

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4247**

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 303, 310d, 310e, 319, 320a, 624b, 625, 625a, 625c, 625f, 625g, 625i, 625k, 625l, 625m, and 904d (MCL 257.303, 257.310d, 257.310e, 257.319, 257.320a, 257.624b, 257.625, 257.625a, 257.625c, 257.625f, 257.625g, 257.625i, 257.625k, 257.625l, 257.625m, and 257.904d), section 303 as amended by 2002 PA 422, sections 310d and 625g as amended by 1999 PA 73, section 310e as amended by 2002 PA 554, section 319 as amended by 2002 PA 534, section 320a as amended by 2002 PA 149, section 624b as amended by 1998 PA 349, sections 625 and 625m as amended by 2000 PA 460, section 625a as amended by 1998 PA 351, section 625c as amended by 1998 PA 350, section 625f as amended by 1994 PA 450, section 625i as amended by 1998 PA 354, sections 625k and 625l as amended by 1998 PA 340, and section 904d as amended by 2001 PA

159, and by adding section 1d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1d. "Alcoholic liquor" means that term as defined in
2 section 105 of the Michigan liquor control code of 1998, 1998
3 PA 58, MCL 436.1105.

4 Sec. 303. (1) The secretary of state shall not issue a
5 license under this act to any of the following persons described
6 in subdivisions (a) through (f):

7 (a) A person, as an operator, who is less than 18 years of
8 age, except as otherwise provided in this act.

9 (b) A person, as a chauffeur, who is less than 18 years of
10 age, except as otherwise provided in this act.

11 (c) A person whose license is suspended, revoked, denied, or
12 canceled in any state. If the suspension, revocation, denial, or
13 cancellation is not from the jurisdiction that issued the last
14 license to the person, the secretary of state may issue a license
15 after the expiration of 5 years from the effective date of the
16 most recent suspension, revocation, denial, or cancellation.

17 (d) A person who in the opinion of the secretary of state is
18 afflicted with or suffering from a physical or mental disability
19 or disease preventing that person from exercising reasonable and
20 ordinary control over a motor vehicle while operating the motor
21 vehicle upon the highways.

22 (e) A person who is unable to understand highway warning or
23 direction signs in the English language.

24 (f) A person who is unable to pass a knowledge, skill, or
25 ability test administered by the secretary of state in connection

1 with the issuance of an original operator's or chauffeur's
2 license, original motorcycle indorsement, or an original or
3 renewal of a vehicle group designation or vehicle indorsement.

4 (g) A person who has been convicted of, has received a
5 juvenile disposition for, or has been determined responsible for
6 2 or more moving violations under a law of this state, a local
7 ordinance substantially corresponding to a law of this state, or
8 a law of another state substantially corresponding to a law of
9 this state within the preceding 3 years, if the violations
10 occurred before issuance of an original license to the person in
11 this or another state.

12 (h) A nonresident including a foreign exchange student.

13 (i) A person who has failed to answer a citation or notice to
14 appear in court or for any matter pending or fails to comply with
15 an order or judgment of the court, including, but not limited to,
16 paying all fines, costs, fees, and assessments, in violation of
17 section 321a, until that person answers the citation or notice to
18 appear in court or for any matter pending or complies with an
19 order or judgment of the court, including, but not limited to,
20 paying all fines, costs, fees, and assessments, as provided under
21 section 321a.

22 (j) A person not licensed under this act who has been
23 convicted of, has received a juvenile disposition for, or has
24 been determined responsible for a crime or civil infraction
25 described in section 319, 324, or 904. A person shall be denied
26 a license under this subdivision for the length of time
27 corresponding to the period of the licensing sanction that would

1 have been imposed under section 319, 324, or 904 if the person
2 had been licensed at the time of the violation.

3 (k) A person not licensed under this act who has been
4 convicted of or received a juvenile disposition for committing a
5 crime described in section 319e. A person shall be denied a
6 license under this subdivision for the length of time that
7 corresponds to the period of the licensing sanction that would
8 have been imposed under section 319e if the person had been
9 licensed at the time of the violation.

10 (l) A person not licensed under this act who is determined to
11 have violated section 33b(1) of former 1933 (Ex Sess) PA 8,
12 section 703(1) of the Michigan liquor control code of 1998, 1998
13 PA 58, MCL 436.1703, or section 624a or 624b of this act. The
14 person shall be denied a license under this subdivision for a
15 period of time that corresponds to the period of the licensing
16 sanction that would have been imposed under those sections had
17 the person been licensed at the time of the violation.

18 (m) The secretary of state may deny issuance of an operator's
19 license until the age of 17 to a person not licensed under this
20 act who was convicted of or received a juvenile disposition for
21 violating or attempting to violate section 411a(2) of the
22 Michigan penal code, 1931 PA 328, MCL 750.411a, involving a
23 school when he or she was less than 14 years of age. A person
24 not issued a license under this subdivision is not eligible to
25 begin graduated licensing training until he or she attains 16
26 years of age.

27 (n) The secretary of state may deny issuance of an operator's

1 license to a person less than 21 years of age not licensed under
2 this act who was convicted of or has received a juvenile
3 disposition for violating or attempting to violate
4 section 411a(2) of the Michigan penal code, 1931 PA 328, MCL
5 750.411a, involving a school when he or she was 14 years of age
6 or older, until 3 years after the date of the conviction or
7 juvenile disposition. A person not issued a license under this
8 subdivision is not eligible to begin graduated licensing training
9 or otherwise obtain an original operator's or chauffeur's license
10 until 3 years after the date of the conviction or juvenile
11 disposition.

12 (2) Upon receiving the appropriate records of conviction, the
13 secretary of state shall revoke the operator's or chauffeur's
14 license of a person and deny issuance of an operator's or
15 chauffeur's license to a person having any of the following,
16 whether under a law of this state, a local ordinance
17 substantially corresponding to a law of this state, or a law of
18 another state substantially corresponding to a law of this
19 state:

20 (a) Any combination of 2 convictions within 7 years for
21 reckless driving in violation of section 626.

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

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

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

1 (iii) Negligent homicide, manslaughter, or murder resulting
2 from the operation of a vehicle or an attempt to commit any of
3 those crimes.

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

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

10 (i) A violation or attempted violation of section ~~625(1),~~
11 ~~(3), (4), (5), or (7).~~

12 ~~—— (ii) A violation of former section 625(1) or (2) or former~~
13 ~~section 625b.~~

14 ~~—— (iii) A violation or attempted violation of section 625m.~~
15 **625, except a violation of section 625(2), or a violation of any**
16 **prior enactment of section 625 in which the defendant operated a**
17 **vehicle while under the influence of intoxicating or alcoholic**
18 **liquor or a controlled substance, or a combination of**
19 **intoxicating or alcoholic liquor and a controlled substance, or**
20 **while visibly impaired, or with an unlawful bodily alcohol**
21 **content.**

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

23 (iii) Former section 625b.

