following occur,
10 as applicable:

11 (a) The later of the following:

12 (i) The expiration of not less than 1 year after the license
13 was revoked or denied.

14 (ii) The expiration of not less than 5 years after the date of
15 a subsequent revocation or denial occurring within 7 years after
16 the date of any prior revocation or denial.

17 (b) For a denial under subsection (2)(a), (b), (c), and (g),
18 the individual rebuts by clear and convincing evidence the
19 presumption that results from the prima facie evidence that ~~he or~~
20 ~~she~~**the individual** is a habitual offender. The convictions that
21 resulted in the revocation and denial constitute prima facie
22 evidence that ~~he or she~~**the individual** is a habitual offender.

23 (c) The individual meets the requirements of the department.

24 (5) The secretary of state shall deny issuing a vehicle group
25 designation to an individual under either of the following
26 circumstances:

27 (a) The individual has been disqualified by the United States
28 Secretary of Transportation from operating a commercial motor
29 vehicle.

1 (b) Beginning on and after January 30, 2012, the individual
2 does not meet the requirements of the federal regulations under 49
3 CFR parts 383 and 391 by refusing to certify the type of commercial
4 motor vehicle operation the individual intends to perform and, if
5 required, fails to present to the secretary of state a valid
6 medical certification.

7 (6) Multiple convictions or civil infraction determinations
8 that result from the same incident must be treated as a single
9 violation for purposes of denial or revocation of a license under
10 this section.

11 (7) As used in this section, "felony in which a motor vehicle
12 was used" means a felony during the commission of which the
13 individual operated a motor vehicle and while operating the vehicle
14 presented real or potential harm to individuals or property and 1
15 or more of the following circumstances existed:

16 (a) The vehicle was used as an instrument of the felony.

17 (b) The vehicle was used to transport a victim of the felony.

18 (c) The vehicle was used to flee the scene of the felony.

19 (d) The vehicle was necessary for the commission of the
20 felony.

21 Sec. 304. (1) Except as provided in subsection (3), the
22 secretary of state shall issue a restricted license to an
23 individual whose license was suspended or restricted under section
24 319 or revoked or denied under section 303 based on either of the
25 following:

26 (a) Two or more convictions for violating section 625(1) or
27 (3) or a local ordinance of this state that substantially
28 corresponds to section 625(1) or (3).

29 (b) One conviction for violating section 625(1) or (3) or a

1 local ordinance of this state that substantially corresponds to
2 section 625(1) or (3), preceded by 1 or more convictions for
3 violating a local ordinance or law of another state that
4 substantially corresponds to section 625(1), (3), or (6), or a law
5 of the United States that substantially corresponds to section
6 625(1), (3), or (6).

7 (2) A restricted license issued under subsection (1) must not
8 be issued until after the individual's operator's or chauffeur's
9 license has been suspended or revoked for 45 days and the judge
10 assigned to a specialty court certifies to the secretary of state
11 that both of the following conditions have been met:

12 (a) The individual has been admitted into a specialty court
13 interlock program.

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

18 (3) A restricted license must not be issued under subsection
19 (1) if the individual is otherwise ineligible for an operator's or
20 chauffeur's license under this act, unless the individual's
21 ineligibility is based on 1 or more of the following:

22 (a) Section ~~303(1)(i) or (k)~~. **303(1)(h) or (j)**.

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

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

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

26 (e) Section 320(1)(d).

27 (f) Section 321a(1) or (2).

28 (g) Section 323c.

29 (h) Section 625f.

1 (i) Section 732a(5).

2 (j) Section 904(10).

3 (k) Section 82105a(2) of the natural resources and
4 environmental protection act, 1994 PA 451, MCL 324.82105a.

5 (l) Section 3177 of the insurance code of 1956, 1956 PA 218,
6 MCL 500.3177.

7 (m) Section 10 of the motor vehicle accident claims act, 1965
8 PA 198, MCL 257.1110.

9 (4) A restricted license issued under subsection (1) permits
10 the individual to whom it is issued to operate only the vehicle
11 equipped with an ignition interlock device described in subsection
12 (2)(b), to take any driving skills test required by the secretary
13 of state, and to drive to and from any combination of the following
14 locations or events:

15 (a) In the course of the individual's employment or occupation
16 if the employment or occupation does not require a commercial
17 driver license.

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

19 (i) The individual's residence.

20 (ii) The individual's work location.

21 (iii) An alcohol, drug, or mental health education and treatment
22 as ordered by the court.

23 (iv) Alcoholics Anonymous, Narcotics Anonymous, or other court-
24 ordered self-help programs.

25 (v) Court hearings and probation appointments.

26 (vi) Court-ordered community service.

27 (vii) An educational institution at which the individual is
28 enrolled as a student.

29 (viii) A place of regularly occurring medical treatment for a

1 serious condition or medical emergency for the individual or a
2 member of the individual's household or immediate family.

3 (ix) Alcohol or drug testing as ordered by the court.

4 (x) An ignition interlock service provider as required.

5 (xi) At the discretion of the judge, the custodian of a minor
6 child may drive to and from the facilities of a provider of day
7 care services at which the custodian's minor child is enrolled, or
8 an educational institution at which the custodian's minor child is
9 enrolled as a student for the purposes of classes, academic
10 meetings or conferences, and athletic or other extracurricular
11 activities sanctioned by the educational institution in which the
12 minor child is a participant. As used in this subparagraph, "minor
13 child" means an individual who is less than 18 years of age.

