

HOUSE BILL No. 4617

May 4, 1999, Introduced by Reps. Richardville, Julian, Spade, Patterson, Faunce, DeHart, Voorhees, DeRossett, Mortimer, Rocca, Kuipers, Caul, Toy, Woronchak, DeVuyst, Byl, Garcia, DeWeese, Gosselin, Hager, Kowall, Tabor, Howell, Bovin and Scranton and referred to the Committee on Criminal Law and Corrections.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 319, 319b, 625, 625a, 625i, 625n, and 904d
(MCL 257.319, 257.319b, 257.625, 257.625a, 257.625i, 257.625n,
and 257.904d), section 319 as amended by 1998 PA 347, section
319b as amended by 1998 PA 356, section 625 as amended by 1998 PA
350, section 625a as amended by 1998 PA 351, section 625i as
amended by 1998 PA 354, section 625n as amended by 1998 PA 349,
and section 904d as added by 1998 PA 358.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 319. (1) The secretary of state shall immediately sus-
2 pend a person's license as provided in this section upon receiv-
3 ing a record of the person's conviction for a crime described in
4 this section, whether the conviction is under a law of this
5 state, a local ordinance substantially corresponding to a law of

1 this state, or a law of another state substantially corresponding
2 to a law of this state.

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

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

7 (b) A violation of section 413 of the Michigan penal code,
8 1931 PA 328, MCL 750.413.

9 (c) A violation of section 1 of 1931 PA 214, MCL 752.191.

10 (d) Failing to stop and disclose identity at the scene of an
11 accident resulting in death or serious injury in violation of
12 section 617.

13 (e) A felony in which a motor vehicle was used. As used in
14 this section, "felony in which a motor vehicle was used" means a
15 felony during the commission of which the person convicted oper-
16 ated a motor vehicle and while operating the vehicle presented
17 real or potential harm to persons or property and 1 or more of
18 the following circumstances existed:

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

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

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

23 (iv) The vehicle was necessary for the commission of the
24 felony.

25 (f) A violation of section 602a(2) or (3) of this act or
26 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328,
27 MCL 750.479a.

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

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

5 (b) Reckless driving in violation of section 626.

6 (c) Malicious destruction resulting from the operation of a
7 vehicle under section 382(1)(b), (c), or (d) of the Michigan
8 penal code, 1931 PA 328, MCL 750.382.

9 (d) A violation described in section 367c of the Michigan
10 penal code, 1931 PA 328, MCL 750.367c.

11 (e) A violation of section 703(2) of the Michigan liquor
12 control code of 1998, 1998 PA 58, MCL 436.1703.

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

17 (5) For perjury or making a false certification to the sec-
18 retary of state under any law requiring the registration of a
19 motor vehicle or regulating the operation of a vehicle on a high-
20 way, the secretary shall suspend the person's license as
21 follows:

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

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

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

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

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

8 (7) For a violation of section 624a or 624b of this act or
9 section 703(1) of the Michigan liquor control code of 1998, 1998
10 PA 58, MCL 436.1703, the secretary of state shall suspend the
11 person's license as follows:

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

17 (b) If the person has 2 or more prior convictions for an
18 offense described in this subsection or section 33b(1) of former
19 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may
20 issue the person a restricted license after the first 60 days of
21 suspension.

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

24 (a) For 180 days for a violation of section ~~625(1)~~
25 625(1)(A) OR (B) if the person has no prior convictions within 7
26 years. The secretary of state may issue the person a restricted
27 license during all or a specified portion of the suspension,

1 except that the secretary of state shall not issue a restricted
2 license during the first 30 days of suspension.

3 (B) FOR 1 YEAR FOR A VIOLATION OF SECTION 625(1)(C) IF THE
4 PERSON HAS NO PRIOR CONVICTIONS WITHIN 7 YEARS. THE SECRETARY OF
5 STATE MAY ISSUE THE PERSON A RESTRICTED LICENSE DURING ALL OR A
6 SPECIFIED PORTION OF THE SUSPENSION, EXCEPT THAT THE SECRETARY OF
7 STATE SHALL NOT ISSUE A RESTRICTED LICENSE DURING THE FIRST 90
8 DAYS OF SUSPENSION.

9 (C) ~~-(b)-~~ For 90 days for a violation of section 625(3) if
10 the person has no prior convictions within 7 years. However, if
11 the person is convicted of a violation of section 625(3), for
12 operating a vehicle when, due to the consumption of a controlled
13 substance or a combination of intoxicating liquor and a con-
14 trolled substance, the person's ability to operate the vehicle
15 was visibly impaired, the secretary of state shall suspend the
16 person's license under this subdivision for 180 days. The secre-
17 tary of state may issue the person a restricted license during
18 all or a specified portion of the suspension.

19 (D) ~~-(c)-~~ For 30 days for a violation of section 625(6) if
20 the person has no prior convictions within 7 years. The secre-
21 tary of state may issue the person a restricted license during
22 all or a specified portion of the suspension.

23 (E) ~~-(d)-~~ For 90 days for a violation of section 625(6) if
24 the person has 1 or more prior convictions within 7 years.

25 (F) ~~-(e)-~~ For 180 days for a violation of section 625(7) if
26 the person has no prior convictions within 7 years. The

1 secretary of state may issue the person a restricted license
2 after the first 90 days of suspension.

3 (G) ~~-(f)-~~ For 90 days for a violation of section 625m if the
4 person has no prior convictions within 7 years. The secretary of
5 state may issue the person a restricted license during all or a
6 specified portion of the suspension.

7 (9) Except as provided in subsection (11), a suspension
8 under this section shall be imposed notwithstanding a court
9 order.

10 (10) If the secretary of state receives records of more than
11 1 conviction of a person resulting from the same incident, a sus-
12 pension shall be imposed only for the violation to which the
13 longest period of suspension applies under this section.

14 (11) The secretary of state may waive a suspension of a
15 person's license imposed under this act if the person submits
16 proof that a court in another state revoked, suspended, or
17 restricted his or her license for a period equal to or greater
18 than the period of a suspension prescribed under this act for the
19 violation and that the revocation, suspension, or restriction was
20 served for the violation, or may grant a restricted license.

21 (12) The secretary of state shall not issue a restricted
22 license to a person whose license is suspended under this section
23 unless a restricted license is authorized under this section and
24 the person is otherwise eligible for a license.

25 (13) The secretary of state shall not issue a restricted
26 license to a person under subsection (8) that would permit the

1 person to operate a commercial motor vehicle that hauls hazardous
2 material.

3 (14) A restricted license issued under this section shall
4 permit the person to whom it is issued to drive under 1 or more
5 of the following circumstances:

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

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

8 (i) The person's residence.

9 (ii) The person's work location.

