

HOUSE BILL NO. 4420

March 21, 2019, Introduced by Reps. Hammoud, Whitsett, Kennedy and Manoogian and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 625, 625a, 625g, and 625m (MCL 257.625, 257.625a, 257.625g, and 257.625m), as amended by 2017 PA 153.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 625. (1) A person, whether licensed or not, shall not
2 operate a vehicle upon a highway or other place open to the general
3 public or generally accessible to motor vehicles, including an area
4 designated for the parking of vehicles, within this state if the
5 person is operating while intoxicated. As used in this section,



1 "operating while intoxicated" means any of the following:

2 (a) The person is under the influence of alcoholic liquor, a
3 controlled substance, or other intoxicating substance or a
4 combination of alcoholic liquor, a controlled substance, or other
5 intoxicating substance.

6 (b) The person has an alcohol content of 0.08 grams or more
7 per 100 milliliters of blood, per 210 liters of breath, or per 67
8 milliliters of urine or, beginning October 1, 2021, the person has
9 an alcohol content of 0.10 grams or more per 100 milliliters of
10 blood, per 210 liters of breath, or per 67 milliliters of urine.

11 (c) The person has an alcohol content of 0.17 grams or more
12 per 100 milliliters of blood, per 210 liters of breath, or per 67
13 milliliters of urine.

14 (2) The owner of a vehicle or a person in charge or in control
15 of a vehicle shall not authorize or knowingly permit the vehicle to
16 be operated upon a highway or other place open to the general
17 public or generally accessible to motor vehicles, including an area
18 designated for the parking of motor vehicles, within this state by
19 a person if any of the following apply:

20 (a) The person is under the influence of alcoholic liquor, a
21 controlled substance, other intoxicating substance, or a
22 combination of alcoholic liquor, a controlled substance, or other
23 intoxicating substance.

24 (b) The person has an alcohol content of 0.08 grams or more
25 per 100 milliliters of blood, per 210 liters of breath, or per 67
26 milliliters of urine or, beginning October 1, 2021, the person has
27 an alcohol content of 0.10 grams or more per 100 milliliters of
28 blood, per 210 liters of breath, or per 67 milliliters of urine.

29 (c) The person's ability to operate the motor vehicle is



1 visibly impaired due to the consumption of alcoholic liquor, a
2 controlled substance, or other intoxicating substance, or a
3 combination of alcoholic liquor, a controlled substance, or other
4 intoxicating substance.

5 (3) A person, whether licensed or not, shall not operate a
6 vehicle upon a highway or other place open to the general public or
7 generally accessible to motor vehicles, including an area
8 designated for the parking of vehicles, within this state when, due
9 to the consumption of alcoholic liquor, a controlled substance, or
10 other intoxicating substance, or a combination of alcoholic liquor,
11 a controlled substance, or other intoxicating substance, the
12 person's ability to operate the vehicle is visibly impaired. If a
13 person is charged with violating subsection (1), a finding of
14 guilty under this subsection may be rendered.

15 (4) A person, whether licensed or not, who operates a motor
16 vehicle in violation of subsection (1), (3), or (8) and by the
17 operation of that motor vehicle causes the death of another person
18 is guilty of a crime as follows:

19 (a) Except as provided in subdivisions (b) and (c), the person
20 is guilty of a felony punishable by imprisonment for not more than
21 15 years or a fine of not less than \$2,500.00 or more than
22 \$10,000.00, or both. The judgment of sentence may impose the
23 sanction permitted under section 625n. If the vehicle is not
24 ordered forfeited under section 625n, the court shall order vehicle
25 immobilization under section 904d in the judgment of sentence.

26 (b) If the violation occurs while the person has an alcohol
27 content of 0.17 grams or more per 100 milliliters of blood, per 210
28 liters of breath, or per 67 milliliters of urine, and within 7
29 years of a prior conviction, the person is guilty of a felony



1 punishable by imprisonment for not more than 20 years or a fine of
2 not less than \$2,500.00 or more than \$10,000.00, or both. The
3 judgment of sentence may impose the sanction permitted under
4 section 625n. If the vehicle is not ordered forfeited under section
5 625n, the court shall order vehicle immobilization under section
6 904d in the judgment of sentence.

7 (c) If, at the time of the violation, the person is operating
8 a motor vehicle in a manner proscribed under section 653a and
9 causes the death of a police officer, firefighter, or other
10 emergency response personnel, the person is guilty of a felony
11 punishable by imprisonment for not more than 20 years or a fine of
12 not less than \$2,500.00 or more than \$10,000.00, or both. This
13 subdivision applies regardless of whether the person is charged
14 with the violation of section 653a. The judgment of sentence may
15 impose the sanction permitted under section 625n. If the vehicle is
16 not ordered forfeited under section 625n, the court shall order
17 vehicle immobilization under section 904d in the judgment of
18 sentence.

19 (5) A person, whether licensed or not, who operates a motor
20 vehicle in violation of subsection (1), (3), or (8) and by the
21 operation of that motor vehicle causes a serious impairment of a
22 body function of another person is guilty of a crime as follows:

23 (a) Except as provided in subdivision (b), the person is
24 guilty of a felony punishable by imprisonment for not more than 5
25 years or a fine of not less than \$1,000.00 or more than \$5,000.00,
26 or both. The judgment of sentence may impose the sanction permitted
27 under section 625n. If the vehicle is not ordered forfeited under
28 section 625n, the court shall order vehicle immobilization under
29 section 904d in the judgment of sentence.



