

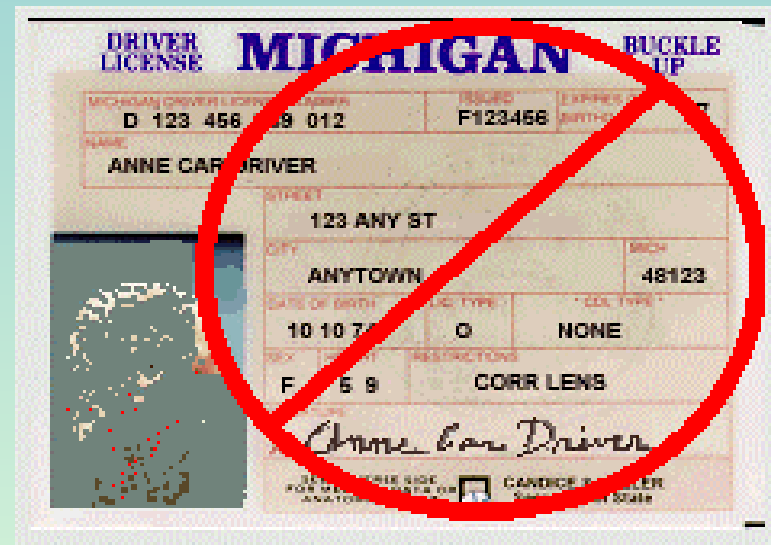
Department of State

- **Executive branch of government with authority to regulate driver licensing.**
 - **Driver Assessment**
 - **by legislative definition**
 - **application**
 - ✦ **Graduated Driver License**
 - ✦ **Probation**
 - ✦ **re-licensing repeat offenders**



Types of Licensing Actions

- Revocation: Sec. 303 & 320
- Suspension: Sec. 319 & 324
- Restriction: Sec. 303, 319, 320
- What is a rev/den? Why do we call it this?

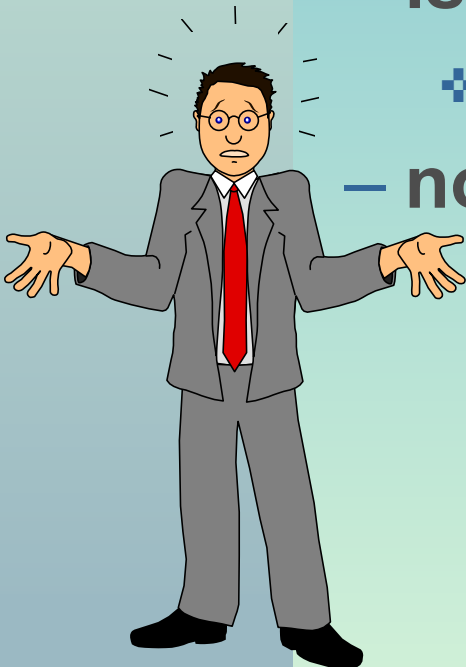


Revocation: Sec. 303 & 320

- **The most serious action is a revocation (MCL 257.52)**
 - **termination of the driver license and privilege to operate a motor vehicle**
 - **eligible to reapply to SOS for restoration:**
 - ✦ **after 1 year following a first revocation**
 - ✦ **after 5 years for a subsequent revocation w/i 7 years**
 - **no guarantee license will be returned**
 - ✦ **is person a safe driver based on evidence?**

Suspension : Sec. 319 & 324

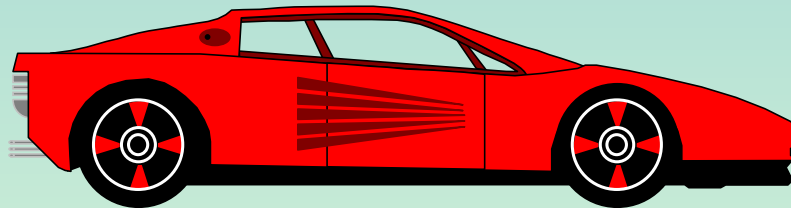
- **A suspension is for a definite period**
 - carries “from” and “through” date.
 - after “through” date, reinstatement fee is required for relicensure
 - + provided no additional violations occurred
 - **no valid license status**



Restricted License:

Sec. 303, 319 & 320

- **A restricted license allows limited driving privileges**
 - generic restrictions
 - must carry proof of destination and hours
 - restrictions continue until fee paid



Uniform Licensing Actions

- **Consolidate licensing in SOS- no overrides**
- **Restricted licenses - generic.**
- **Attempts - §204b**
- **Additional**
 - “Repeat” priors are §904 additional susp/revs; not DWLS
 - No extension - concurrent
 - FAC/FCJ/indefinites earn 30-day additional suspension - first FAC/FCJ violation is “free”
 - §904 (10), (11) and (12)