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

12 (iv) The court probation department.

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

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

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

19 (15) While driving, the person shall carry proof of his or
20 her destination and the hours of any employment, class, or other
21 reason for traveling and shall display that proof upon a peace
22 officer's request.

23 (16) Subject to subsection (18), as used in subsection (8),
24 "prior conviction" means a conviction for any of the following,
25 whether under a law of this state, a local ordinance substan-
26 tially corresponding to a law of this state, or a law of another
27 state substantially corresponding to a law of this state:

1 (a) Except as provided in subsection (17), a violation or
2 attempted violation of section 625(1), (3), (4), (5), (6), or
3 (7), section 625m, former section 625(1) or (2), or former sec-
4 tion 625b.

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

8 (17) Except for purposes of the suspensions described in
9 subsection (8)(c) and (d), only 1 violation or attempted viola-
10 tion of section 625(6), a local ordinance substantially corre-
11 sponding to section 625(6), or a law of another state substan-
12 tially corresponding to section 625(6) may be used as a prior
13 conviction.

14 (18) If 2 or more convictions described in subsection (16)
15 are convictions for violations arising out of the same transac-
16 tion, only 1 conviction shall be used to determine whether the
17 person has a prior conviction.

18 Sec. 319b. (1) The secretary of state shall immediately
19 suspend or revoke, as applicable, all vehicle group designations
20 on the operator's or chauffeur's license of a person upon receiv-
21 ing notice of a conviction, bond forfeiture, or civil infraction
22 determination of the person, or notice that a court or adminis-
23 trative tribunal has found the person responsible, for a viola-
24 tion described in this subsection of a law of this state, a local
25 ordinance substantially corresponding to a law of this state, or
26 a law of another state substantially corresponding to a law of
27 this state, or notice that the person has refused to submit to a

1 chemical test of his or her blood, breath, or urine for the
2 purpose of determining the amount of alcohol or presence of a
3 controlled substance or both in the person's blood, breath, or
4 urine while the person was operating a commercial motor vehicle
5 as required by a law or local ordinance of this or another
6 state. The period of suspension or revocation is as follows:

7 (a) Suspension for 60 days if the licensee is convicted of
8 or found responsible for 2 serious traffic violations while oper-
9 ating a commercial motor vehicle arising from separate incidents
10 within 36 months.

11 (b) Suspension for 120 days if the licensee is convicted of
12 or found responsible for 3 serious traffic violations while oper-
13 ating a commercial motor vehicle arising from separate incidents
14 within 36 months.

15 (c) Suspension for 1 year if the licensee is convicted of or
16 found responsible for 1 of the following:

17 (i) A violation of section ~~625(1)~~ 625(1)(A) OR (B), (3),
18 (4), (5), (6), or (7), section 625m, ~~or~~ former section 625(1)
19 or (2), or former section 625b, ~~or a local ordinance substan-~~
20 ~~tially corresponding to section 625(1) or (3), section 625m, or~~
21 ~~former section 625(1) or (2), or former section 625b, or a law of~~
22 ~~another state substantially corresponding to section 625(1), (3),~~
23 ~~(4), (5), (6), or (7), section 625m, or former section 625(1) or~~
24 ~~(2), or former section 625b,~~ while operating a commercial motor
25 vehicle.

26 (ii) Leaving the scene of an accident involving a commercial
27 motor vehicle operated by the licensee.

1 (iii) A felony in which a commercial motor vehicle was
2 used.

3 (iv) A refusal of a peace officer's request to submit to a
4 chemical test of his or her blood, breath, or urine to determine
5 the amount of alcohol or presence of a controlled substance or
6 both in his or her blood, breath, or urine while he or she was
7 operating a commercial motor vehicle as required by a law or
8 local ordinance of this state or another state.

9 (v) A 6-point violation as provided in section 320a while
10 operating a commercial motor vehicle.

11 (d) Suspension for 3 years if the licensee is convicted of
12 or found responsible for ~~an~~ 1 OF THE FOLLOWING:

13 (i) AN offense enumerated in subdivision (c)(i) to (v) in
14 which a commercial motor vehicle was used if the vehicle was car-
15 rying hazardous material required to have a placard pursuant to
16 49 C.F.R. parts 100 to 199.

17 (ii) A VIOLATION OF SECTION 625(1)(C), WHILE OPERATING A
18 COMMERCIAL MOTOR VEHICLE.

19 (e) Revocation for not less than 10 years and until the
20 person is approved for the issuance of a vehicle group designa-
21 tion if a licensee is convicted of or found responsible for 1 of
22 the following:

23 (i) Any combination of 2 violations arising from 2 or more
24 separate incidents under section 625(1), (3), (4), (5), (6), or
25 (7), section 625m, ~~or~~ former section 625(1) or (2), or former
26 section 625b, ~~a local ordinance substantially corresponding to~~
27 ~~section 625(1) or (3), section 625m, or former section 625(1) or~~

1 ~~(2), or former section 625b, or a law of another state~~
2 ~~substantially corresponding to section 625(1), (3), (4), (5),~~
3 ~~(6), or (7), section 625m, or former section 625(1) or (2), or~~
4 ~~former section 625b~~ while driving a commercial motor vehicle.

5 (ii) Two violations of leaving the scene of an accident
6 involving a commercial motor vehicle operated by the licensee.

7 (iii) Two violations of a felony in which a commercial motor
8 vehicle was used.

9 (iv) Two refusals of a request of a police officer to submit
10 to a chemical test of his or her blood, breath, or urine for the
11 purpose of determining the amount of alcohol or presence of a
12 controlled substance or both in his or her blood while he or she
13 was operating a commercial motor vehicle in this state or another
14 state, which refusals occurred in separate incidents.

15 (v) Two 6-point violations as provided in section 320a while
16 operating a commercial motor vehicle.

17 (vi) Two violations, in any combination, of the offenses
18 enumerated under subparagraph (i), (ii), (iii), (iv), or (v)
19 arising from 2 or more separate incidents.

20 (f) Revocation for life if a licensee is convicted of or
21 found responsible for any of the following:

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

1 (ii) A conviction of any offense described in
2 subdivision (c) or (d) after having been approved for the
3 issuance of a vehicle group designation under subdivision (e).

4 (2) The secretary of state shall immediately suspend all
5 vehicle group designations on the operator's or chauffeur's
6 license of a person upon receiving notice of a conviction, bond
7 forfeiture, or civil infraction determination of the person, or
8 notice that a court or administrative tribunal has found the
9 person responsible, for a violation of section 319d(4) or 319f, a
10 local ordinance substantially corresponding to section 319d(4) or
11 319f, or a law or local ordinance of another state, the United
12 States, Canada, Mexico, or a local jurisdiction of either of
13 these countries substantially corresponding to section 319d(4) or
14 319f, while operating a commercial motor vehicle as defined in
15 section 7a. The period of suspension or revocation is as
16 follows:

17 (a) Suspension for 90 days if the licensee is convicted of
18 or found responsible for a violation of section 319d(4) or 319f
19 while operating a commercial motor vehicle.