1 (b) If the violation occurs while the person has an alcohol
2 content of 0.17 grams or more per 100 milliliters of blood, per 210
3 liters of breath, or per 67 milliliters of urine, and within 7
4 years of a prior conviction, the person is guilty of a felony
5 punishable by imprisonment for not more than 10 years or a fine of
6 not less than \$1,000.00 or more than \$5,000.00, or both. The
7 judgment of sentence may impose the sanction permitted under
8 section 625n. If the vehicle is not ordered forfeited under section
9 625n, the court shall order vehicle immobilization under section
10 904d in the judgment of sentence.

11 (6) A person who is less than 21 years of age, whether
12 licensed or not, shall not operate a vehicle upon a highway or
13 other place open to the general public or generally accessible to
14 motor vehicles, including an area designated for the parking of
15 vehicles, within this state if the person has any bodily alcohol
16 content. As used in this subsection, "any bodily alcohol content"
17 means either of the following:

18 (a) An alcohol content of 0.02 grams or more but less than
19 ~~0.08~~ 0.05 grams per 100 milliliters of blood, per 210 liters of
20 breath, or per 67 milliliters of urine or, beginning October 1,
21 ~~2021~~, 2026, the person has an alcohol content of 0.02 grams or more
22 but less than 0.10 grams per 100 milliliters of blood, per 210
23 liters of breath, or per 67 milliliters of urine.

24 (b) Any presence of alcohol within a person's body resulting
25 from the consumption of alcoholic liquor, other than consumption of
26 alcoholic liquor as a part of a generally recognized religious
27 service or ceremony.

28 (7) A person, whether licensed or not, is subject to the
29 following requirements:



1 (a) He or she shall not operate a vehicle in violation of
2 subsection (1), (3), (4), (5), or (8) while another person who is
3 less than 16 years of age is occupying the vehicle. A person who
4 violates this subdivision is guilty of a crime punishable as
5 follows:

6 (i) Except as provided in subparagraph (ii), a person who
7 violates this subdivision is guilty of a misdemeanor and must be
8 sentenced to pay a fine of not less than \$200.00 or more than
9 \$1,000.00 and to 1 or more of the following:

10 (A) Imprisonment for not less than 5 days or more than 1 year.
11 Not less than 48 hours of this imprisonment must be served
12 consecutively. This term of imprisonment must not be suspended.

13 (B) Community service for not less than 30 days or more than
14 90 days.

15 (ii) If the violation occurs within 7 years of a prior
16 conviction or after 2 or more prior convictions, regardless of the
17 number of years that have elapsed since any prior conviction, a
18 person who violates this subdivision is guilty of a felony and must
19 be sentenced to pay a fine of not less than \$500.00 or more than
20 \$5,000.00 and to either of the following:

21 (A) Imprisonment under the jurisdiction of the department of
22 corrections for not less than 1 year or more than 5 years.

23 (B) Probation with imprisonment in the county jail for not
24 less than 30 days or more than 1 year and community service for not
25 less than 60 days or more than 180 days. Not less than 48 hours of
26 this imprisonment must be served consecutively. This term of
27 imprisonment must not be suspended.

28 (b) He or she shall not operate a vehicle in violation of
29 subsection (6) while another person who is less than 16 years of



1 age is occupying the vehicle. A person who violates this
2 subdivision is guilty of a misdemeanor punishable as follows:

3 (i) Except as provided in subparagraph (ii), a person who
4 violates this subdivision may be sentenced to 1 or more of the
5 following:

6 (A) Community service for not more than 60 days.

7 (B) A fine of not more than \$500.00.

8 (C) Imprisonment for not more than 93 days.

9 (ii) If the violation occurs within 7 years of a prior
10 conviction or after 2 or more prior convictions, regardless of the
11 number of years that have elapsed since any prior conviction, a
12 person who violates this subdivision must be sentenced to pay a
13 fine of not less than \$200.00 or more than \$1,000.00 and to 1 or
14 more of the following:

15 (A) Imprisonment for not less than 5 days or more than 1 year.
16 Not less than 48 hours of this imprisonment must be served
17 consecutively. This term of imprisonment must not be suspended.

18 (B) Community service for not less than 30 days or more than
19 90 days.

20 (c) In the judgment of sentence under subdivision (a) (i) or
21 (b) (i), the court may, unless the vehicle is ordered forfeited under
22 section 625n, order vehicle immobilization as provided in section
23 904d. In the judgment of sentence under subdivision (a) (ii) or
24 (b) (ii), the court shall, unless the vehicle is ordered forfeited
25 under section 625n, order vehicle immobilization as provided in
26 section 904d.

27 (d) This subsection does not prohibit a person from being
28 charged with, convicted of, or punished for a violation of
29 subsection (4) or (5) that is committed by the person while



1 violating this subsection. However, points ~~shall~~**must** not be
2 assessed under section 320a for both a violation of subsection (4)
3 or (5) and a violation of this subsection for conduct arising out
4 of the same transaction.

5 (8) A person, whether licensed or not, shall not operate a
6 vehicle upon a highway or other place open to the general public or
7 generally accessible to motor vehicles, including an area
8 designated for the parking of vehicles, within this state if the
9 person has in his or her body any amount of a controlled substance
10 listed in schedule 1 under section 7212 of the public health code,
11 1978 PA 368, MCL 333.7212, or a rule promulgated under that
12 section, or of a controlled substance described in section
13 7214(a) (iv) of the public health code, 1978 PA 368, MCL 333.7214.