24 (d) One conviction for a violation or attempted violation of
25 section 315(5), section 601b(3), section 601c(2), section 602a(4)
26 or (5), section 617, section 625(4) or (5), section 653a(4), or
27 section 904(4) or (5).

1 (e) One conviction of negligent homicide, manslaughter, or
2 murder resulting from the operation of a vehicle or an attempt to
3 commit any of those crimes.

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

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

12 (i) A violation or attempted violation of section ~~625(1),~~
13 ~~(3), (4), (5), or (7).~~

14 ~~—— (ii) A violation of former section 625(1) or (2) or former~~
15 ~~section 625b.~~

16 ~~—— (iii) A violation or attempted violation of section 625m.~~
17 **625, except a violation of section 625(2), or a violation of any**
18 **prior enactment of section 625 in which the defendant operated a**
19 **vehicle while under the influence of intoxicating or alcoholic**
20 **liquor or a controlled substance, or a combination of**
21 **intoxicating or alcoholic liquor and a controlled substance, or**
22 **while visibly impaired, or with an unlawful bodily alcohol**
23 **content.**

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

25 **(iii) Former section 625b.**

26 (3) The secretary of state shall revoke a license under
27 subsection (2) notwithstanding a court order unless the court

1 order complies with section 323.

2 (4) The secretary of state shall not issue a license under
3 this act to a person whose license has been revoked under this
4 act or revoked and denied under subsection (2) until all of the
5 following occur, as applicable:

6 (a) The later of the following:

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

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

12 (b) For a denial under subsection (2)(a), (b), (c), and (g),
13 the person rebuts by clear and convincing evidence the
14 presumption resulting from the prima facie evidence that he or
15 she is a habitual offender. The convictions that resulted in the
16 revocation and denial constitute prima facie evidence that he or
17 she is a habitual offender.

18 (c) The person meets the requirements of the department.

19 (5) Multiple convictions or civil infraction determinations
20 resulting from the same incident shall be treated as a single
21 violation for purposes of denial or revocation of a license under
22 this section.

23 (6) As used in this section, "felony in which a motor vehicle
24 was used" means a felony during the commission of which the
25 person operated a motor vehicle and while operating the vehicle
26 presented real or potential harm to persons or property and 1 or
27 more of the following circumstances existed:

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

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

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

5 (d) The vehicle was necessary for the commission of the
6 felony.

7 Sec. 310d. (1) A license issued under this act to a person
8 not previously licensed in this or in another state shall be
9 designated as probationary for 3 years after the date of
10 issuance. During the first 12 months of probation, the license
11 may be suspended or probationary terms and conditions may be
12 imposed upon failure of the licensee to appear before a
13 magistrate, as provided in this chapter, or upon conviction of
14 the licensee or determination of the licensee's responsibility
15 for a moving violation in this state. The period of suspension
16 or the probationary terms and conditions shall not be for more
17 than 12 months and shall be determined by the secretary of state
18 at an examination of the driver by the secretary of state.

19 (2) Upon completion of the first 12 months of probation, the
20 secretary of state may require a licensee to be reexamined by the
21 secretary of state if the licensee's driving record contains any
22 of the following:

23 (a) A conviction or civil infraction determination for a
24 moving violation that was assessed 4 or more points as provided
25 in section 320a.

26 (b) Three convictions or 3 civil infraction determinations,
27 or a combination of convictions and civil infraction

1 determinations that equals 3, for moving violations.

2 (c) A total of 6 or more points as provided in section 320a.

3 (d) A conviction or civil infraction determination for a
4 moving violation and an accident for which the official police
5 report indicates the licensee had been drinking ~~intoxicating~~
6 **alcoholic** liquor.

7 (e) A conviction or civil infraction determination for a
8 moving violation and an accident for which the official police
9 report indicates a moving violation on the part of the licensee.

10 (f) Three accidents for which the official police report
11 indicates a moving violation on the part of the licensee.

12 (g) A suspension pursuant to section 625f.

13 (3) The probationary period shall be extended beyond 3 years
14 and the secretary of state may reexamine a licensee as provided
15 in subsection (2) if any of the following occur and are recorded
16 on the licensee's driving record during the last 10 months of the
17 probationary period:

18 (a) A moving violation resulting in a conviction or civil
19 infraction determination.

20 (b) An accident for which the official police report
21 indicates a moving violation on the part of the licensee.

22 (c) An accident for which the official police report
23 indicates the licensee had been drinking ~~intoxicating~~ **alcoholic**
24 liquor.

25 (d) A license suspension for a reason other than a mental or
26 physical disability.

27 (4) The probationary period shall be extended pursuant to

1 subsection (3) until the licensee completes 10 consecutive months
2 without a moving violation, accident, or suspension enumerated in
3 subsection (3).

4 (5) Upon completion of a reexamination, the secretary of
5 state may suspend or impose probationary terms and conditions on
6 the license of a probationary licensee, except that a
7 reexamination for subsection (2)(d), (e), or (f) shall not result
8 in a license suspension or the imposition of probationary terms
9 or conditions.

10 (6) For 24 months immediately after a licensee's probationary
11 period, the secretary of state may require the licensee to be
12 reexamined by the secretary of state if the licensee's driver
13 record has a total of 9 or more points, as provided in section
14 320a, imposed in a period of 2 years and if the licensee's record
15 contains 1 or more of the following:

16 (a) A conviction for a violation **or attempted violation** of
17 ~~section 625(1), (3), (4), (5), (6), or (7), section 625m, former~~
18 ~~section 625(1) or (2), or former section 625b, a local ordinance~~
19 ~~substantially corresponding to section 625(1), (3), or (6),~~
20 ~~section 625m, former section 625(1) or (2), or former section~~
21 ~~625b, or a law of another state substantially corresponding to~~
22 ~~section 625(1), (3), (4), (5), (6), or (7), section 625m, former~~
23 ~~section 625(1) or (2), or former section 625b.~~ **any of the**
24 **following:**

25 (i) **Section 625, except a violation of section 625(2), or a**
26 **violation of any prior enactment of section 625 in which the**
27 **defendant operated a vehicle while under the influence of**

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

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

6 (iii) Former section 625b.

7 (iv) A local ordinance substantially corresponding to a
8 conviction described in this subdivision.

9 (v) A law of another state substantially corresponding to a
10 conviction described in this subdivision.

11 ~~(b) A conviction for driving while visibly impaired due to~~
12 ~~consumption of intoxicating liquor, a controlled substance, or a~~
13 ~~combination of intoxicating liquor and a controlled substance.~~

14 (b) ~~-(e)-~~ A suspension of the licensee's license pursuant to
15 section 625f.

16 (c) ~~-(d)-~~ An accident for which the official police report
17 indicates a moving violation on the part of the licensee.

18 (d) ~~-(e)-~~ An accident for which the official police report
19 indicates the licensee had been drinking ~~intoxicating~~ **alcoholic**
20 liquor.