20 (b) Suspension for 180 days if the licensee is convicted of
21 or found responsible for a violation of section 319d(4) or 319f
22 while operating a commercial motor vehicle that is either carry-
23 ing hazardous material required to have a placard pursuant to 49
24 C.F.R. parts 100 to 199 or designed to carry 16 or more passen-
25 gers, including the driver.

26 (c) Suspension for 1 year if the licensee is convicted of or
27 found responsible for 2 violations, in any combination, of

1 section 319d(4) or 319f while operating a commercial motor
2 vehicle arising from 2 or more separate incidents during a
3 10-year period.

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

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

16 (3) As used in this section:

17 (a) "Felony in which a commercial motor vehicle was used"
18 means a felony during the commission of which the person con-
19 victed operated a commercial motor vehicle and while the person
20 was operating the vehicle 1 or more of the following circum-
21 stances existed:

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

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

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

26 (iv) The vehicle was necessary for the commission of the
27 felony.

1 (b) "Serious traffic violation" means a traffic violation
2 that occurs in connection with an accident in which a person
3 died, careless driving, excessive speeding as defined in the fed-
4 eral administrative regulations promulgated to implement the com-
5 mercial motor vehicle safety act of 1986, title XII of Public Law
6 99-570, 100 Stat. 3207-170, improper lane use, following too
7 closely, or any other serious traffic violation as defined in 49
8 C.F.R. 383.5 or as prescribed under this act.

9 (4) For the purpose of this section only, a bond forfeiture
10 or a determination by a court of original jurisdiction or an
11 authorized administrative tribunal that a person has violated the
12 law is considered a conviction.

13 (5) The secretary of state shall suspend or revoke a vehicle
14 group designation under subsection (1) notwithstanding a suspen-
15 sion, restriction, revocation, or denial of an operator's or
16 chauffeur's license or vehicle group designation under another
17 section of this act or a court order issued under another section
18 of this act or a local ordinance substantially corresponding to
19 another section of this act.

20 (6) When determining the applicability of conditions listed
21 in this section, the secretary of state shall only consider vio-
22 lations that occurred after January 1, 1990.

23 Sec. 625. (1) A person, whether licensed or not, shall not
24 operate a vehicle upon a highway or other place open to the gen-
25 eral public or generally accessible to motor vehicles, including
26 an area designated for the parking of vehicles, within this state
27 if either of the following applies:

1 (a) The person is under the influence of intoxicating
2 liquor, a controlled substance, or a combination of intoxicating
3 liquor and a controlled substance.

4 (b) The person has an alcohol content of 0.10 grams or more
5 BUT LESS THAN 0.20 GRAMS per 100 milliliters of blood, per 210
6 liters of breath, or per 67 milliliters of urine.

7 (C) THE PERSON HAS AN ALCOHOL CONTENT OF 0.20 GRAMS OR MORE
8 PER 100 MILLILITERS OF BLOOD, PER 210 LITERS OF BREATH, OR PER 67
9 MILLILITERS OF URINE.

10 (2) The owner of a vehicle or a person in charge or in con-
11 trol of a vehicle shall not authorize or knowingly permit the
12 vehicle to be operated upon a highway or other place open to the
13 general public or generally accessible to motor vehicles, includ-
14 ing an area designated for the parking of motor vehicles, within
15 this state by a person who is under the influence of intoxicating
16 liquor, a controlled substance, or a combination of intoxicating
17 liquor and a controlled substance or who has an alcohol content
18 of 0.10 grams or more per 100 milliliters of blood, per 210
19 liters of breath, or per 67 milliliters of urine.

20 (3) A person, whether licensed or not, shall not operate a
21 vehicle upon a highway or other place open to the general public
22 or generally accessible to motor vehicles, including an area des-
23 ignated for the parking of vehicles, within this state when, due
24 to the consumption of intoxicating liquor, a controlled sub-
25 stance, or a combination of intoxicating liquor and a controlled
26 substance, the person's ability to operate the vehicle is visibly

1 impaired. If a person is charged with violating subsection (1),
2 a finding of guilty under this subsection may be rendered.

3 (4) A person, whether licensed or not, who operates a motor
4 vehicle in violation of subsection (1) or (3) and by the opera-
5 tion of that motor vehicle causes the death of another person is
6 guilty of a felony punishable by imprisonment for not more than
7 15 years or a fine of not less than \$2,500.00 or more than
8 \$10,000.00, or both. The judgment of sentence may impose the
9 sanction permitted under section 625n or 904d. If the violation
10 occurs within 7 years of a prior conviction or within 10 years of
11 2 or more prior convictions, the court shall, unless the vehicle
12 is ordered forfeited under section 625n, order vehicle immobili-
13 zation under section 904d in the judgment of sentence.

14 (5) A person, whether licensed or not, who operates a motor
15 vehicle in violation of subsection (1) or (3) and by the opera-
16 tion of that motor vehicle causes a serious impairment of a body
17 function of another person is guilty of a felony punishable by
18 imprisonment for not more than 5 years or a fine of not less than
19 \$1,000.00 or more than \$5,000.00, or both. The judgment of sen-
20 tence may impose the sanction permitted under section 625n or
21 904d. If the violation occurs within 7 years of a prior convic-
22 tion or within 10 years of 2 or more prior convictions, the court
23 shall, unless the vehicle is ordered forfeited under section
24 625n, order vehicle immobilization under section 904d in the
25 judgment of sentence. As used in this subsection, "serious
26 impairment of a body function" includes, but is not limited to, 1
27 or more of the following:

- 1 (a) Loss of a limb or use of a limb.
- 2 (b) Loss of a hand, foot, finger, or thumb or use of a hand,
3 foot, finger, or thumb.
- 4 (c) Loss of an eye or ear or use of an eye or ear.
- 5 (d) Loss or substantial impairment of a bodily function.
- 6 (e) Serious visible disfigurement.
- 7 (f) A comatose state that lasts for more than 3 days.
- 8 (g) Measurable brain damage or mental impairment.
- 9 (h) A skull fracture or other serious bone fracture.
- 10 (i) Subdural hemorrhage or subdural hematoma.
- 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
17 content" means either of the following:
 - 18 (a) An alcohol content of not less than 0.02 grams or more
19 than 0.07 grams per 100 milliliters of blood, per 210 liters of
20 breath, or per 67 milliliters of urine.
 - 21 (b) Any presence of alcohol within a person's body resulting
22 from the consumption of intoxicating liquor, other than consump-
23 tion of intoxicating liquor as a part of a generally recognized
24 religious service or ceremony.
- 25 (7) A person who operates a vehicle in violation of subsec-
26 tion (1), (3), (4), (5), or (6) while another person who is less
27 than 16 years of age is occupying the vehicle is guilty of a