14 (9) If a person is convicted of violating subsection (1) or
15 (8), all of the following apply:

16 (a) Except as otherwise provided in subdivisions (b) and (c),
17 the person is guilty of a misdemeanor punishable by 1 or more of
18 the following:

19 (i) Community service for not more than 360 hours.

20 (ii) Imprisonment for not more than 93 days, or, if the person
21 is convicted of violating subsection (1) (c), imprisonment for not
22 more than 180 days.

23 (iii) A fine of not less than \$100.00 or more than \$500.00, or,
24 if the person is guilty of violating subsection (1) (c), a fine of
25 not less than \$200.00 or more than \$700.00.

26 (b) If the violation occurs within 7 years of a prior
27 conviction, the person must be sentenced to pay a fine of not less
28 than \$200.00 or more than \$1,000.00 and 1 or more of the following:

29 (i) Imprisonment for not less than 5 days or more than 1 year.



1 Not less than 48 hours of the term of imprisonment imposed under
2 this subparagraph must be served consecutively.

3 (ii) Community service for not less than 30 days or more than
4 90 days.

5 (c) If the violation occurs after 2 or more prior convictions,
6 regardless of the number of years that have elapsed since any prior
7 conviction, the person is guilty of a felony and must be sentenced
8 to pay a fine of not less than \$500.00 or more than \$5,000.00 and
9 to either of the following:

10 (i) Imprisonment under the jurisdiction of the department of
11 corrections for not less than 1 year or more than 5 years.

12 (ii) Probation with imprisonment in the county jail for not
13 less than 30 days or more than 1 year and community service for not
14 less than 60 days or more than 180 days. Not less than 48 hours of
15 the imprisonment imposed under this subparagraph must be served
16 consecutively.

17 (d) A term of imprisonment imposed under subdivision (b) or
18 (c) must not be suspended.

19 (e) In the judgment of sentence under subdivision (a), the
20 court may order vehicle immobilization as provided in section 904d.
21 In the judgment of sentence under subdivision (b) or (c), the court
22 shall, unless the vehicle is ordered forfeited under section 625n,
23 order vehicle immobilization as provided in section 904d.

24 (f) In the judgment of sentence under subdivision (b) or (c),
25 the court may impose the sanction permitted under section 625n.

26 (10) A person who is convicted of violating subsection (2) is
27 guilty of a crime as follows:

28 (a) Except as provided in subdivisions (b) and (c), a
29 misdemeanor punishable by imprisonment for not more than 93 days or



1 a fine of not less than \$100.00 or more than \$500.00, or both.

2 (b) If the person operating the motor vehicle violated
3 subsection (4), a felony punishable by imprisonment for not more
4 than 5 years or a fine of not less than \$1,500.00 or more than
5 \$10,000.00, or both.

6 (c) If the person operating the motor vehicle violated
7 subsection (5), a felony punishable by imprisonment for not more
8 than 2 years or a fine of not less than \$1,000.00 or more than
9 \$5,000.00, or both.

10 (11) If a person is convicted of violating subsection (3), all
11 of the following apply:

12 (a) Except as otherwise provided in subdivisions (b) and (c),
13 the person is guilty of a misdemeanor punishable by 1 or more of
14 the following:

15 (i) Community service for not more than 360 hours.

16 (ii) Imprisonment for not more than 93 days.

17 (iii) A fine of not more than \$300.00.

18 (b) If the violation occurs within 7 years of 1 prior
19 conviction, the person must be sentenced to pay a fine of not less
20 than \$200.00 or more than \$1,000.00, and 1 or more of the
21 following:

22 (i) Imprisonment for not less than 5 days or more than 1 year.
23 Not less than 48 hours of the term of imprisonment imposed under
24 this subparagraph must be served consecutively.

25 (ii) Community service for not less than 30 days or more than
26 90 days.

27 (c) If the violation occurs after 2 or more prior convictions,
28 regardless of the number of years that have elapsed since any prior
29 conviction, the person is guilty of a felony and must be sentenced



1 to pay a fine of not less than \$500.00 or more than \$5,000.00 and
2 either of the following:

3 (i) Imprisonment under the jurisdiction of the department of
4 corrections for not less than 1 year or more than 5 years.

5 (ii) Probation with imprisonment in the county jail for not
6 less than 30 days or more than 1 year and community service for not
7 less than 60 days or more than 180 days. Not less than 48 hours of
8 the imprisonment imposed under this subparagraph must be served
9 consecutively.

10 (d) A term of imprisonment imposed under subdivision (b) or
11 (c) must not be suspended.

12 (e) In the judgment of sentence under subdivision (a), the
13 court may order vehicle immobilization as provided in section 904d.
14 In the judgment of sentence under subdivision (b) or (c), the court
15 shall, unless the vehicle is ordered forfeited under section 625n,
16 order vehicle immobilization as provided in section 904d.

17 (f) In the judgment of sentence under subdivision (b) or (c),
18 the court may impose the sanction permitted under section 625n.

19 (12) If a person is convicted of violating subsection (6), all
20 of the following apply:

21 (a) Except as otherwise provided in subdivision (b), the
22 person is guilty of a misdemeanor punishable by 1 or both of the
23 following:

24 (i) Community service for not more than 360 hours.

25 (ii) A fine of not more than \$250.00.

26 (b) If the violation occurs within 7 years of 1 or more prior
27 convictions, the person may be sentenced to 1 or more of the
28 following:

29 (i) Community service for not more than 60 days.