21 (7) Upon completion of a reexamination under subsection (6),
22 the secretary of state may suspend the license of the licensee,
23 except that a reexamination for subsection (6)(d) or (e) shall
24 not result in a license suspension or restriction.

25 (8) If a licensee fails to appear for a reexamination
26 scheduled by the secretary of state pursuant to this section, the
27 licensee's license may be suspended immediately and remain

1 suspended until the licensee appears for a reexamination by the
2 secretary of state.

3 (9) Notice of a reexamination required under this section
4 shall be given by first-class mail to the last known address of
5 the licensee.

6 (10) For purposes of this section:

7 (a) Upon conviction for a moving violation, the date of the
8 violation shall be used in determining whether the conviction
9 occurred within the probationary period.

10 (b) Upon entry of a civil infraction determination for a
11 moving violation, the date of the violation shall be used in
12 determining whether the civil infraction determination occurred
13 within the probationary period.

14 (c) Information of a reexamination shall not be placed on a
15 driver's record unless the secretary of state suspends a license
16 or imposes probationary terms and conditions.

17 (d) A suspension shall be considered part of a driving record
18 from the date the suspension is imposed until the suspension is
19 terminated.

20 (e) The date of the official police report shall be used in
21 determining whether a licensee was driving a motor vehicle
22 involved in an accident for which the official police report
23 indicates a moving violation on the part of the licensee or
24 indicates the licensee had been drinking ~~intoxicating~~ **alcoholic**
25 liquor.

26 Sec. 310e. (1) Except as otherwise provided in this act, an
27 operator's or chauffeur's license issued to a person who is 17

1 years of age or less shall be in a form as prescribed in section
2 310 beginning July 1, 2003, and is valid only upon the issuance
3 of a graduated driver license.

4 (2) The secretary of state shall designate graduated
5 licensing provisions in a manner that clearly indicates that the
6 person is subject to the appropriate provisions described in this
7 section.

8 (3) Except as otherwise provided in section 303, a person who
9 is not less than 14 years and 9 months of age may be issued a
10 level 1 graduated licensing status to operate a motor vehicle if
11 the person has satisfied all of the following conditions:

12 (a) Passed a vision test and met health standards as
13 prescribed by the secretary of state.

14 (b) Successfully completed segment 1 of a driver education
15 course approved by the department of education including a
16 minimum of 6 hours of on-the-road driving time with the
17 instructor.

18 (c) Received written approval of a parent or legal guardian.

19 (4) A person issued a level 1 graduated licensing status may
20 operate a motor vehicle only when accompanied either by a
21 licensed parent or legal guardian or, with the permission of the
22 parent or legal guardian, a licensed driver 21 years of age or
23 older. Except as otherwise provided in this section, a person is
24 restricted to operating a motor vehicle with a level 1 graduated
25 licensing status for not less than 6 months.

26 (5) A person may be issued a level 2 graduated licensing
27 status to operate a motor vehicle if the person has satisfied all

1 of the following conditions:

2 (a) Had a level 1 graduated licensing status for not less
3 than 6 months.

4 (b) Successfully completed segment 2 of a driver education
5 course approved by the department of education.

6 (c) Not incurred a moving violation resulting in a conviction
7 or civil infraction determination or been involved in an accident
8 for which the official police report indicates a moving violation
9 on the part of the person during the 90-day period immediately
10 preceding application.

11 (d) Presented a certification by the parent or guardian that
12 he or she, accompanied by his or her licensed parent or legal
13 guardian or, with the permission of the parent or legal guardian,
14 any licensed driver 21 years of age or older, has accumulated a
15 total of not less than 50 hours of behind-the-wheel experience
16 including not less than 10 nighttime hours.

17 (e) Successfully completed a secretary of state approved
18 performance road test. The secretary of state may enter into an
19 agreement with another public or private person or agency,
20 including a city, village, or township, to conduct this
21 performance road test. This subdivision applies to a person 16
22 years of age or over only if the person has satisfied
23 subdivisions (a), (b), (c), and (d).

24 (6) A person issued a level 2 graduated licensing status
25 under subsection (5) shall remain at level 2 for not less than 6
26 months and shall not operate a motor vehicle within this state
27 from 12 midnight to 5 a.m. unless accompanied by a parent or

1 legal guardian or a licensed driver over the age of 21 designated
2 by the parent or legal guardian, or except when going to or from
3 employment.

4 (7) The provisions and provisional period described in
5 subsection (4) or (6) shall be expanded or extended, or both,
6 beyond the periods described in subsection (4) or (6) if any of
7 the following occur and are recorded on the licensee's driving
8 record during the provisional periods described in subsection (4)
9 or (6) or any additional periods imposed under this subsection:

10 (a) A moving violation resulting in a conviction, civil
11 infraction determination, or probate court disposition.

12 (b) An accident for which the official police report
13 indicates a moving violation on the part of the licensee.

14 (c) A license suspension for a reason other than a mental or
15 physical disability.

16 (d) A violation of subsection (4) or (6).

17 (8) The provisional period described in subsection (4) shall
18 be extended under subsection (7) until the licensee completes 90
19 consecutive days without a moving violation, an accident in which
20 a moving violation resulted, accident, suspension, or provisional
21 period violation listed in subsection (7) or until age 18,
22 whichever occurs first. The provisional period described in
23 subsection (6) shall be extended under subsection (7) until the
24 licensee completes 12 consecutive months without a moving
25 violation, accident, suspension, or restricted period violation
26 listed in subsection (7) or until age 18, whichever occurs
27 first.

1 (9) A person who is not less than 17 years of age may be
2 issued a level 3 graduated licensing status under this subsection
3 if the person has completed 12 consecutive months without a
4 moving violation, an accident in which a moving violation
5 resulted, accident, suspension, or restricted period violation
6 listed in subsection (7) while the person was issued a level 2
7 graduated licensing status under subsection (5).

8 (10) Notice shall be given by first-class mail to the last
9 known address of a licensee if the provisions are expanded or
10 extended as described in subsection (7).

11 (11) A person who violates subsection (4) or (6) is
12 responsible for a civil infraction.

13 (12) If a person is determined responsible for a violation of
14 subsection (4) or (6), the secretary of state shall send written
15 notification of any conviction or moving violation to a
16 designated parent or guardian of the person.

17 (13) For purposes of this section:

18 (a) Upon conviction for a moving violation, the date of the
19 arrest for the violation shall be used in determining whether the
20 conviction occurred within a provisional licensure period under
21 this section.

22 (b) Upon entry of a civil infraction determination for a
23 moving violation, the date of issuance of a citation for a civil
24 infraction shall be used in determining whether the civil
25 infraction determination occurred within a provisional licensure
26 period under this section.

27 (c) The date of the official police report shall be used in

1 determining whether a licensee was driving a motor vehicle
2 involved in an accident for which the official police report
3 indicates a moving violation on the part of the licensee or
4 indicates the licensee had been drinking ~~intoxicating~~ **alcoholic**
5 liquor.