Tougher Consequences

- Any combination of two §625 crimes is a 1-year misdemeanor and rev/denial
- Any combination of three §625 crimes is a felony
- Results in an increase in the number of DLAD appeals



Types of Appeals

- **Hardship - for restricted relief based upon need.**
- **Review of the Record or Merit Review - Review of the transcript & evidence or MDR**
- **Legal Issue - Did we make a legal error such as were there two convictions within 7 years or is an out-of-state conviction substantially corresponding to MI law?**
- **Rev/ Den appeals- rebut presumption**

DLAD

- **2 units: Administrative Hearings & Circuit Court**
- **Driver License Practice Manual**
- **Tribunal for driver license appeals**
 - 10 independent hearing officers
 - conduct hearings at 31 locations across state (MCL 257.322)
 - Approximately 20,000 hearings are scheduled annually
 - Tele-video hearings in remote areas

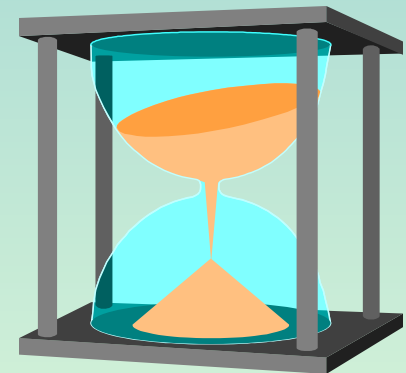


Appealable to DLAD

- **Appeal hearings from:**
 - **driver assessment actions**
 - **branch office licensure denials**
 - **implied consent hearings**
 - **habitual violator appeals.**
 - **any legal issue on other licensing actions**

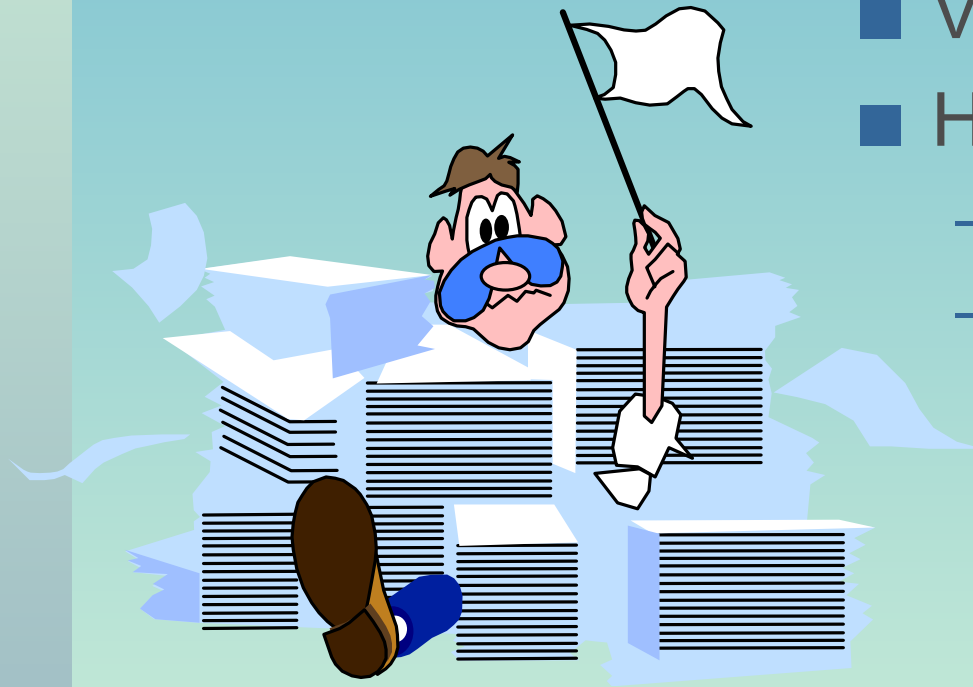
Appealable to DLAD

- Vision/Medical denials w/i 14 days
- DA re-exams w/i 14 days
- Implied Consent w/i 14 days
- Rev/Den reinstatement w/i 14 days--eligible 1-yr from original hearing date.
- Out-of-state §319s w/i 14 days.
- In-state §319s on a legal issue w/i 14 days
- Rev/Den after 1 year or 5 years



Promulgated Rules

- Medical Rules
- Vision Rules
- Hearing Rules
 - Rule 13 - habitual
 - Rule 13a - ignition interlock