1 (ii) A fine of not more than \$500.00.

2 (iii) Imprisonment for not more than 93 days.

3 (13) In addition to imposing the sanctions prescribed under
4 this section, the court may order the person to pay the costs of
5 the prosecution under the code of criminal procedure, 1927 PA 175,
6 MCL 760.1 to 777.69.

7 (14) A person sentenced to perform community service under
8 this section must not receive compensation and must reimburse the
9 state or appropriate local unit of government for the cost of
10 supervision incurred by the state or local unit of government as a
11 result of the person's activities in that service.

12 (15) If the prosecuting attorney intends to seek an enhanced
13 sentence under this section or a sanction under section 625n based
14 upon the defendant having 1 or more prior convictions, the
15 prosecuting attorney shall include on the complaint and
16 information, or an amended complaint and information, filed in
17 district court, circuit court, municipal court, or family division
18 of circuit court, a statement listing the defendant's prior
19 convictions.

20 (16) If a person is charged with a violation of subsection
21 (1), (3), (4), (5), (7), or (8) or section 625m, the court shall
22 not permit the defendant to enter a plea of guilty or nolo
23 contendere to a charge of violating subsection (6) in exchange for
24 dismissal of the original charge. This subsection does not prohibit
25 the court from dismissing the charge upon the prosecuting
26 attorney's motion.

27 (17) A prior conviction must be established at sentencing by 1
28 or more of the following:

29 (a) A copy of a judgment of conviction.



1 (b) An abstract of conviction.

2 (c) A transcript of a prior trial or a plea-taking or
3 sentencing proceeding.

4 (d) A copy of a court register of actions.

5 (e) A copy of the defendant's driving record.

6 (f) Information contained in a presentence report.

7 (g) An admission by the defendant.

8 (18) Except as otherwise provided in subsection (20), if a
9 person is charged with operating a vehicle while under the
10 influence of a controlled substance or other intoxicating substance
11 or a combination of alcoholic liquor, a controlled substance, or
12 other intoxicating substance in violation of subsection (1) or a
13 local ordinance substantially corresponding to subsection (1), the
14 court shall require the jury to return a special verdict in the
15 form of a written finding or, if the court convicts the person
16 without a jury or accepts a plea of guilty or nolo contendere, the
17 court shall make a finding as to whether the person was under the
18 influence of a controlled substance or other intoxicating substance
19 or a combination of alcoholic liquor, a controlled substance, or
20 other intoxicating substance at the time of the violation.

21 (19) Except as otherwise provided in subsection (20), if a
22 person is charged with operating a vehicle while his or her ability
23 to operate the vehicle was visibly impaired due to his or her
24 consumption of a controlled substance or other intoxicating
25 substance or a combination of alcoholic liquor, a controlled
26 substance, or other intoxicating substance in violation of
27 subsection (3) or a local ordinance substantially corresponding to
28 subsection (3), the court shall require the jury to return a
29 special verdict in the form of a written finding or, if the court



1 convicts the person without a jury or accepts a plea of guilty or
2 nolo contendere, the court shall make a finding as to whether, due
3 to the consumption of a controlled substance or a combination of
4 alcoholic liquor, a controlled substance, or other intoxicating
5 substance, the person's ability to operate a motor vehicle was
6 visibly impaired at the time of the violation.

7 (20) A special verdict described in subsections (18) and (19)
8 is not required if a jury is instructed to make a finding solely as
9 to either of the following:

10 (a) Whether the defendant was under the influence of a
11 controlled substance or a combination of alcoholic liquor, a
12 controlled substance, or other intoxicating substance at the time
13 of the violation.

14 (b) Whether the defendant was visibly impaired due to his or
15 her consumption of a controlled substance or a combination of
16 alcoholic liquor, a controlled substance, or other intoxicating
17 substance at the time of the violation.

18 (21) If a jury or court finds under subsection (18), (19), or
19 (20) that the defendant operated a motor vehicle under the
20 influence of or while impaired due to the consumption of a
21 controlled substance or a combination of a controlled substance, an
22 alcoholic liquor, or other intoxicating substance, the court shall
23 do both of the following:

24 (a) Report the finding to the secretary of state.

25 (b) On a form or forms prescribed by the state court
26 administrator, forward to the department of state police a record
27 that specifies the penalties imposed by the court, including any
28 term of imprisonment, and any sanction imposed under section 625n
29 or 904d.



1 (22) Except as otherwise provided by law, a record described
 2 in subsection (21)(b) is a public record and the department of
 3 state police shall retain the information contained on that record
 4 for not less than 7 years.

5 (23) In a prosecution for a violation of subsection (6), the
 6 defendant bears the burden of proving that the consumption of
 7 alcoholic liquor was a part of a generally recognized religious
 8 service or ceremony by a preponderance of the evidence.

9 (24) The court may order as a condition of probation that a
 10 person convicted of violating subsection (1) or (8), or a local
 11 ordinance substantially corresponding to subsection (1) or (8),
 12 shall not operate a motor vehicle unless that vehicle is equipped
 13 with an ignition interlock device approved, certified, and
 14 installed as required under sections 625k and 625l.

15 **(25) Not later than January 1, 2025, the department of state**
 16 **police shall conduct a safety study regarding the impact of the**
 17 **0.05 bodily alcohol content standard for a violation described in**
 18 **this section and in section 625m. Upon its completion, the study**
 19 **conducted under this subsection must be provided to the legislature**
 20 **and published on the department of state police's public website.**

21 **(26) ~~(25)~~As used in this section:**

22 (a) "Intoxicating substance" means any substance, preparation,
 23 or a combination of substances and preparations other than alcohol
 24 or a controlled substance, that is either of the following:

25 (i) Recognized as a drug in any of the following publications
 26 or their supplements:

27 (A) The official United States Pharmacopoeia.

