



STATE OF MICHIGAN  
RUTH JOHNSON, SECRETARY OF STATE  
DEPARTMENT OF STATE  
LANSING

MEMORANDUM

DATE: February 17, 2011  
TO: Circuit, District, Family and Municipal Court Judges and Staff  
FROM: Fred Bueter, Director – Driver and Vehicle Records Division  
SUBJECT: DWI/Sobriety Ignition Interlock Pilot Project

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Public Act 155 of 2010 went into effect for drivers arrested on or after January 1, 2011. The law creates the DWI/Sobriety Ignition Interlock Pilot Project that allows the issuance of a restricted license to a person whose license is suspended, restricted, revoked or denied based on two or more convictions of driving while intoxicated or while impaired. The individual must also be participating in a Sobriety Court program and have an ignition interlock device installed on each motor vehicle they own or operate.

The Department of State will receive court notifications for drivers accepted into the Sobriety Court program, determine eligibility, and will issue a restricted license if otherwise eligible. According to the law, a restricted license shall not be issued to the driver until after the driver's license has been suspended or revoked for 45 days. The new alcohol conviction sent to the Department of State will generate a mandatory suspension or denial/revocation.

The 45-day minimum waiting period starts on the beginning date of the suspension or denial/revocation as shown on the driver's Order of Action and driving record. In general terms, upon receipt of the conviction, the suspension will start approximately 16 days later to allow for processing and driver notification. Restricted licenses are produced weekly and will be issued as soon as possible to eligible drivers after the 45 days.

The implementation of this pilot program will occur in two phases. Phase One will modify the driving record status line for drivers under Sobriety Court restrictions. During this phase running a 35;1 or 42;5 inquiry on any active Ignition Interlock Pilot drivers will get a status response of, "Eligible - Sobriety Court Restrictions - Check Restricted Drivers License" displayed on the status line. However, during Phase One, the status may still display the driver's prior status, i.e., denied/revoked, within the body of the driving record.

The "SOBERCHK" inquiry will be implemented in Phase Two. Until then, courts should contact the Department of State Action Processing Unit at 517.322.6406 to determine driver eligibility.

If you have any questions, please contact Court Liaisons Kari Ferri at 517.636.0962, Lee Ann Gaspar at 810.762.0764 or David Handsor at 517.636.0129.

Thank you for your patience and understanding.

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# Sobriety Court Checklist

## Sobriety Court Responsibilities:

- Accept driver into Sobriety Court program.
- Upon conviction, submit Abstract of Conviction to MDOS within the five-day time frame from adjudication date.
- Perform a SOBERCHK;DLN to determine eligibility.
  - It is important for the court to run the eligibility check before the defendant spends money on the ignition interlock device.
  - Until Phase Two, when the “SOBERCHK” inquiry is available, courts should contact the Action Processing Unit at 517.322.6406 to determine driver eligibility.
- Courts must order Breath Alcohol Ignition Interlock Device (BAIID) to be properly installed on all vehicles owned or driven by the defendant and require proof of installation.
  - The Sobriety Court will monitor BAIID reports while the defendant is in Sobriety Court.
  - Michigan Department of State (MDOS) will monitor BAIID reports upon successful completion of the Sobriety Court program.
- Notify via MDOS MC 393 certification form, signed by the judge.
  - Court faxes the certification to the Action Processing Unit at 517.322.1767.
- Via the MC 393 form, the Sobriety Court must notify MDOS upon any of the following actions:
  1. if the defendant operates a motor vehicle that is not equipped with an interlock device or
  2. if the defendant tampers with, circumvents, or removes a court-ordered interlock device without prior court approval,
  3. if the defendant is charged with a new violation of section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625.
  4. if the defendant is terminated from the Sobriety Court program,
  5. of upon the successful completion of the Sobriety Court program.

## Michigan Department of State Responsibilities:

- MDOS will determine MCL 257.304 restriction eligibility by running a SOBERCHK;DLN.
- Upon receipt of the MC 393 certification to Michigan Department of State, signed by the judge.
  - If the defendant is ineligible for Sobriety Court based on MDOS SOBERCHK inquiry, MDOS will notify (by letter) the court and the defendant of the ineligibility for the Sobriety Court restricted license.
  - If the defendant is eligible for MCL 257.304 restrictions, MDOS posts the restrictions (after 45-day suspended/revoked having been served) to Michigan driving record and mails restricted license to defendant.
  - MDOS will notify Department of Treasury to put into abeyance DRF collections for 625(1) and (3) offenses and MDOS will put into abeyance any qualifying open action on the Michigan driving record in order to issue the restricted driver's license.
- Upon successful completion of Sobriety Court Program, MDOS's Driver Assessment and Appeal Division (DAAD) is notified that a defendant has satisfactorily completed the Sobriety Court program.
- MDOS will schedule a DAAD hearing for an unrestricted license upon a request from the defendant:
  - A hearing may result in a full license being issued if otherwise eligible; or
  - Continues to drive on the Sobriety Court restricted license until eligible for a hearing with MDOS.
- Upon termination from the Sobriety Court Program MDOS will reinstate suspension or revocation, display all other pended suspensions or revocations, collect for all 625(1) or (3) DRF assessment held in abeyance, and restore Repeat Offender actions.

## Law Enforcement Responsibilities:

Law enforcement running a 35;1 or 42;5. Status for a repeat offender may result in the status displaying *Denied/Revoked*.

Law enforcement running a 35;1 or 42;5. Status for an active Ignition Interlock Pilot drivers/participants will result in the status displaying, "Eligible - Sobriety Court Restrictions - Check Restricted Drivers License".