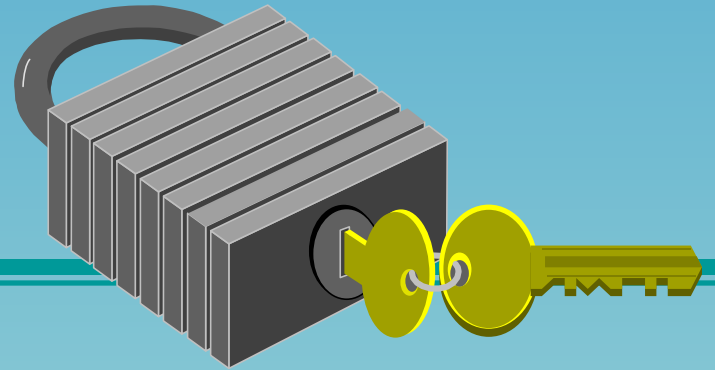


Habitual Offender Appeals

- Rev/den period served
- Rebut presumption
- Types of proofs
- Ignition interlock requirement

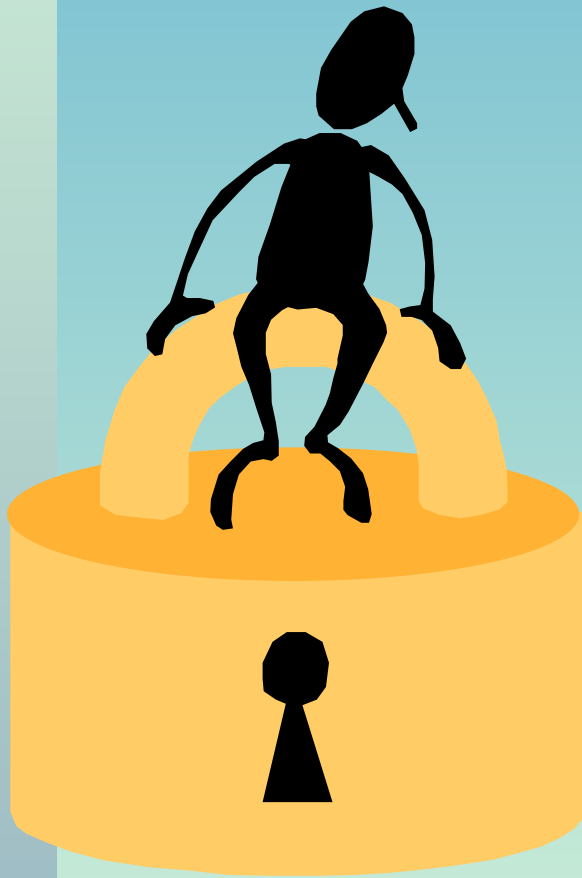


Ignition Interlock



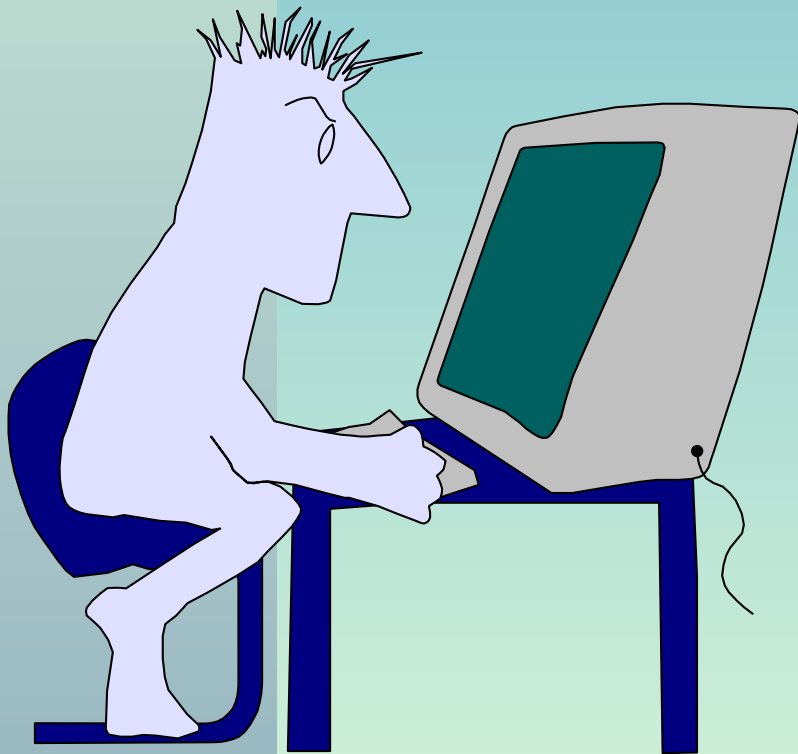
- No longer court-ordered.
- Ordered by DLAD for all habitual offenders returning to the road.
- Mandatory 1-year.
- Any hearing on or after 10/1/99.
- 6 devices manufactured.
- Two technologies.
- Must service within 50-miles.
- BAR will certify mfgs. and oversee service providers.