28 (B) The official Homeopathic Pharmacopoeia of the United
 29 States.



1 (C) The official National Formulary.

2 (ii) A substance, other than food, taken into a person's body,
3 including, but not limited to, vapors or fumes, that is used in a
4 manner or for a purpose for which it was not intended, and that may
5 result in a condition of intoxication.

6 (b) "Prior conviction" means a conviction for any of the
7 following, whether under a law of this state, a local ordinance
8 substantially corresponding to a law of this state, a law of the
9 United States substantially corresponding to a law of this state,
10 or a law of another state substantially corresponding to a law of
11 this state, subject to subsection ~~(27)~~ **(28)** :

12 (i) Except as provided in subsection ~~(26)~~, **(27)**, a violation or
13 attempted violation of any of the following:

14 (A) This section, except a violation of subsection (2), or a
15 violation of any prior enactment of this section in which the
16 defendant operated a vehicle while under the influence of
17 intoxicating or alcoholic liquor or a controlled substance, or a
18 combination of intoxicating or alcoholic liquor and a controlled
19 substance, or while visibly impaired, or with an unlawful bodily
20 alcohol content.

21 (B) Section 625m.

22 (C) Former section 625b.

23 (ii) Negligent homicide, manslaughter, or murder resulting from
24 the operation of a vehicle or an attempt to commit any of those
25 crimes.

26 (iii) Section 601d or 626(3) or (4).

27 **(27)** ~~(26)~~—Except for purposes of the enhancement described in
28 subsection (12) (b), only 1 violation or attempted violation of
29 subsection (6), a local ordinance substantially corresponding to



1 subsection (6), or a law of another state substantially
2 corresponding to subsection (6) may be used as a prior conviction.

3 **(28)** ~~(27)~~—If 2 or more convictions described in subsection
4 ~~(25)~~—**(26)** are convictions for violations arising out of the same
5 transaction, only 1 conviction must be used to determine whether
6 the person has a prior conviction.

7 Sec. 625a. (1) A peace officer may arrest a person without a
8 warrant under either of the following circumstances:

9 (a) The peace officer has reasonable cause to believe the
10 person was, at the time of an accident in this state, the operator
11 of a vehicle involved in the accident and was operating the vehicle
12 in violation of section 625 or a local ordinance substantially
13 corresponding to section 625.

14 (b) The person is found in the driver's seat of a vehicle
15 parked or stopped on a highway or street within this state if any
16 part of the vehicle intrudes into the roadway and the peace officer
17 has reasonable cause to believe the person was operating the
18 vehicle in violation of section 625 or a local ordinance
19 substantially corresponding to section 625.

20 (2) A peace officer who has reasonable cause to believe that a
21 person was operating a vehicle upon a public highway or other place
22 open to the public or generally accessible to motor vehicles,
23 including an area designated for the parking of vehicles, within
24 this state and that the person by the consumption of alcoholic
25 liquor, a controlled substance, or other intoxicating substance or
26 a combination of them may have affected his or her ability to
27 operate a vehicle, or reasonable cause to believe that a person was
28 operating a commercial motor vehicle within the state while the
29 person's blood, breath, or urine contained any measurable amount of



1 alcohol, a controlled substance, or any other intoxicating
2 substance or while the person had any detectable presence of
3 alcoholic liquor, a controlled substance or any other intoxicating
4 substance, or any combination of them, or reasonable cause to
5 believe that a person who is less than 21 years of age was
6 operating a vehicle upon a public highway or other place open to
7 the public or generally accessible to motor vehicles, including an
8 area designated for the parking of vehicles, within this state
9 while the person had any bodily alcohol content as that term is
10 defined in section 625(6), may require the person to submit to a
11 preliminary chemical breath analysis. The following provisions
12 apply to a preliminary chemical breath analysis administered under
13 this subsection:

14 (a) A peace officer may arrest a person based in whole or in
15 part upon the results of a preliminary chemical breath analysis.

16 (b) The results of a preliminary chemical breath analysis are
17 admissible in a criminal prosecution for a crime enumerated in
18 section 625c(1) or in an administrative hearing for 1 or more of
19 the following purposes:

20 (i) To assist the court or hearing officer in determining a
21 challenge to the validity of an arrest. This subparagraph does not
22 limit the introduction of other competent evidence offered to
23 establish the validity of an arrest.

24 (ii) As evidence of the defendant's breath alcohol content, if
25 offered by the defendant to rebut testimony elicited on cross-
26 examination of a defense witness that the defendant's breath
27 alcohol content was higher at the time of the charged offense than
28 when a chemical test was administered under subsection (6).

29 (iii) As evidence of the defendant's breath alcohol content, if



1 offered by the prosecution to rebut testimony elicited on cross-
2 examination of a prosecution witness that the defendant's breath
3 alcohol content was lower at the time of the charged offense than
4 when a chemical test was administered under subsection (6).

5 (c) A person who submits to a preliminary chemical breath
6 analysis remains subject to the requirements of sections 625c,
7 625d, 625e, and 625f for purposes of chemical tests described in
8 those sections.

9 (d) Except as provided in subsection (5), a person who refuses
10 to submit to a preliminary chemical breath analysis upon a lawful
11 request by a peace officer is responsible for a civil infraction.