14 (5) While driving with a restricted license, the individual
15 shall carry proof of ~~his or her~~ **the individual's** destination and
16 the hours of any employment, class, or other reason for traveling
17 and shall display that proof on a peace officer's request.

18 (6) Except as otherwise provided in this section, a restricted
19 license issued under subsection (1) is effective until a hearing
20 officer orders an unrestricted license under section 322. Subject
21 to subsection (7), the hearing officer shall not order an
22 unrestricted license until the later of the following events
23 occurs:

24 (a) The court notifies the secretary of state that the
25 individual has successfully completed the specialty court program.

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

29 (c) The individual demonstrates that ~~he or she~~ **the individual**

1 has operated with an ignition interlock device for not less than 1
2 year.

3 (d) The individual satisfies the requirements of section 303
4 and R 257.313 of the Michigan Administrative Code.

5 (7) A hearing officer shall not issue an unrestricted license
6 for at least 1 year if either of the following applies:

7 (a) The hearing officer determines that the individual
8 consumed any alcohol during the period that ~~his or her~~ **the**
9 **individual's** license was restricted under this section, as
10 determined by breath, blood, urine, or transdermal testing unless a
11 second test, administered within 5 minutes after administering the
12 first test, showed an absence of alcohol.

13 (b) The hearing officer determines that the individual
14 consumed or otherwise used any controlled substance during the
15 period that ~~his or her~~ **the individual's** license was restricted
16 under this section, except as lawfully prescribed.

17 (8) In determining whether to order an unrestricted license
18 under subsection (6), the successful completion of the specialty
19 court program and a certificate from the specialty court judge must
20 be considered positive evidence of the petitioner's abstinence
21 while the petitioner participated in the specialty court program.
22 This subsection does not apply to a determination made under
23 subsection (7). As used in this subsection, "certificate" includes,
24 but is not limited to, a statement that the participant has
25 maintained a period of abstinence from alcohol for not less than 6
26 months at the time the participant completed the specialty court
27 program.

28 (9) If the secretary of state receives a notification from a
29 specialty court, the secretary of state shall summarily impose 1 of

1 the following license sanctions, as applicable:

2 (a) Suspension for the full length of time provided under
3 section 319(8). However, a restricted license must not be issued as
4 provided under section 319(8). This subdivision applies if the
5 underlying conviction or convictions would have subjected the
6 individual to a license sanction under section 319(8) if this
7 section did not apply.

8 (b) A license revocation and denial for the full length of
9 time provided under section 303. The minimum period of license
10 revocation and denial imposed must be the same as if this section
11 did not apply. This subdivision applies if the underlying
12 conviction or convictions would have caused a license revocation
13 and denial under section 303 if this section did not apply.

14 (10) After the individual completes the specialty court
15 program, the following apply:

16 (a) The secretary of state shall postpone considering the
17 issuance of an unrestricted license under section 322 for a period
18 of 3 months for each act that would be a minor violation if the
19 individual's license had been issued under section 322(6). As used
20 in this subdivision, "minor violation" means that term as defined
21 in R 257.301a of the Michigan Administrative Code.

22 (b) The restricted license issued under this section must be
23 suspended or revoked or denied as provided in subsection (9),
24 unless set aside under section 322(5), if any of the following
25 events occur:

26 (i) The individual operates a motor vehicle without an ignition
27 interlock device that meets the criteria under subsection (2)(b).

28 (ii) The individual removes, or causes to be removed, an
29 ignition interlock device from a vehicle ~~he or she~~ **the individual**

1 owns or operates unless the secretary of state has authorized its
2 removal under section 322a.

3 (iii) The individual commits any other act that would be a major
4 violation if the individual's license had been issued under section
5 322(6). As used in this subparagraph, "major violation" means that
6 term as defined in R 257.301a of the Michigan Administrative Code.

7 (iv) The individual is arrested for a violation of any of the
8 following:

9 (A) Section 625.

10 (B) A local ordinance of this state or another state that
11 substantially corresponds to section 625.

12 (C) A law of the United States that substantially corresponds
13 to section 625.

14 (c) If the individual is convicted of or found responsible for
15 any offense that requires the suspension, revocation, denial, or
16 cancellation of the individual's operator's or chauffeur's license,
17 the restricted license issued under this section must be suspended
18 until the requisite period of license suspension, revocation,
19 denial, or cancellation, as appropriate, has elapsed.

20 (d) If the individual has failed to pay any court-ordered
21 fines or costs that resulted from the operation of a vehicle, the
22 restricted license issued under this section must be suspended
23 pending payment of those fines and costs.

24 (11) The vehicle of an individual admitted to the specialty
25 court interlock program whose vehicle would otherwise be subject to
26 immobilization or forfeiture under this act is exempt from both
27 immobilization and forfeiture under sections 625n and 904d if both
28 of the following apply:

29 (a) The individual is a specialty court interlock program

1 participant in good standing or the individual successfully
2 satisfactorily completes the specialty court interlock program.

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

5 (12) This section only applies to individuals arrested for a
6 violation of section 625 on or after January 1, 2011.

7 Enacting section 1. This amendatory act takes effect March 1,
8 2024.