6 (14) A person shall have his or her graduated licensing
7 status in his or her immediate possession at all times when
8 operating a motor vehicle, and shall display the card upon demand
9 of a police officer. A person who violates this subsection is
10 responsible for a civil infraction.

11 (15) This section does not apply to a person 15 years of age
12 or older who is currently enrolled but has not completed a driver
13 education course on April 1, 1997 or who has completed a driver
14 education course but has not acquired his or her driver license
15 on April 1, 1997.

16 Sec. 319. (1) The secretary of state shall immediately
17 suspend a person's license as provided in this section upon
18 receiving a record of the person's conviction for a crime
19 described in this section, whether the conviction is under a law
20 of this state, a local ordinance substantially corresponding to a
21 law of this state, or a law of another state substantially
22 corresponding to a law of this state.

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

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

27 (b) A violation of section 413 of the Michigan penal code,

1 1931 PA 328, MCL 750.413.

2 (c) A violation of section 1 of former 1931 PA 214,
3 MCL 752.191, or section 626c.

4 (d) A felony in which a motor vehicle was used. As used in
5 this section, "felony in which a motor vehicle was used" means a
6 felony during the commission of which the person convicted
7 operated a motor vehicle and while operating the vehicle
8 presented real or potential harm to persons or property and 1 or
9 more of the following circumstances existed:

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

11 (ii) The vehicle was used to transport a victim of the
12 felony.

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

14 (iv) The vehicle was necessary for the commission of the
15 felony.

16 (e) A violation of section 602a(2) or (3) of this act or
17 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328,
18 MCL 750.479a.

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

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

23 (b) A violation of section 601b(2), section 601c(1), section
24 626, or section 653a(3).

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

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

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

7 (5) For perjury or making a false certification to the
8 secretary of state under any law requiring the registration of a
9 motor vehicle or regulating the operation of a vehicle on a
10 highway, or for conduct prohibited under section 324(1) or a
11 local ordinance substantially corresponding to section 324(1),
12 the secretary shall suspend the person's license as follows:

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

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

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

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

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

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

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

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

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

13 (a) For 180 days for a violation of section 625(1) **or (8)** if
14 the person has no prior convictions within 7 years. The
15 secretary of state may issue the person a restricted license
16 during ~~all or~~ a specified portion of the suspension, except
17 that the secretary of state shall not issue a restricted license
18 during the first 30 days of suspension.

19 (b) For 90 days for a violation of section 625(3) if the
20 person has no prior convictions within 7 years. However, if the
21 person is convicted of a violation of section 625(3), for
22 operating a vehicle when, due to the consumption of a controlled
23 substance or a combination of ~~intoxicating~~ **alcoholic** liquor and
24 a controlled substance, the person's ability to operate the
25 vehicle was visibly impaired, the secretary of state shall
26 suspend the person's license under this subdivision for 180
27 days. The secretary of state may issue the person a restricted

1 license during all or a specified portion of the suspension.

2 (c) For 30 days for a violation of section 625(6) if the
3 person has no prior convictions within 7 years. The secretary of
4 state may issue the person a restricted license during all or a
5 specified portion of the suspension.

6 (d) For 90 days for a violation of section 625(6) if the
7 person has 1 or more prior convictions for that offense within 7
8 years.

9 (e) For 180 days for a violation of section 625(7) if the
10 person has no prior convictions within 7 years. The secretary of
11 state may issue the person a restricted license after the first
12 90 days of suspension.

13 (f) For 90 days for a violation of section 625m if the person
14 has no prior convictions within 7 years. The secretary of state
15 may issue the person a restricted license during all or a
16 specified portion of the suspension.

17 (9) For a violation of section 367c of the Michigan penal
18 code, 1931 PA 328, MCL 750.367c, the secretary of state shall
19 suspend the person's license as follows:

20 (a) If the person has no prior conviction for an offense
21 described in this subsection within 7 years, for 6 months.

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

24 (10) For a violation of section 315(4), the secretary of
25 state may suspend the person's license for 6 months.

26 (11) For a violation or attempted violation of
27 section 411a(2) of the Michigan penal code, 1931 PA 328,

1 MCL 750.411a, involving a school, the secretary of state shall
2 suspend the license of a person 14 years of age or over but less
3 than 21 years of age until 3 years after the date of the
4 conviction or juvenile disposition for the violation. The
5 secretary of state may issue the person a restricted license
6 after the first 365 days of suspension.

7 (12) Except as provided in subsection (14), a suspension
8 under this section shall be imposed notwithstanding a court order
9 unless the court order complies with section 323.

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

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

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

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

1 person to operate a commercial motor vehicle that transports
2 hazardous material in amounts requiring a placard under the
3 hazardous materials regulations, 49 C.F.R. parts 100 to 199.

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

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

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

9 (i) The person's residence.

10 (ii) The person's work location.

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

13 (iv) The court probation department.

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

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

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

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

24 (19) Subject to subsection (21), as used in subsection (8),
25 "prior conviction" means a conviction for any of the following,
26 whether under a law of this state, a local ordinance
27 substantially corresponding to a law of this state, or a law of

1 another state substantially corresponding to a law of this
2 state:

3 (a) Except as provided in subsection (20), a violation or
4 attempted violation of ~~section 625(1), (3), (4), (5), (6), or~~
5 ~~(7), section 625m, former section 625(1) or (2), or former~~
6 ~~section 625b.~~ any of the following:

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

14 (ii) Section 625m.

15 (iii) Former section 625b.

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

19 (20) Except for purposes of the suspensions described in
20 subsection (8)(c) and (d), only 1 violation or attempted
21 violation of section 625(6), a local ordinance substantially
22 corresponding to section 625(6), or a law of another state
23 substantially corresponding to section 625(6) may be used as a
24 prior conviction.

25 (21) If 2 or more convictions described in subsection (19)
26 are convictions for violations arising out of the same
27 transaction, only 1 conviction shall be used to determine whether

1 the person has a prior conviction.