1 misdemeanor punishable by imprisonment for not more than 1 year
2 or a fine of not more than \$1,000.00, or both. The judgment of
3 sentence may impose the sanction permitted under section 625n.
4 If the violation occurs within 7 years of a prior conviction or
5 within 10 years of 2 or more prior convictions, the court shall,
6 unless the vehicle is ordered forfeited under section 625n, order
7 vehicle immobilization under section 904d in the judgment of
8 sentence. This section does not prohibit a person from being
9 charged with, convicted of, or punished for a violation of sub-
10 section (1), (3), (4), (5), or (6) that is committed by the
11 person while violating this subsection. However, points shall
12 not be assessed under section 320a for both a violation of sub-
13 section (1), (3), (4), (5), or (6) and a violation of this sub-
14 section for conduct arising out of the same transaction.

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

17 (a) Except as otherwise provided in subdivisions (b) and
18 (c), ~~the~~ A person WHO VIOLATES SUBSECTION (1)(A) OR (B) is
19 guilty of a misdemeanor punishable by 1 or more of the
20 following:

21 (i) Community service for not more than 45 days.

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

23 (iii) A fine of not less than \$100.00 or more than \$500.00.

24 (b) If the violation occurs within 7 years of a prior con-
25 viction, the person shall be sentenced to pay a fine of not less
26 than \$200.00 or more than \$1,000.00 and 1 or more of the
27 following:

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

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

6 (c) If the violation occurs within 10 years of 2 or more
7 prior convictions, the person is guilty of a felony and shall be
8 sentenced to pay a fine of not less than \$500.00 or more than
9 \$5,000.00 and 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
14 not less than 60 days or more than 180 days. Not less than 48
15 hours of the imprisonment imposed under this subparagraph shall
16 be served consecutively.

17 (D) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISIONS (E) AND
18 (F), A PERSON WHO VIOLATES SUBSECTION (1)(C) IS GUILTY OF A MIS-
19 DEMEANOR PUNISHABLE BY 1 OR MORE OF THE FOLLOWING:

20 (i) COMMUNITY SERVICE FOR NOT MORE THAN 90 DAYS.

21 (ii) IMPRISONMENT FOR NOT MORE THAN 180 DAYS.

22 (iii) A FINE OF NOT LESS THAN \$200.00 OR MORE THAN
23 \$1,000.00.

24 (E) IF THE VIOLATION OCCURS WITHIN 7 YEARS OF A PRIOR CON-
25 VICTION, THE PERSON IS GUILTY OF A FELONY AND SHALL BE SENTENCED
26 TO PAY A FINE OF NOT LESS THAN \$400.00 OR MORE THAN \$2,000.00 AND
27 1 OR MORE OF THE FOLLOWING:

1 (i) IMPRISONMENT FOR NOT LESS THAN 2 YEARS.

2 (ii) COMMUNITY SERVICE FOR NOT LESS THAN 60 DAYS OR MORE
3 THAN 180 DAYS.

4 (F) IF THE VIOLATION OCCURS WITHIN 10 YEARS OF 2 OR MORE
5 PRIOR CONVICTIONS, THE PERSON IS GUILTY OF A FELONY AND SHALL BE
6 SENTENCED TO PAY A FINE OF NOT LESS THAN \$1,000.00 OR MORE THAN
7 \$10,000.00 AND TO IMPRISONMENT UNDER THE JURISDICTION OF THE
8 DEPARTMENT OF CORRECTIONS FOR NOT LESS THAN 2 YEARS OR MORE THAN
9 10 YEARS.

10 (G) ~~(d)~~ A term of imprisonment imposed under subdivision
11 ~~(b)(ii) or~~ (B)(i), (c), (E), OR (F) shall not be suspended.

12 (H) ~~(e)~~ In the judgment of sentence under subdivision (a)
13 OR (D), the court may order vehicle immobilization as provided in
14 section 904d. In the judgment of sentence under subdivision (b),
15 ~~or~~ (c), (E), OR (F), the court shall, unless the vehicle is
16 ordered forfeited under section 625n, order vehicle immobiliza-
17 tion as provided in section 904d.

18 (I) ~~(f)~~ In the judgment of sentence under subdivision (b),
19 ~~or~~ (c), (D), (E), OR (F), the court may impose the sanction
20 permitted under section 625n.

21 (9) A person who is convicted of violating subsection (2) is
22 guilty of a crime as follows:

23 (a) Except as provided in subdivisions (b) and (c), a misde-
24 meanor punishable by imprisonment for not more than 93 days or a
25 fine of not less than \$100.00 or more than \$500.00, or both.

26 (b) If the person operating the motor vehicle violated
27 subsection (4), a felony punishable by imprisonment for not more

1 than 5 years or a fine of not less than \$1,500.00 or more than
2 \$10,000.00, or both.

3 (c) If the person operating the motor vehicle violated sub-
4 section (5), a felony punishable by imprisonment for not more
5 than 2 years or a fine of not less than \$1,000.00 or more than
6 \$5,000.00, or both.

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

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

12 (i) Community service for not more than 45 days.

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

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

15 (b) If the violation occurs within 7 years of 1 prior con-
16 viction, the person shall be sentenced to pay a fine of not less
17 than \$200.00 or more than \$1,000.00, and 1 or more of the
18 following:

19 (i) Imprisonment for not less than 5 days or more than 1
20 year. Not less than 48 hours of the term of imprisonment imposed
21 under this subparagraph shall be served consecutively.

22 (ii) Community service for not less than 30 days or more
23 than 90 days.

24 (c) If the violation occurs within 10 years of 2 or more
25 prior convictions, the person is guilty of a felony and shall be
26 sentenced to pay a fine of not less than \$500.00 or more than
27 \$5,000.00 and either of the following:

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

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

8 (d) A term of imprisonment imposed under subdivision (b) or
9 (c) shall not be suspended.

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

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

19 (11) If a person is convicted of violating subsection (6),
20 all 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 45 days.

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

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

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

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

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

7 (12) In addition to imposing the sanctions prescribed under
8 this section, the court may order the person to pay the costs of
9 the prosecution under the code of criminal procedure, 1927
10 PA 175, MCL 760.1 to 776.22.

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

16 (14) If the prosecuting attorney intends to seek an enhanced
17 sentence under this section or a sanction under section 625n or
18 904d based upon the defendant having 1 or more prior convictions,
19 the prosecuting attorney shall include on the complaint and
20 information, or an amended complaint and information, filed in
21 district court, circuit court, municipal court, or family divi-
22 sion of circuit court, a statement listing the defendant's prior
23 convictions.