12 (3) A peace officer shall use the results of a preliminary
13 chemical breath analysis conducted under this section to determine
14 whether to order a person out-of-service under section 319d. A
15 peace officer shall order out-of-service as required under section
16 319d a person who was operating a commercial motor vehicle and who
17 refuses to submit to a preliminary chemical breath analysis as
18 provided in this section. This section does not limit use of other
19 competent evidence by the peace officer to determine whether to
20 order a person out-of-service under section 319d.

21 (4) A person who was operating a commercial motor vehicle and
22 who is requested to submit to a preliminary chemical breath
23 analysis under this section must be advised that refusing a peace
24 officer's request to take a test described in this section is a
25 misdemeanor punishable by imprisonment for not more than 93 days or
26 a fine of not more than \$100.00, or both, and will result in the
27 issuance of a 24-hour out-of-service order.

28 (5) A person who was operating a commercial motor vehicle and
29 who refuses to submit to a preliminary chemical breath analysis



1 upon a peace officer's lawful request is guilty of a misdemeanor
2 punishable by imprisonment for not more than 93 days or a fine of
3 not more than \$100.00, or both.

4 (6) The following provisions apply to chemical tests and
5 analysis of a person's blood, urine, or breath, other than a
6 preliminary chemical breath analysis:

7 (a) The amount of alcohol or presence of a controlled
8 substance or other intoxicating substance in a driver's blood or
9 urine or the amount of alcohol in a person's breath at the time
10 alleged as shown by chemical analysis of the person's blood, urine,
11 or breath is admissible into evidence in any civil or criminal
12 proceeding and is presumed to be the same as at the time the person
13 operated the vehicle.

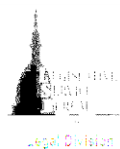
14 (b) A person arrested for a crime described in section 625c(1)
15 must be advised of all of the following:

16 (i) If he or she takes a chemical test of his or her blood,
17 urine, or breath administered at the request of a peace officer, he
18 or she has the right to demand that a person of his or her own
19 choosing administer 1 of the chemical tests.

20 (ii) The results of the test are admissible in a judicial
21 proceeding as provided under this act and will be considered with
22 other admissible evidence in determining the defendant's innocence
23 or guilt.

24 (iii) He or she is responsible for obtaining a chemical analysis
25 of a test sample obtained at his or her own request.

26 (iv) If he or she refuses the request of a peace officer to
27 take a test described in subparagraph (i), a test must not be given
28 without a court order, but the peace officer may seek to obtain a
29 court order.



1 (v) Refusing a peace officer's request to take a test
2 described in subparagraph (i) will result in the suspension of his
3 or her operator's or chauffeur's license and vehicle group
4 designation or operating privilege and in the addition of 6 points
5 to his or her driver record.

6 (c) A sample or specimen of urine or breath must be taken and
7 collected in a reasonable manner. Only a licensed physician, or an
8 individual operating under the delegation of a licensed physician
9 under section 16215 of the public health code, 1978 PA 368, MCL
10 333.16215, qualified to withdraw blood and acting in a medical
11 environment, may withdraw blood at a peace officer's request to
12 determine the amount of alcohol or presence of a controlled
13 substance or other intoxicating substance in the person's blood, as
14 provided in this subsection. Liability for a crime or civil damages
15 predicated on the act of withdrawing or analyzing blood and related
16 procedures does not attach to a licensed physician or individual
17 operating under the delegation of a licensed physician who
18 withdraws or analyzes blood or assists in the withdrawal or
19 analysis in accordance with this act unless the withdrawal or
20 analysis is performed in a negligent manner.

21 (d) A chemical test described in this subsection must be
22 administered at the request of a peace officer having reasonable
23 grounds to believe the person has committed a crime described in
24 section 625c(1). A person who takes a chemical test administered at
25 a peace officer's request as provided in this section must be given
26 a reasonable opportunity to have a person of his or her own
27 choosing administer 1 of the chemical tests described in this
28 subsection within a reasonable time after his or her detention. The
29 test results are admissible and must be considered with other



1 admissible evidence in determining the defendant's innocence or
2 guilt. If the person charged is administered a chemical test by a
3 person of his or her own choosing, the person charged is
4 responsible for obtaining a chemical analysis of the test sample.

5 (e) If, after an accident, the driver of a vehicle involved in
6 the accident is transported to a medical facility and a sample of
7 the driver's blood is withdrawn at that time for medical treatment,
8 the results of a chemical analysis of that sample are admissible in
9 any civil or criminal proceeding to show the amount of alcohol or
10 presence of a controlled substance or other intoxicating substance
11 in the person's blood at the time alleged, regardless of whether
12 the person had been offered or had refused a chemical test. The
13 medical facility or person performing the chemical analysis shall
14 disclose the results of the analysis to a prosecuting attorney who
15 requests the results for use in a criminal prosecution as provided
16 in this subdivision. A medical facility or person disclosing
17 information in compliance with this subsection is not civilly or
18 criminally liable for making the disclosure.

19 (f) If, after an accident, the driver of a vehicle involved in
20 the accident is deceased, a sample of the decedent's blood must be
21 withdrawn in a manner directed by the medical examiner to determine
22 the amount of alcohol or the presence of a controlled substance or
23 other intoxicating substance, or any combination of them, in the
24 decedent's blood. The medical examiner shall give the results of
25 the chemical analysis of the sample to the law enforcement agency
26 investigating the accident and that agency shall forward the
27 results to the department of state police.