2 Sec. 320a. (1) The secretary of state, within 10 days after
3 the receipt of a properly prepared abstract from this or another
4 state, shall record the date of conviction, civil infraction
5 determination, or probate court disposition, and the number of
6 points for each, based on the following formula, except as
7 otherwise provided in this section and section 629c:

8 (a) Manslaughter, negligent homicide, or a felony
9 resulting from the operation of a motor vehicle, ORV, or
10 snowmobile.....6 points

11 (b) A violation of section 601b(2) or (3), 601c(1)
12 or (2), or 653a(3) or (4).....6 points

13 (c) A violation of section 625(1), (4), (5), ~~or~~
14 (7), **or (8)**, section 81134 or 82127(1) of the natural
15 resources and environmental protection act, 1994 PA 451,
16 MCL 324.81134 and 324.82127, or a law or ordinance
17 substantially corresponding to section 625(1), (4), (5),
18 ~~or~~ (7), **or (8)**, or ~~—~~ section 81134 or 82127(1) of the
19 natural resources and environmental protection act, 1994
20 PA 451, MCL 324.81134 and 324.82127.....6 points

21 (d) Failing to stop and disclose identity at the
22 scene of an accident when required by law.....6 points

23 (e) Operating a motor vehicle in violation of
24 section 626.....6 points

25 (f) Fleeing or eluding an officer..... 6 points

26 (g) Violation of section 627(9) pertaining to speed
27 in a designated work area by exceeding the lawful maximum

- 1 by more than 15 miles per hour.....5 points
- 2 (h) Violation of any law other than the law
- 3 described in subdivision (g) or ordinance pertaining to
- 4 speed by exceeding the lawful maximum by more than 15
- 5 miles per hour.....4 points
- 6 (i) Violation of section 625(3) or (6), section
- 7 81135 or 82127(3) of the natural resources and
- 8 environmental protection act, 1994 PA 451, MCL 324.81135
- 9 and 324.82127, or a law or ordinance substantially
- 10 corresponding to section 625(3) or (6) or ~~—~~ section
- 11 81135 or 82127(3) of the natural resources and
- 12 environmental protection act, 1994 PA 451, MCL 324.81135
- 13 and 324.82127.....4 points
- 14 (j) Violation of section 626a or a law or ordinance
- 15 substantially corresponding to section 626a.....4 points
- 16 (k) Violation of section 653a(2)..... 4 points
- 17 (l) Violation of section 627(9) pertaining to speed
- 18 in a designated work area by exceeding the lawful maximum
- 19 by more than 10 but not more than 15 miles per hour.....4 points
- 20 (m) Violation of any law other than the law
- 21 described in subdivision (l) or ordinance pertaining to
- 22 speed by exceeding the lawful maximum by more than 10 but
- 23 not more than 15 miles per hour or careless driving in
- 24 violation of section 626b or a law or ordinance
- 25 substantially corresponding to section 626b.....3 points
- 26 (n) Violation of section 627(9) pertaining to speed
- 27 in a designated work area by exceeding the lawful maximum

- 1 by 10 miles per hour or less.....3 points
- 2 (o) Violation of any law other than the law
- 3 described in subdivision (n) or ordinance pertaining to
- 4 speed by exceeding the lawful maximum by 10 miles per
- 5 hour or less.....2 points
- 6 (p) Disobeying a traffic signal or stop sign, or
- 7 improper passing.....3 points
- 8 (q) Violation of section 624a, 624b, or a law or
- 9 ordinance substantially corresponding to section 624a or
- 10 624b.....2 points
- 11 (r) Violation of section 310e(4) or (6) or a law or
- 12 ordinance substantially corresponding to section 310e(4)
- 13 or (6).....2 points
- 14 (s) All other moving violations pertaining to the
- 15 operation of motor vehicles reported under this section..2 points
- 16 (t) A refusal by a person less than 21 years of age
- 17 to submit to a preliminary breath test required by a
- 18 peace officer under section 625a.....2 points
- 19 (2) Points shall not be entered for a violation of section
- 20 310e(14), 311, 625m, 658, 717, 719, 719a, or 723.
- 21 (3) Points shall not be entered for bond forfeitures.
- 22 (4) Points shall not be entered for overweight loads or for
- 23 defective equipment.
- 24 (5) If more than 1 conviction, civil infraction
- 25 determination, or probate court disposition results from the same
- 26 incident, points shall be entered only for the violation that
- 27 receives the highest number of points under this section.

1 (6) If a person has accumulated 9 points as provided in this
2 section, the secretary of state may call the person in for an
3 interview as to the person's driving ability and record after due
4 notice as to time and place of the interview. If the person
5 fails to appear as provided in this subsection, the secretary of
6 state shall add 3 points to the person's record.

7 (7) If a person violates a speed restriction established by
8 an executive order issued during a state of energy emergency as
9 provided by 1982 PA 191, MCL 10.81 to 10.89, the secretary of
10 state shall enter points for the violation pursuant to subsection
11 (1).

12 (8) The secretary of state shall enter 6 points upon the
13 record of a person whose license is suspended or denied pursuant
14 to section 625f. However, if a conviction, civil infraction
15 determination, or probate court disposition results from the same
16 incident, additional points for that offense shall not be
17 entered.

18 (9) If a Michigan driver commits a violation in another state
19 that would be a civil infraction if committed in Michigan, and a
20 conviction results solely because of the failure of the Michigan
21 driver to appear in that state to contest the violation, upon
22 receipt of the abstract of conviction by the secretary of state,
23 the violation shall be noted on the driver's record, but no
24 points shall be assessed against his or her driver's license.

25 Sec. 624b. (1) A person less than 21 years of age shall not
26 knowingly transport or possess alcoholic liquor in a motor
27 vehicle as an operator or occupant unless the person is employed

1 by a licensee under the Michigan liquor control code of 1998,
2 1998 PA 58, MCL 436.1101 to 436.2303, a common carrier designated
3 by the liquor control commission under the Michigan liquor
4 control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, the
5 liquor control commission, or an agent of the liquor control
6 commission and is transporting or having the alcoholic liquor in
7 a motor vehicle under the person's control during regular working
8 hours and in the course of the person's employment. This section
9 does not prevent a person less than 21 years of age from
10 knowingly transporting alcoholic liquor in a motor vehicle if a
11 person at least 21 years of age is present inside the motor
12 vehicle. A person who violates this subsection is guilty of a
13 misdemeanor. As part of the sentence, the person may be ordered
14 to perform community service and undergo substance abuse
15 screening and assessment at his or her own expense as described
16 in section 703(1) of the Michigan liquor control code of 1998,
17 1998 PA 58, MCL 436.1703.

18 (2) Within 30 days after the conviction for a violation of
19 subsection (1) by the operator of a motor vehicle, which
20 conviction has become final, the arresting law enforcement
21 officer or the officer's superior may make a complaint before the
22 court from which the warrant was issued. The complaint shall be
23 under oath and shall describe the motor vehicle in which
24 alcoholic liquor was possessed or transported by the operator,
25 who is less than 21 years of age, in committing the violation and
26 requesting that the motor vehicle be impounded as provided in
27 this section. Upon the filing of the complaint, the court shall

1 issue to the owner of the motor vehicle an order to show cause
2 why the motor vehicle should not be impounded. The order to show
3 cause shall fix a date and time for a hearing, which shall not be
4 less than 10 days after the issuance of the order. The order
5 shall be served by delivering a true copy to the owner not less
6 than 3 full days before the date of hearing or, if the owner
7 cannot be located, by sending a true copy by certified mail to
8 the last known address of the owner. If the owner is a
9 nonresident of the state, service may be made upon the secretary
10 of state as provided in section 403.