24 (15) If a person is charged with a violation of subsection
25 (1), (3), (4), (5), or (7) or section 625m, the court shall not
26 permit the defendant to enter a plea of guilty or nolo contendere
27 to a charge of violating subsection (6) in exchange for dismissal

1 of the original charge. This subsection does not prohibit the
2 court from dismissing the charge upon the prosecuting attorney's
3 motion.

4 (16) A prior conviction shall be established at sentencing
5 by 1 or more of the following:

6 (a) An abstract of conviction.

7 (b) A copy of the defendant's driving record.

8 (c) An admission by the defendant.

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

21 (18) Except as otherwise provided in subsection (19), if a
22 person is charged with operating a vehicle while his or her abil-
23 ity to operate the vehicle was visibly impaired due to his or her
24 consumption of a controlled substance or a combination of intoxi-
25 cating liquor and a controlled substance in violation of
26 subsection (3) or a local ordinance substantially corresponding
27 to subsection (3), the court shall require the jury to return a

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

8 (19) A special verdict described in subsections (17) and
9 (18) is not required if a jury is instructed to make a finding
10 solely as to either of the following:

11 (a) Whether the defendant was under the influence of a con-
12 trolled substance or a combination of intoxicating liquor and a
13 controlled substance at the time 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 intoxicating liquor and a controlled substance at the time of the
17 violation.

18 (20) If a jury or court finds under subsection (17), (18),
19 or (19) that the defendant operated a motor vehicle under the
20 influence of or while impaired due to the consumption of a con-
21 trolled substance or a combination of a controlled substance and
22 an intoxicating liquor, the court shall do both of the
23 following:

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

25 (b) On a form or forms prescribed by the state court admin-
26 istrator, forward to the department of state police a record that
27 specifies the penalties imposed by the court, including any term

1 of imprisonment, and any sanction imposed under section 625n or
2 904d.

3 (21) Except as otherwise provided by law, a record described
4 in subsection (20)(b) is a public record and the department of
5 state police shall retain the information contained on that
6 record for not less than 7 years.

7 (22) In a prosecution for a violation of subsection (6), the
8 defendant bears the burden of proving that the consumption of
9 intoxicating liquor was a part of a generally recognized reli-
10 gious service or ceremony by a preponderance of the evidence.

11 (23) Subject to subsection (25), as used in this section,
12 "prior conviction" means a conviction for any of the following,
13 whether under a law of this state, a local ordinance substan-
14 tially corresponding to a law of this state, or a law of another
15 state substantially corresponding to a law of this state:

16 (a) Except as provided in subsection (24), a violation or
17 attempted violation of subsection (1), (3), (4), (5), (6), or
18 (7), section 625m, former section 625(1) or (2), or former sec-
19 tion 625b.

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

23 (24) Except for purposes of the enhancement described in
24 subsection (11)(b), only 1 violation or attempted violation of
25 subsection (6), a local ordinance substantially corresponding to
26 subsection (6), or a law of another state substantially

1 corresponding to subsection (6) may be used as a prior
2 conviction.

3 (25) If 2 or more convictions described in subsection (23)
4 are convictions for violations arising out of the same transac-
5 tion, only 1 conviction shall be used to determine whether the
6 person has a prior conviction.

7 Sec. 625a. (1) A peace officer may arrest a person without
8 a 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 opera-
11 tor of a vehicle involved in the accident and was operating the
12 vehicle in violation of section 625 or a local ordinance substan-
13 tially 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 offi-
17 cer has reasonable cause to believe the person was operating the
18 vehicle in violation of section 625 or a local ordinance substan-
19 tially corresponding to section 625.

20 (2) A peace officer who has reasonable cause to believe that
21 a person was operating a vehicle upon a public highway or other
22 place open to the public or generally accessible to motor vehi-
23 cles, including an area designated for the parking of vehicles,
24 within this state and that the person by the consumption of
25 intoxicating liquor may have affected his or her ability to oper-
26 ate a vehicle, or reasonable cause to believe that a person was
27 operating a commercial motor vehicle within the state while the

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

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

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

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

23 (ii) As evidence of the defendant's breath alcohol content,
24 if offered by the defendant to rebut testimony elicited on
25 cross-examination of a defense witness that the defendant's
26 breath alcohol content was higher at the time of the charged

1 offense than when a chemical test was administered under
2 subsection (6).

3 (iii) As evidence of the defendant's breath alcohol content,
4 if offered by the prosecution to rebut testimony elicited on
5 cross-examination of a prosecution witness that the defendant's
6 breath alcohol content was lower at the time of the charged
7 offense than when a chemical test was administered under subsec-
8 tion (6).

9 (c) A person who submits to a preliminary chemical breath
10 analysis remains subject to the requirements of sections 625c,
11 625d, 625e, and 625f for purposes of chemical tests described in
12 those sections.

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

17 (3) A peace officer shall use the results of a preliminary
18 chemical breath analysis conducted pursuant to this section to
19 determine whether to order a person out-of-service under
20 section 319d. A peace officer shall order out-of-service as
21 required under section 319d a person who was operating a commer-
22 cial motor vehicle and who refuses to submit to a preliminary
23 chemical breath analysis as provided in this section. This sec-
24 tion does not limit use of other competent evidence by the peace
25 officer to determine whether to order a person out-of-service
26 under section 319d.

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

8 (5) A person who was operating a commercial motor vehicle
9 and who refuses to submit to a preliminary chemical breath analy-
10 sis upon a peace officer's lawful request is guilty of a misde-
11 meanor punishable by imprisonment for not more than 93 days or a
12 fine of not more than \$100.00, or both.

13 (6) The following provisions apply with respect to chemical
14 tests and analysis of a person's blood, urine, or breath, other
15 than preliminary chemical breath analysis:

16 (a) The amount of alcohol or presence of a controlled sub-
17 stance or both in a driver's blood or urine or the amount of
18 alcohol in a person's breath at the time alleged as shown by
19 chemical analysis of the person's blood, urine, or breath is
20 admissible into evidence in any civil or criminal proceeding.

21 (b) A person arrested for a crime described in
22 section 625c(1) shall be advised of all of the following:

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

1 (ii) The results of the test are admissible in a judicial
2 proceeding as provided under this act and will be considered with
3 other admissible evidence in determining the defendant's inno-
4 cence or guilt.

5 (iii) He or she is responsible for obtaining a chemical
6 analysis of a test sample obtained pursuant to his or her own
7 request.

8 (iv) If he or she refuses the request of a peace officer to
9 take a test described in subparagraph (i), a test shall not be
10 given without a court order, but the peace officer may seek to
11 obtain a court order.