28 (g) The department of state police shall promulgate uniform
29 rules in compliance with the administrative procedures act of 1969,



1 1969 PA 306, MCL 24.201 to 24.328, for the administration of
 2 chemical tests for the purposes of this section. An instrument used
 3 for a preliminary chemical breath analysis may be used for a
 4 chemical test described in this subsection if approved under rules
 5 promulgated by the department of state police.

6 (7) The provisions of subsection (6) relating to chemical
 7 testing do not limit the introduction of any other admissible
 8 evidence bearing upon any of the following questions:

9 (a) Whether the person was impaired by, or under the influence
 10 of, alcoholic liquor, a controlled substance or other intoxicating
 11 substance, or a combination of alcoholic liquor, a controlled
 12 substance, or other intoxicating substance.

13 (b) Whether the person had an alcohol content of ~~0.08~~**0.05**
 14 grams or more per 100 milliliters of blood, per 210 liters of
 15 breath, or per 67 milliliters of urine or, beginning October 1,
 16 ~~2021~~**2026**, the person had an alcohol content of 0.10 grams or more
 17 per 100 milliliters of blood, per 210 liters of breath, or per 67
 18 milliliters of urine.

19 (c) If the person is less than 21 years of age, whether the
 20 person had any bodily alcohol content within his or her body. As
 21 used in this subdivision, "any bodily alcohol content" means either
 22 of the following:

23 (i) An alcohol content of 0.02 grams or more but less than ~~0.08~~
 24 **0.05** grams per 100 milliliters of blood, per 210 liters of breath,
 25 or per 67 milliliters of urine or, beginning October 1, ~~2021~~**2026**,
 26 the person had an alcohol content of 0.02 grams or more but less
 27 than 0.10 grams or more per 100 milliliters of blood, per 210
 28 liters of breath, or per 67 milliliters of urine.

29 (ii) Any presence of alcohol within a person's body resulting



1 from the consumption of alcoholic liquor, other than the
2 consumption of alcoholic liquor as a part of a generally recognized
3 religious service or ceremony.

4 (8) If a chemical test described in subsection (6) is
5 administered, the test results must be made available to the person
6 charged or the person's attorney upon written request to the
7 prosecution, with a copy of the request filed with the court. The
8 prosecution shall furnish the results at least 2 days before the
9 day of the trial. The prosecution shall offer the test results as
10 evidence in that trial. Failure to fully comply with the request
11 bars the admission of the results into evidence by the prosecution.

12 (9) A person's refusal to submit to a chemical test as
13 provided in subsection (6) is admissible in a criminal prosecution
14 for a crime described in section 625c(1) only to show that a test
15 was offered to the defendant, but not as evidence in determining
16 the defendant's innocence or guilt. The jury must be instructed
17 accordingly.

18 (10) As used in this section:

19 (a) "Controlled substance" means that term as defined in
20 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

21 (b) "Intoxicating substance" means that term as defined in
22 section 625.

23 Sec. 625g. (1) If a person refuses a chemical test offered
24 under section 625a(6), the peace officer who requested the person
25 to submit to the chemical test shall comply with subdivisions (a)
26 and (b). If a person submits to the chemical test or a chemical
27 test is performed under a court order and the test reveals an
28 unlawful alcohol content, or the presence of a controlled substance
29 or other intoxicating substance, or any combination of them, the



1 peace officer who requested the person to submit to the test shall
2 do all of the following, other than subdivision (b) (i):

3 (a) On behalf of the secretary of state, immediately
4 confiscate the person's license or permit to operate a motor
5 vehicle and, if the person is otherwise eligible for a license or
6 permit, issue a temporary license or permit to the person. The
7 temporary license or permit must be on a form provided by the
8 secretary of state.

9 (b) Except as provided in subsection (2), immediately do all
10 of the following:

11 (i) Forward a copy of the written report of the person's
12 refusal to submit to a chemical test required under section 625d to
13 the secretary of state.

14 (ii) Notify the secretary of state by means of the law
15 enforcement information network that a temporary license or permit
16 was issued to the person.

17 (iii) Destroy the person's driver's license or permit.

18 (2) If a person submits to a chemical test offered under
19 section 625a(6) that requires an analysis of blood or urine and a
20 report of the results of that chemical test is not immediately
21 available, the peace officer who requested the person to submit to
22 the test shall comply with subsection (1) (a) and (b) (ii) and
23 indicate in the notice under subsection (1) (b) (ii) that a subsequent
24 chemical test is pending. If the report reveals an unlawful alcohol
25 content, or the presence of a controlled substance or other
26 intoxicating substance, or any combination of them, the peace
27 officer who requested the person to submit to the test shall
28 immediately comply with subsection (1) (b) (iii). If the report does
29 not reveal an unlawful alcohol content, or the presence of a



1 controlled substance or other intoxicating substance, or any
2 combination of them, the peace officer who requested the person to
3 submit to the test shall immediately notify the person of the test
4 results and immediately return the person's license or permit by
5 first-class mail to the address provided at the time of arrest.

6 (3) A temporary license or permit issued under this section is
7 valid for 1 of the following time periods:

8 (a) If the case is not prosecuted, for 90 days after issuance
9 or until the person's license or permit is suspended under section
10 625f, whichever occurs earlier. The prosecuting attorney shall
11 notify the secretary of state if a case referred to the prosecuting
12 attorney is not prosecuted. The arresting law enforcement agency
13 shall notify the secretary of state if a case is not referred to
14 the prosecuting attorney for prosecution.