11 (3) If the court determines upon the hearing of the order to
12 show cause, from competent and relevant evidence, that at the
13 time of the commission of the violation the motor vehicle was
14 being driven by the person less than 21 years of age with the
15 express or implied consent or knowledge of the owner in violation
16 of subsection (1), and that the use of the motor vehicle is not
17 needed by the owner in the direct pursuit of the owner's
18 employment or the actual operation of the owner's business, the
19 court may authorize the impounding of the vehicle for a period of
20 not less than 15 days or more than 30 days. The court's order
21 authorizing the impounding of the vehicle shall authorize a law
22 enforcement officer to take possession without other process of
23 the motor vehicle wherever located and to store the vehicle in a
24 public or private garage at the expense and risk of the owner of
25 the vehicle. The owner of the vehicle may appeal the order to
26 the circuit court and the provisions governing the taking of
27 appeals from judgments for damages apply to the appeal. This

1 section does not prevent a bona fide lienholder from exercising
2 rights under a lien.

3 (4) A person who knowingly transfers title to a motor vehicle
4 for the purpose of avoiding this section is guilty of a
5 misdemeanor.

6 (5) A law enforcement agency, upon determining that a person
7 less than 18 years of age allegedly violated this section, shall
8 notify the parent or parents, custodian, or guardian of the
9 person as to the nature of the violation if the name of a parent,
10 guardian, or custodian is reasonably ascertainable by the law
11 enforcement agency. The notice required by this subsection shall
12 be made not later than 48 hours after the law enforcement agency
13 determines that the person who allegedly violated this section is
14 less than 18 years of age and may be made in person, by
15 telephone, or by first-class mail.

16 ~~(6) As used in this section, "alcoholic liquor" means that~~
17 ~~term as defined in section 105 of the Michigan liquor control~~
18 ~~code of 1998, 1998 PA 58, MCL 436.1105.~~

19 Sec. 625. (1) A person, whether licensed or not, shall not
20 operate a vehicle upon a highway or other place open to the
21 general public or generally accessible to motor vehicles,
22 including an area designated for the parking of vehicles, within
23 this state if **the person is operating while intoxicated. As used**
24 **in this section, "operating while intoxicated" means** either of
25 the following applies:

26 (a) The person is under the influence of ~~intoxicating~~
27 **alcoholic** liquor, a controlled substance, or a combination of

1 ~~intoxicating~~ **alcoholic** liquor and a controlled substance.

2 (b) The person has an alcohol content of ~~0.10~~ **0.08** grams or
 3 more per 100 milliliters of blood, per 210 liters of breath, or
 4 per 67 milliliters of urine **<<, or, beginning October 1, 2013, the person
 has an alcohol content of 0.10 grams or more per 100 milliliters of
 blood, per 210 liters of breath, or per 67 milliliters of urine>>.**

5 (2) The owner of a vehicle or a person in charge or in
 6 control of a vehicle shall not authorize or knowingly permit the
 7 vehicle to be operated upon a highway or other place open to the
 8 general public or generally accessible to motor vehicles,
 9 including an area designated for the parking of motor vehicles,
 10 within this state by a person ~~<<who is under the influence of
 11 ~~intoxicating~~ ~~liquor, a controlled substance, or a
 12 combination of intoxicating~~ ~~liquor and a controlled
 13 substance, who has an alcohol content of 0.10~~ ~~grams or
 14 more per 100 milliliters of blood, per 210 liters of breath, or
 15 per 67 milliliters of urine, or whose ability to operate the
 16 motor vehicle is visibly impaired due to the consumption of
 17 ~~intoxicating~~ ~~liquor, a controlled substance, or a
 18 combination of intoxicating~~ ~~liquor and a controlled
 19 substance. if any of the following apply:~~~~~~

(a) The person is under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.

(b) The person has an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning October 1, 2013, the person has an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(c) The person's ability to operate the motor vehicle is visibly impaired due to the consumption of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.>>

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

23 designated for the parking of vehicles, within this state when,
24 due to the consumption of ~~intoxicating~~ **alcoholic** liquor, a
25 controlled substance, or a combination of ~~intoxicating~~
26 **alcoholic** liquor and a controlled substance, the person's ability
27 to operate the vehicle is visibly impaired. If a person is

1 charged with violating subsection (1), a finding of guilty under
2 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), **or (8)** and by
5 the operation of that motor vehicle causes the death of another
6 person is guilty of a crime as follows:

7 (a) Except as provided in subdivision (b), the person is
8 guilty of a felony punishable by imprisonment for not more than
9 15 years or a fine of not less than \$2,500.00 or more than
10 \$10,000.00, or both. The judgment of sentence may impose the
11 sanction permitted under section 625n. If the vehicle is not
12 ordered forfeited under section 625n, the court shall order
13 vehicle immobilization under section 904d in the judgment of
14 sentence.

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

27 (5) A person, whether licensed or not, who operates a motor

1 vehicle in violation of subsection (1), ~~or~~ (3), **or (8)** and by
 2 the operation of that motor vehicle causes a serious impairment
 3 of a body function of another person is guilty of a felony
 4 punishable by imprisonment for not more than 5 years or a fine of
 5 not less than \$1,000.00 or more than \$5,000.00, or both. The
 6 judgment of sentence may impose the sanction permitted under
 7 section 625n. If the vehicle is not ordered forfeited under
 8 section 625n, the court shall order vehicle immobilization under
 9 section 904d in the judgment of sentence. ~~As used in this~~
 10 ~~subsection, "serious impairment of a body function" includes, but~~
 11 ~~is not limited to, 1 or more of the following:~~

- 12 ~~—— (a) Loss of a limb or use of a limb.~~
- 13 ~~—— (b) Loss of a hand, foot, finger, or thumb or use of a hand,~~
 14 ~~foot, finger, or thumb.~~
- 15 ~~—— (c) Loss of an eye or ear or use of an eye or ear.~~
- 16 ~~—— (d) Loss or substantial impairment of a bodily function.~~
- 17 ~~—— (e) Serious visible disfigurement.~~
- 18 ~~—— (f) A comatose state that lasts for more than 3 days.~~
- 19 ~~—— (g) Measurable brain damage or mental impairment.~~
- 20 ~~—— (h) A skull fracture or other serious bone fracture.~~
- 21 ~~—— (i) Subdural hemorrhage or subdural hematoma.~~

22 (6) A person who is less than 21 years of age, whether
 23 licensed or not, shall not operate a vehicle upon a highway or
 24 other place open to the general public or generally accessible to
 25 motor vehicles, including an area designated for the parking of
 26 vehicles, within this state if the person has any bodily alcohol
 27 content. As used in this subsection, "any bodily alcohol

House Bill No. 4247 as amended July 2, 2003

1 content" means either of the following:

2 (a) An alcohol content of not less than 0.02 grams or more
3 **but less** than ~~0.07~~ **0.08** grams per 100 milliliters of blood, per
4 210 liters of breath, or per 67 milliliters of urine **<<, or, beginning**
October 1, 2013, the person has an alcohol content of not less than 0.02
grams or more but less than 0.10 grams per 100 milliliters of blood, per
210 liters of breath, or per 67 milliliters of urine>>.