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

17 (c) A sample or specimen of urine or breath shall be taken
18 and collected in a reasonable manner. Only a licensed physician,
19 or an individual operating under the delegation of a licensed
20 physician under section 16215 of the public health code, 1978 PA
21 368, MCL 333.16215, qualified to withdraw blood and acting in a
22 medical environment, may withdraw blood at a peace officer's
23 request to determine the amount of alcohol or presence of a con-
24 trolled substance or both in the person's blood, as provided in
25 this subsection. Liability for a crime or civil damages predi-
26 cated on the act of withdrawing or analyzing blood and related
27 procedures does not attach to a licensed physician or individual

1 operating under the delegation of a licensed physician who
2 withdraws or analyzes blood or assists in the withdrawal or anal-
3 ysis in accordance with this act unless the withdrawal or analy-
4 sis is performed in a negligent manner.

5 (d) A chemical test described in this subsection shall be
6 administered at the request of a peace officer having reasonable
7 grounds to believe the person has committed a crime described in
8 section 625c(1). A person who takes a chemical test administered
9 at a peace officer's request as provided in this section shall be
10 given a reasonable opportunity to have a person of his or her own
11 choosing administer 1 of the chemical tests described in this
12 subsection within a reasonable time after his or her detention.
13 The test results are admissible and shall be considered with
14 other admissible evidence in determining the defendant's inno-
15 cence or guilt. If the person charged is administered a chemical
16 test by a person of his or her own choosing, the person charged
17 is responsible for obtaining a chemical analysis of the test
18 sample.

19 (e) If, after an accident, the driver of a vehicle involved
20 in the accident is transported to a medical facility and a sample
21 of the driver's blood is withdrawn at that time for medical
22 treatment, the results of a chemical analysis of that sample are
23 admissible in any civil or criminal proceeding to show the amount
24 of alcohol or presence of a controlled substance or both in the
25 person's blood at the time alleged, regardless of whether the
26 person had been offered or had refused a chemical test. The
27 medical facility or person performing the chemical analysis shall

1 disclose the results of the analysis to a prosecuting attorney
2 who requests the results for use in a criminal prosecution as
3 provided in this subdivision. A medical facility or person dis-
4 closing information in compliance with this subsection is not
5 civilly or criminally liable for making the disclosure.

6 (f) If, after an accident, the driver of a vehicle involved
7 in the accident is deceased, a sample of the decedent's blood
8 shall be withdrawn in a manner directed by the medical examiner
9 to determine the amount of alcohol or the presence of a con-
10 trolled substance, or both, in the decedent's blood. The medical
11 examiner shall give the results of the chemical analysis of the
12 sample to the law enforcement agency investigating the accident
13 and that agency shall forward the results to the department of
14 state police.

15 (g) The department of state police shall promulgate uniform
16 rules in compliance with the administrative procedures act of
17 1969, 1969 PA 306, MCL 24.201 to 24.328, for the administration
18 of chemical tests for the purposes of this section. An instru-
19 ment used for a preliminary chemical breath analysis may be used
20 for a chemical test described in this subsection if approved
21 under rules promulgated by the department of state police.

22 (7) The provisions of subsection (6) relating to chemical
23 testing do not limit the introduction of any other admissible
24 evidence bearing upon the question of whether a person was
25 impaired by, or under the influence of, intoxicating liquor or a
26 controlled substance, or a combination of intoxicating liquor and
27 a controlled substance, or whether the person had an alcohol

1 content of 0.10 grams or more per 100 milliliters of blood, per
2 210 liters of breath, or per 67 milliliters of urine, or if the
3 person is less than 21 years of age, whether the person had any
4 bodily alcohol content within his or her body. As used in this
5 section, "any bodily alcohol content" means ~~either of the~~
6 ~~following:~~ THAT TERM AS DEFINED IN SECTION 625(6).

7 ~~(a) An alcohol content of not less than 0.02 grams or more~~
8 ~~than 0.07 grams per 100 milliliters of blood, per 210 liters of~~
9 ~~breath, or per 67 milliliters of urine.~~

10 ~~(b) Any presence of alcohol within a person's body resulting~~
11 ~~from the consumption of intoxicating liquor, other than consump-~~
12 ~~tion of intoxicating liquor as a part of a generally recognized~~
13 ~~religious service or ceremony.~~

14 (8) If a chemical test described in subsection (6) is admin-
15 istered, the test results shall be made available to the person
16 charged or the person's attorney upon written request to the
17 prosecution, with a copy of the request filed with the court.
18 The prosecution shall furnish the results at least 2 days before
19 the day of the trial. The prosecution shall offer the test
20 results as evidence in that trial. Failure to fully comply with
21 the request bars the admission of the results into evidence by
22 the prosecution.

23 (9) Except in a prosecution relating solely to a violation
24 of section 625(1)(b) OR (C) or (6), the amount of alcohol in the
25 driver's blood, breath, or urine at the time alleged as shown by
26 chemical analysis of the person's blood, breath, or urine gives
27 rise to the following presumptions:

1 (a) If there were at the time 0.07 grams or less of alcohol
2 per 100 milliliters of the defendant's blood, per 210 liters of
3 the defendant's breath, or per 67 milliliters of the defendant's
4 urine, it is presumed that the defendant's ability to operate a
5 motor vehicle was not impaired due to the consumption of intoxi-
6 cating liquor and that the defendant was not under the influence
7 of intoxicating liquor.

8 (b) If there were at the time more than 0.07 grams but less
9 than 0.10 grams of alcohol per 100 milliliters of the defendant's
10 blood, per 210 liters of the defendant's breath, or per 67 milli-
11 liters of the defendant's urine, it is presumed that the
12 defendant's ability to operate a vehicle was impaired within the
13 provisions of section 625(3) due to the consumption of intoxicat-
14 ing liquor.

15 (c) If there were at the time 0.10 grams or more of alcohol
16 per 100 milliliters of the defendant's blood, per 210 liters of
17 the breath, or per 67 milliliters of the defendant's urine, it is
18 presumed that the defendant was under the influence of intoxicat-
19 ing liquor.

20 (10) A person's refusal to submit to a chemical test as pro-
21 vided in subsection (6) is admissible in a criminal prosecution
22 for a crime described in section 625c(1) only to show that a test
23 was offered to the defendant, but not as evidence in determining
24 the defendant's innocence or guilt. The jury shall be instructed
25 accordingly.