15 (b) If the case is prosecuted, until the criminal charges
16 against the person are dismissed, the person is acquitted of those
17 charges, or the person's license or permit is suspended,
18 restricted, or revoked.

19 (4) As used in this section:

20 (a) "Controlled substance" means that term as defined in
21 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

22 (b) "Intoxicating substance" means that term as defined in
23 section 625.

24 (c) "Unlawful alcohol content" means any of the following, as
25 applicable:

26 (i) If the person tested is less than 21 years of age, 0.02
27 grams or more of alcohol per 100 milliliters of blood, per 210
28 liters of breath, or per 67 milliliters of urine.

29 (ii) If the person tested was operating a commercial motor



1 vehicle within this state, 0.04 grams or more of alcohol per 100
 2 milliliters of blood, per 210 liters of breath, or per 67
 3 milliliters of urine.

4 (iii) If the person tested is not a person described in
 5 subparagraph (i) or (ii), ~~0.08~~0.05 grams or more of alcohol per 100
 6 milliliters of blood, per 210 liters of breath, or per 67
 7 milliliters of urine or, beginning October 1, ~~2021~~,2026, 0.10
 8 grams or more of alcohol per 100 milliliters of blood, per 210
 9 liters of breath, or per 67 milliliters of urine.

10 Sec. 625m. (1) A person, whether licensed or not, who has an
 11 alcohol content of 0.04 grams or more but less than ~~0.08~~0.05 grams
 12 per 100 milliliters of blood, per 210 liters of breath, or per 67
 13 milliliters of urine or, beginning October 1, ~~2021~~,2026, an
 14 alcohol content of 0.04 grams or more but less than 0.10 grams per
 15 100 milliliters of blood, per 210 liters of breath, or per 67
 16 milliliters of urine, shall not operate a commercial motor vehicle
 17 within this state.

18 (2) A peace officer may arrest a person without a warrant
 19 under either of the following circumstances:

20 (a) The peace officer has reasonable cause to believe that the
 21 person was, at the time of an accident, the driver of a commercial
 22 motor vehicle involved in the accident and was operating the
 23 vehicle in violation of this section or a local ordinance
 24 substantially corresponding to this section.

25 (b) The person is found in the driver's seat of a commercial
 26 motor vehicle parked or stopped on a highway or street within this
 27 state if any part of the vehicle intrudes into the roadway and the
 28 peace officer has reasonable cause to believe the person was
 29 operating the vehicle in violation of this section or a local



1 ordinance substantially corresponding to this section.

2 (3) Except as otherwise provided in subsections (4) and (5), a
3 person who is convicted of a violation of this section or a local
4 ordinance substantially corresponding to this section is guilty of
5 a misdemeanor punishable by imprisonment for not more than 93 days
6 or a fine of not more than \$300.00, or both, together with costs of
7 the prosecution.

8 (4) A person who violates this section or a local ordinance
9 substantially corresponding to this section within 7 years of 1
10 prior conviction may be sentenced to imprisonment for not more than
11 1 year or a fine of not more than \$1,000.00, or both.

12 (5) A person who violates this section or a local ordinance
13 substantially corresponding to this section within 10 years of 2 or
14 more prior convictions is guilty of a felony and must be sentenced
15 to pay a fine of not less than \$500.00 or more than \$5,000.00 and
16 to either of the following:

17 (a) Imprisonment under the jurisdiction of the department of
18 corrections for not less than 1 year or more than 5 years.

19 (b) Probation with imprisonment in the county jail for not
20 less than 30 days or more than 1 year and community service for not
21 less than 60 days or more than 180 days. Not less than 48 hours of
22 the imprisonment imposed under this subdivision must be served
23 consecutively.

24 (6) A term of imprisonment imposed under subsection (4) or (5)
25 must not be suspended.

26 (7) Subject to subsection (9), as used in this section, "prior
27 conviction" means a conviction for any of the following, whether
28 under a law of this state, a local ordinance substantially
29 corresponding to a law of this state, or a law of another state



1 substantially corresponding to a law of this state:

2 (a) Except as provided in subsection (8), a violation or
3 attempted violation of any of the following:

4 (i) This section.

5 (ii) Section 625, except a violation of section 625(2), or a
6 violation of any prior enactment of section 625 in which the
7 defendant operated a vehicle while under the influence of
8 intoxicating or alcoholic liquor or a controlled substance, or a
9 combination of intoxicating or alcoholic liquor and a controlled
10 substance, or while visibly impaired, or with an unlawful bodily
11 alcohol content.

12 (iii) Former section 625b.

13 (iv) Section 601d or section 626(3) or (4).

14 (b) Negligent homicide, manslaughter, or murder resulting from
15 the operation of a vehicle or an attempt to commit any of those
16 crimes.

17 (8) Only 1 violation or attempted violation of section 625(6),
18 a local ordinance substantially corresponding to section 625(6), or
19 a law of another state substantially corresponding to section
20 625(6) may be used as a prior conviction.

21 (9) If 2 or more convictions described in subsection (7) are
22 convictions for violations arising out of the same transaction,
23 only 1 conviction must be used to determine whether the person has
24 a prior conviction.

25 Enacting section 1. This amendatory act takes effect 90 days
26 after the date it is enacted into law.

27 Enacting section 2. This amendatory act does not take effect
28 unless Senate Bill No.____ or House Bill No.____ (request no.
29 01419'19 a) of the 100th Legislature is enacted into law.