5 (b) Any presence of alcohol within a person's body resulting
6 from the consumption of ~~intoxicating~~ **alcoholic** liquor, other
7 than consumption of ~~intoxicating~~ **alcoholic** liquor as a part of
8 a generally recognized religious service or ceremony.

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

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

16 (i) Except as provided in subparagraph (ii), a person who
17 violates this subdivision is guilty of a misdemeanor and shall be
18 sentenced to pay a fine of not less than \$200.00 or more than
19 \$1,000.00 and to 1 or more of the following:

20 (A) Imprisonment for not less than 5 days or more than 1
21 year. Not less than 48 hours of this imprisonment shall be
22 served consecutively. This term of imprisonment shall not be
23 suspended.

24 (B) Community service for not less than 30 days or more than
25 90 days.

26 (ii) If the violation occurs within 7 years of a prior
27 conviction or within 10 years of 2 or more prior convictions, a

1 person who violates this subdivision is guilty of a felony and
2 shall be sentenced to pay a fine of not less than \$500.00 or more
3 than \$5,000.00 and to either of the following:

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

6 (B) Probation with imprisonment in the county jail for not
7 less than 30 days or more than 1 year and community service for
8 not less than 60 days or more than 180 days. Not less than 48
9 hours of this imprisonment shall be served consecutively. This
10 term of imprisonment shall not be suspended.

11 (b) He or she shall not operate a vehicle in violation of
12 subsection (6) while another person who is less than 16 years of
13 age is occupying the vehicle. A person who violates this
14 subdivision is guilty of a misdemeanor punishable as follows:

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

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

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

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

21 (ii) If the violation occurs within 7 years of a prior
22 conviction or within 10 years of 2 or more prior convictions, a
23 person who violates this subdivision shall be sentenced to pay a
24 fine of not less than \$200.00 or more than \$1,000.00 and to 1 or
25 more of the following:

26 (A) Imprisonment for not less than 5 days or more than 1
27 year. Not less than 48 hours of this imprisonment shall be

1 served consecutively. This term of imprisonment shall not be
2 suspended.

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

5 (c) In the judgment of sentence under subdivision (a)(i) or
6 (b)(i), the court may, unless the vehicle is ordered forfeited
7 under section 625n, order vehicle immobilization as provided in
8 section 904d. In the judgment of sentence under subdivision
9 (a)(ii) or (b)(ii), the court shall, unless the vehicle is
10 ordered forfeited under section 625n, order vehicle
11 immobilization as provided in section 904d.

12 (d) This subsection does not prohibit a person from being
13 charged with, convicted of, or punished for a violation of
14 subsection (4) or (5) that is committed by the person while
15 violating this subsection. However, points shall not be assessed
16 under section 320a for both a violation of subsection (4) or (5)
17 and a violation of this subsection for conduct arising out of the
18 same transaction.

19 (8) A person, whether licensed or not, shall not operate a
20 vehicle upon a highway or other place open to the general public
21 or generally accessible to motor vehicles, including an area
22 designated for the parking of vehicles, within this state if the
23 person has in his or her body any amount of a controlled
24 substance listed in schedule 1 under section 7212 of the public
25 health code, 1978 PA 368, MCL 333.7212, or a rule promulgated
26 under that section, or of a controlled substance described in
27 section 7214(a)(iv) of the public health code, 1978 PA 368, MCL

1 333.7214.

2 (9) ~~(8)~~ If a person is convicted of violating subsection
3 (1) or (8), all of the following apply:

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

7 (i) Community service for not more than ~~45 days~~ 360 hours.

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

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

10 (b) If the violation occurs within 7 years of a prior
11 conviction, the person shall be sentenced to pay a fine of not
12 less than \$200.00 or more than \$1,000.00 and 1 or more of the
13 following:

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

17 (ii) Community service for not less than 30 days or more than
18 90 days.

19 (c) If the violation occurs within 10 years of 2 or more
20 prior convictions, the person is guilty of a felony and shall be
21 sentenced to pay a fine of not less than \$500.00 or more than
22 \$5,000.00 and to either of the following:

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

25 (ii) Probation with imprisonment in the county jail for not
26 less than 30 days or more than 1 year and community service for
27 not less than 60 days or more than 180 days. Not less than 48

1 hours of the imprisonment imposed under this subparagraph shall
2 be served consecutively.

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

5 (e) In the judgment of sentence under subdivision (a), the
6 court may order vehicle immobilization as provided in
7 section 904d. In the judgment of sentence under subdivision (b)
8 or (c), the court shall, unless the vehicle is ordered forfeited
9 under section 625n, order vehicle immobilization as provided in
10 section 904d.

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

13 **(10)** ~~-(9)-~~ A person who is convicted of violating subsection
14 (2) is guilty of a crime as follows:

15 (a) Except as provided in subdivisions (b) and (c), a
16 misdemeanor punishable by imprisonment for not more than 93 days
17 or a fine of not less than \$100.00 or more than \$500.00, or
18 both.

19 (b) If the person operating the motor vehicle violated
20 subsection (4), a felony punishable by imprisonment for not more
21 than 5 years or a fine of not less than \$1,500.00 or more than
22 \$10,000.00, or both.

23 (c) If the person operating the motor vehicle violated
24 subsection (5), a felony punishable by imprisonment for not more
25 than 2 years or a fine of not less than \$1,000.00 or more than
26 \$5,000.00, or both.

27 **(11)** ~~-(10)-~~ If a person is convicted of violating subsection

1 (3), all of the following apply:

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

5 (i) Community service for not more than ~~45 days~~ **360 hours**.

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

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

8 (b) If the violation occurs within 7 years of 1 prior
9 conviction, the person shall be sentenced to pay a fine of not
10 less than \$200.00 or more than \$1,000.00, and 1 or more of the
11 following:

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

15 (ii) Community service for not less than 30 days or more than
16 90 days.

17 (c) If the violation occurs within 10 years of 2 or more
18 prior convictions, the person is guilty of a felony and shall be
19 sentenced to pay a fine of not less than \$500.00 or more than
20 \$5,000.00 and either of the following:

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

23 (ii) Probation with imprisonment in the county jail for not
24 less than 30 days or more than 1 year and community service for
25 not less than 60 days or more than 180 days. Not less than 48
26 hours of the imprisonment imposed under this subparagraph shall
27 be served consecutively.

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

3 (e) In the judgment of sentence under subdivision (a), the
4 court may order vehicle immobilization as provided in
5 section 904d. In the judgment of sentence under subdivision (b)
6 or (c), the court shall, unless the vehicle is ordered forfeited
7 under section 625n, order vehicle immobilization as provided in
8 section 904d.

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

11 **(12)** ~~-(11)-~~ If a person is convicted of violating
12 subsection (6), all of the following apply:

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

16 (i) Community service for not more than ~~45 days~~ **360 hours**.