26 Sec. 625i. (1) The department of state police shall prepare
27 an annual report which shall be designated the Michigan annual

1 drunk driving audit. The secretary of state, circuit court,
2 district court, family division of circuit court, municipal
3 courts, and local units of government in this state shall cooper-
4 ate with the department of state police to provide information
5 necessary for the preparation of the report. A copy of the
6 report prepared under this subsection shall be submitted to the
7 governor, the secretary of the senate, the clerk of the house of
8 representatives, and the secretary of state on July 1 of each
9 year. The report shall contain for each county in the state all
10 of the following information applicable to the immediately pre-
11 ceding calendar year:

12 (a) The number of alcohol related motor vehicle crashes
13 resulting in bodily injury, including a breakdown of the number
14 of those injuries occurring per capita of population and per road
15 mile in the county.

16 (b) The number of alcohol related motor vehicle crashes
17 resulting in death, including the breakdown described in subdivi-
18 sion (a).

19 (c) The number of alcohol related motor vehicle crashes,
20 other than those enumerated in subdivisions (a) and (b), includ-
21 ing the breakdown described in subdivision (a).

22 (d) The number of arrests made for violations of section
23 625(1)(a), ~~or~~ (b), OR (C) or local ordinances substantially
24 corresponding to section 625(1)(a), ~~or~~ (b), OR (C).

25 (e) The number of arrests made for violations of section
26 625(3) or local ordinances substantially corresponding to section
27 625(3).

1 (f) The number of arrests made for violations of
2 section 625(6) or local ordinances substantially corresponding to
3 section 625(6).

4 (g) The number of arrests made for violations of
5 section 625(4) or (5).

6 (h) The number of arrests made for violations of section
7 625(7).

8 (i) The number of operator's or chauffeur's licenses sus-
9 pended pursuant to section 625f.

10 (j) The number of arrests made for violations of
11 section 625m or local ordinances substantially corresponding to
12 section 625m.

13 (2) The secretary of state shall compile a report of dispo-
14 sitions of charges for violations of section 625(1), (3), (4),
15 (5), (6), or (7) or section 625m or section 33b(1) or (2) of
16 former 1933 (Ex Sess) PA 8, section 703(1) or (2) of the Michigan
17 liquor control code of 1998, 1998 PA 58, MCL 436.1703, or local
18 ordinances substantially corresponding to section 625(1), (3), or
19 (6) or section 625m or section 33b(1) or (2) of former 1933 (Ex
20 Sess) PA 8, or section 703(1) or (2) of the Michigan liquor con-
21 trol code of 1998, 1998 PA 58, MCL 436.1703, by each judge for
22 inclusion in the annual report. The report compiled by the sec-
23 retary of state shall include information regarding all of the
24 following:

25 (a) The number of dismissals granted.

26 (b) The number of convictions entered.

- 1 (c) The number of acquittals entered.
- 2 (d) The average length of imprisonment imposed.
- 3 (e) The average length of community service imposed in lieu
4 of imprisonment.
- 5 (f) The average fine imposed.
- 6 (g) The number of vehicles ordered immobilized under section
7 904d.
- 8 (h) The number of vehicles ordered forfeited under section
9 625n.
- 10 (3) The secretary of state shall include in the compilation
11 under subsection (2) the number of licenses suspended, revoked,
12 or restricted for those violations.
- 13 (4) The department of state police shall enter into a con-
14 tract with the university of Michigan transportation research
15 institute, in which the university of Michigan transportation
16 research institute shall evaluate the effect and impact of the
17 1998 legislation addressing drunk and impaired driving in this
18 state and report its findings to the governor and the legislature
19 not later than October 1, 2002.
- 20 Sec. 625n. (1) Except as otherwise provided in this section
21 and in addition to any other penalty provided for in this act,
22 the judgment of sentence for a conviction for a violation of
23 section 625(1) described in section 625(8)(b), ~~or~~ (c), (D),
24 (E), OR (F), a violation of section 625(3) described in section
25 625(10)(b) or (c), a violation of section 625(4), (5), or (7), or
26 a violation of section 904(4) or (5) may require 1 of the
27 following with regard to the vehicle used in the offense if the

1 defendant owns the vehicle in whole or in part or leases the
2 vehicle:

3 (a) Forfeiture of the vehicle if the defendant owns the
4 vehicle in whole or in part.

5 (b) Return of the vehicle to the lessor if the defendant
6 leases the vehicle.

7 (2) The vehicle may be seized pursuant to an order of sei-
8 zure issued by the court having jurisdiction upon a showing of
9 probable cause that the vehicle is subject to forfeiture or
10 return to the lessor.

11 (3) The forfeiture of a vehicle is subject to the interest
12 of the holder of a security interest who did not have prior
13 knowledge of or consent to the violation.

14 (4) Within 14 days after the defendant's conviction for a
15 violation described in subsection (1), the prosecuting attorney
16 may file a petition with the court for the forfeiture of the
17 vehicle or to have the court order return of a leased vehicle to
18 the lessor. The prosecuting attorney shall give notice by
19 first-class mail or other process to the defendant and his or her
20 attorney, to all owners of the vehicle, and to any person holding
21 a security interest in the vehicle that the court may require
22 forfeiture or return of the vehicle.

23 (5) If a vehicle is seized before disposition of the crimi-
24 nal proceedings, a defendant who is an owner or lessee of the
25 vehicle may move the court having jurisdiction over the proceed-
26 ings to require the seizing agency to file a lien against the
27 vehicle and to return the vehicle to the owner or lessee pending

1 disposition of the criminal proceedings. The court shall hear
2 the motion within 7 days after the motion is filed. If the
3 defendant establishes at the hearing that he or she holds the
4 legal title to the vehicle or that he or she has a leasehold
5 interest and that it is necessary for him or her or a member of
6 his or her family to use the vehicle pending the outcome of the
7 forfeiture action, the court may order the seizing agency to
8 return the vehicle to the owner or lessee. If the court orders
9 the return of the vehicle to the owner or lessee, the court shall
10 order the defendant to post a bond in an amount equal to the
11 retail value of the vehicle, and shall also order the seizing
12 agency to file a lien against the vehicle.

13 (6) Within 14 days after notice by the prosecuting attorney
14 is given under subsection (4), the defendant, an owner, lessee,
15 or holder of a security interest may file a claim of interest in
16 the vehicle with the court. Within 21 days after the expiration
17 of the period for filing claims, but before or at sentencing, the
18 court shall hold a hearing to determine the legitimacy of any
19 claim, the extent of any co-owner's equity interest, the liabil-
20 ity of the defendant to any co-lessee, and whether to order the
21 vehicle forfeited or returned to the lessor. In considering
22 whether to order forfeiture, the court shall review the
23 defendant's driving record to determine whether the defendant has
24 multiple convictions under section 625 or a local ordinance sub-
25 stantially corresponding to section 625, or multiple suspensions,
26 restrictions, or denials under section 904, or both. If the
27 defendant has multiple convictions under section 625 or multiple

1 suspensions, restrictions, or denials under section 904, or both,
2 that factor shall weigh heavily in favor of forfeiture.