What are Ignition Interlock violations?



- **Major violations are**
 - Rolling test failure
 - 3 minor offenses
 - 625g permit
 - 625l conviction
 - tampering
- **Minor violations are**
 - 3 start-up failure sessions
 - failure to report

Implied Consent Hearings



- **What is Implied Consent?**
- **Officer submits refusal info via LEIN**
- **625g permit has appeal rights - used to be sent by DA**
- **Four issues at hearing**
- **Burden of proof on officer**

Implied Consent Continued

- FTA decisions
- MSP rules
- Infra-red devices
- Tribal or out-of-state refusals
 - why not on our MDR?
 - Not a conviction
 - Definition of “State”



Out of State Convictions



- All §303 and §319 actions are appealable.
- Relief available
 - may waive if time served in other state
 - legal issue review, such as is the conviction “substantially corresponding to...?”

More Out-of-State Convictions

- **“Substantially corresponding to” research**
- **When does action start?**
 - travel out of Michigan
 - move to Michigan
- **Move to Michigan**
 - **Eliminated 30-month rule**
 - **Single conviction versus multiple convictions**
 - **Should we grant full faith and credit? What about the Commerce Clause?**

What does the Circuit Court Unit Do?

- **Process driver restoration appeals to circuit court**
- **Ask prosecutor/AAG to represent the agency as a party**
- **Send case file with “tips” to representative**
- **Process final orders from circuit court**



What Court is What?

- District Court - trial court, misdemeanors
- Circuit Court - trial court, felonies
- Court of Appeals
- Supreme Court



Appeals to Circuit Court

- Appeal to circuit court under law in effect at the time of the arrest
- Only 4 types of actions may appeal for hardship relief
- All other types of actions require a review of the record
- What is a “record”?



Hardship Appeals

- **Medical App Denials**
- **DA Re-exams §310d & §320--Not Revs.
(Includes Probation)**
- **§904 Additional/
Suspension-Not
Additional Revs or
Additional Rev/Den**
- **First Implied Consent
Suspensions**

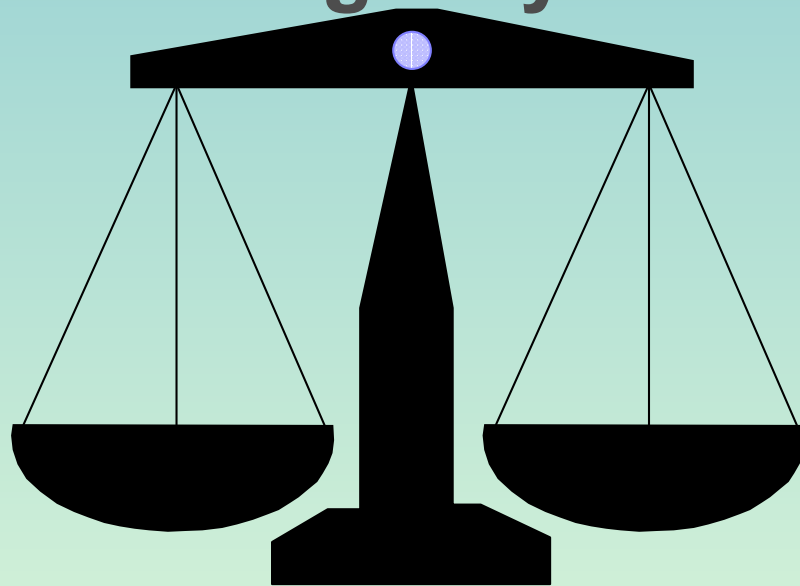


Review of the Record Appeals to Circuit Court

- **Review of DLAD Hearings**
 - **Second Implied Consent**
 - **Revocation/ Denial before or after DLAD hearing**
 - **All other licensing actions**
- **Most appeal to DLAD before going to circuit court**
- **Standard of review**

Court of Appeals

- Appeals from circuit court decision
- How do we select appeals?
- Ask AAG to represent us
- Examples of agency case law



Court Liaison Function

- **Teach courts how to abstract conviction info to SOS**
- **Write Court Manual & maintain Offense Code list**
- **Act as liaison between SOS & courts, judges, magistrates, court administrators, probation officers, etc. on problems and concerns**

Other Responsibilities

- Traffic safety legislation
- Repeat offender implementation
- Educate criminal justice partners
- Criminal justice record improvements
- Driver expertise resource
- Liaison to OHSP and other entities
- Review federal grant requirements

QUESTIONS?