3 (7) If a vehicle is forfeited under this section, the unit
4 of government that seized the vehicle shall sell the vehicle and
5 dispose of the proceeds in the following order of priority:

6 (a) Pay any outstanding security interest of a secured party
7 who did not have prior knowledge of or consent to the commission
8 of the violation.

9 (b) Pay the equity interest of a co-owner who did not have
10 prior knowledge of or consent to the commission of the
11 violation.

12 (c) Satisfy any order of restitution entered in the prosecu-
13 tion for the violation.

14 (d) Pay the claim of each person who shows that he or she is
15 a victim of the violation to the extent that the claim is not
16 covered by an order of restitution.

17 (e) Pay any outstanding lien against the property that has
18 been imposed by a governmental unit.

19 (f) Pay the proper expenses of the proceedings for forfei-
20 ture and sale, including, but not limited to, expenses incurred
21 during the seizure process and expenses for maintaining custody
22 of the property, advertising, and court costs.

23 (g) The balance remaining after the payment of items (a)
24 through (f) shall be distributed by the court having jurisdiction
25 over the forfeiture proceedings to the unit or units of govern-
26 ment substantially involved in effecting the forfeiture.
27 Seventy-five percent of the money received by a unit of

1 government under this subdivision shall be used to enhance
2 enforcement of the criminal laws and 25% of the money shall be
3 used to implement the crime victim's rights act, 1985 PA 87,
4 MCL 780.751 to 780.834. A unit of government receiving money
5 under this subdivision shall report annually to the department of
6 management and budget the amount of money received under this
7 subdivision that was used to enhance enforcement of the criminal
8 laws and the amount that was used to implement the crime victim's
9 rights act, 1985 PA 87, MCL 780.751 to 780.834.

10 (8) The court may order the defendant to pay to a co-lessee
11 any liability determined under subsection (6). The order may be
12 enforced in the same manner as a civil judgment.

13 (9) The return of a vehicle to the lessor under this section
14 does not affect or impair the lessor's rights or the defendant's
15 obligations under the lease.

16 (10) A person who knowingly conceals, sells, gives away, or
17 otherwise transfers or disposes of a vehicle with the intent to
18 avoid forfeiture or return of the vehicle to the lessor under
19 this section is guilty of a misdemeanor punishable by imprison-
20 ment for not more than 1 year or a fine of not more than
21 \$1,000.00, or both.

22 (11) The failure of the court or prosecutor to comply with
23 any time limit specified in this section does not preclude the
24 court from ordering forfeiture of a vehicle or its return to a
25 lessor, unless the court finds that the owner or claimant suf-
26 fered substantial prejudice as a result of that failure.

1 (12) The forfeiture provisions of this section do not
2 preclude the prosecuting attorney from pursuing a forfeiture
3 proceeding under any other law of this state or a local ordinance
4 substantially corresponding to this section.

5 Sec. 904d. (1) For a violation of section 625, the follow-
6 ing apply:

7 (a) For a violation of section ~~625(1)~~ 625(1)(A) OR (B),
8 (3), (4), (5), or (7) or a local ordinance substantially corre-
9 sponding to section 625(1) or (3), the court may order vehicle
10 immobilization for not more than 180 days.

11 (b) For a VIOLATION OF SECTION 625(1)(C) OR FOR A second
12 violation of section ~~625(1)~~ 625(1)(A) OR (B), (3), (4), (5), or
13 (7) in any combination arising out of separate incidents, the
14 court shall order vehicle immobilization for not less than 24
15 days or more than 180 days.

16 (c) For a SECOND OR SUBSEQUENT VIOLATION OF SECTION
17 625(1)(C) OR FOR A third or subsequent violation of section
18 625(1), (3), (4), (5), or (7) in any combination arising out of
19 separate incidents, the court shall order vehicle immobilization
20 for not less than 6 months or more than 3 years.

21 (2) For a suspension, revocation, or denial under section
22 904, the following apply:

23 (a) For 1 prior suspension, revocation, or denial under
24 section 904 within the past 7 years, the court may order vehicle
25 immobilization for not more than 180 days.

26 (b) For any combination of 2 or 3 prior suspensions,
27 revocations, or denials under section 904 within the past 7

1 years, the court shall order vehicle immobilization for not less
2 than 90 days or more than 180 days.

3 (c) For any combination of 4 or more prior suspensions,
4 revocations, or denials under section 904 within the past 7
5 years, the court shall order vehicle immobilization for not less
6 than 1 year or more than 3 years.

7 (3) The defendant shall provide to the court the vehicle
8 identification number and registration plate number of the vehi-
9 cle involved in the violation.

10 (4) The court shall not order vehicle immobilization under
11 this section if the defendant is not the owner or lessee of the
12 vehicle operated during the violation unless the owner or lessee
13 knowingly permitted the vehicle to be operated in violation of
14 section 625(2) or section 904(1) regardless of whether a convic-
15 tion resulted.

16 (5) An order required to be issued under this section shall
17 not be suspended.

18 (6) If a defendant is ordered imprisoned for the violation
19 for which immobilization is ordered, the period of immobilization
20 shall begin at the end of the period of imprisonment.

21 (7) This section does not apply to any of the following:

22 (a) A suspension, revocation, or denial based on a violation
23 of the support and parenting time enforcement act, 1982 PA 295,
24 MCL 552.601 to 552.650.

25 (b) For a suspension, revocation, or denial under section
26 904, an individual who has no currently effective suspension or
27 denial under section 321a or who has 1 currently effective

1 suspension or denial under section 321a but has never violated a
2 condition of that suspension or denial, and who has no other sus-
3 pensions or revocations or denials under this act.

4 (c) A vehicle that is registered in another state or that is
5 a rental vehicle.

6 (d) Any of the following:

7 (i) A violation of chapter II.

8 (ii) A violation of chapter V.

9 (iii) A violation for failure to change address.

10 (iv) A parking violation.

11 (v) A bad check violation.

12 (vi) An equipment violation.

13 (vii) A pedestrian, passenger, or bicycle violation, other
14 than a violation of section 703(1) or (2) of the Michigan liquor
15 control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordi-
16 nance substantially corresponding to section 703(1) or (2) of the
17 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703,
18 or section 624a or 624b or a local ordinance substantially corre-
19 sponding to section 624a or 624b.

20 (viii) A violation of a local ordinance substantially corre-
21 sponding to a violation described in subparagraphs (i) to (vii).

22 (8) As used in this section, "vehicle immobilization" means
23 requiring the motor vehicle involved in the violation immobilized
24 in a manner provided in section 904e.

25 Enacting section 1. This amendatory act takes effect
26 October 1, 1999.