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

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

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

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

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

24 **(13)** ~~-(12)-~~ In addition to imposing the sanctions prescribed
25 under this section, the court may order the person to pay the
26 costs of the prosecution under the code of criminal procedure,
27 1927 PA 175, MCL 760.1 to ~~776.22~~ **777.69**.

1 **(14)** ~~-(13)-~~ A person sentenced to perform community service
2 under this section shall not receive compensation and shall
3 reimburse the state or appropriate local unit of government for
4 the cost of supervision incurred by the state or local unit of
5 government as a result of the person's activities in that
6 service.

7 **(15)** ~~-(14)-~~ If the prosecuting attorney intends to seek an
8 enhanced sentence under this section or a sanction under section
9 625n based upon the defendant having 1 or more prior convictions,
10 the prosecuting attorney shall include on the complaint and
11 information, or an amended complaint and information, filed in
12 district court, circuit court, municipal court, or family
13 division of circuit court, a statement listing the defendant's
14 prior convictions.

15 **(16)** ~~-(15)-~~ If a person is charged with a violation of
16 subsection (1), (3), (4), (5), ~~or~~ (7), **or (8)** or section 625m,
17 the court shall not permit the defendant to enter a plea of
18 guilty or nolo contendere to a charge of violating subsection (6)
19 in exchange for dismissal of the original charge. This
20 subsection does not prohibit the court from dismissing the charge
21 upon the prosecuting attorney's motion.

22 **(17)** ~~-(16)-~~ A prior conviction shall be established at
23 sentencing by 1 or more of the following:

- 24 (a) An abstract of conviction.
25 (b) A copy of the defendant's driving record.
26 (c) An admission by the defendant.

27 **(18)** ~~-(17)-~~ Except as otherwise provided in subsection ~~-(19)-~~

1 **(20)**, if a person is charged with operating a vehicle while under
2 the influence of a controlled substance or a combination of
3 ~~intoxicating~~ **alcoholic** liquor and a controlled substance in
4 violation of subsection (1) or a local ordinance substantially
5 corresponding to subsection (1), the court shall require the jury
6 to return a special verdict in the form of a written finding or,
7 if the court convicts the person without a jury or accepts a plea
8 of guilty or nolo contendere, the court shall make a finding as
9 to whether the person was under the influence of a controlled
10 substance or a combination of ~~intoxicating~~ **alcoholic** liquor and
11 a controlled substance at the time of the violation.

12 **(19)** ~~-(18)-~~ Except as otherwise provided in subsection ~~-(19)-~~
13 **(20)**, if a person is charged with operating a vehicle while his
14 or her ability to operate the vehicle was visibly impaired due to
15 his or her consumption of a controlled substance or a combination
16 of ~~intoxicating~~ **alcoholic** liquor and a controlled substance in
17 violation of subsection (3) or a local ordinance substantially
18 corresponding to subsection (3), the court shall require the jury
19 to return a special verdict in the form of a written finding or,
20 if the court convicts the person without a jury or accepts a plea
21 of guilty or nolo contendere, the court shall make a finding as
22 to whether, due to the consumption of a controlled substance or a
23 combination of ~~intoxicating~~ **alcoholic** liquor and a controlled
24 substance, the person's ability to operate a motor vehicle was
25 visibly impaired at the time of the violation.

26 **(20)** ~~-(19)-~~ A special verdict described in subsections ~~-(17)-~~
27 ~~and~~ ~~-(18)-~~ **(18)** **and** **(19)** is not required if a jury is instructed

1 to make a finding solely as to either of the following:

2 (a) Whether the defendant was under the influence of a
3 controlled substance or a combination of ~~intoxicating~~ **alcoholic**
4 liquor and a controlled substance at the time of the violation.

5 (b) Whether the defendant was visibly impaired due to his or
6 her consumption of a controlled substance or a combination of
7 ~~intoxicating~~ **alcoholic** liquor and a controlled substance at the
8 time of the violation.

9 **(21)** ~~-(20)-~~ If a jury or court finds under subsection ~~-(17),~~
10 (18), ~~or~~ (19), **or (20)** that the defendant operated a motor
11 vehicle under the influence of or while impaired due to the
12 consumption of a controlled substance or a combination of a
13 controlled substance and an ~~intoxicating~~ **alcoholic** liquor, the
14 court shall do both of the following:

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

16 (b) On a form or forms prescribed by the state court
17 administrator, forward to the department of state police a record
18 that specifies the penalties imposed by the court, including any
19 term of imprisonment, and any sanction imposed under section 625n
20 or 904d.

21 **(22)** ~~-(21)-~~ Except as otherwise provided by law, a record
22 described in subsection ~~-(20)(b)-~~ **(21)(b)** is a public record and
23 the department of state police shall retain the information
24 contained on that record for not less than 7 years.

25 **(23)** ~~-(22)-~~ In a prosecution for a violation of subsection
26 (6), the defendant bears the burden of proving that the
27 consumption of ~~intoxicating~~ **alcoholic** liquor was a part of a

1 generally recognized religious service or ceremony by a
2 preponderance of the evidence.

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

9 (25) ~~-(23)-~~ Subject to subsection ~~-(25)-~~ (27), as used in
10 this section, "prior conviction" means a conviction for any of
11 the following, whether under a law of this state, a local
12 ordinance substantially corresponding to a law of this state, or
13 a law of another state substantially corresponding to a law of
14 this state:

15 (a) Except as provided in subsection ~~-(24)-~~ (26), a violation
16 or attempted violation of ~~subsection (1), (3), (4), (5), (6), or~~
17 ~~(7), section 625m, former section 625(1) or (2), or former~~
18 ~~section 625b.~~ any of the following:

19 (i) This section, except a violation of section 625(2), or a
20 violation of any prior enactment of this section in which the
21 defendant operated a vehicle while under the influence of
22 intoxicating or alcoholic liquor or a controlled substance, or a
23 combination of intoxicating or alcoholic liquor and a controlled
24 substance, or while visibly impaired, or with an unlawful bodily
25 alcohol content.

26 (ii) Section 625m.

27 (iii) Former section 625b.

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

4 ~~(c) A violation of section 653a(4).~~

5 (26) ~~-(24)-~~ Except for purposes of the enhancement described
6 in subsection ~~-(11)(b)-~~ (12)(b), only 1 violation or attempted
7 violation of subsection (6), a local ordinance substantially
8 corresponding to subsection (6), or a law of another state
9 substantially corresponding to subsection (6) may be used as a
10 prior conviction.

11 (27) ~~-(25)-~~ If 2 or more convictions described in subsection
12 ~~-(23)-~~ (25) are convictions for violations arising out of the
13 same transaction, only 1 conviction shall be used to determine
14 whether the person has a prior conviction.

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

17 (a) The peace officer has reasonable cause to believe the
18 person was, at the time of an accident in this state, the
19 operator of a vehicle involved in the accident and was operating
20 the vehicle in violation of section 625 or a local ordinance
21 substantially corresponding to section 625.

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

1 (2) A peace officer who has reasonable cause to believe that
2 a person was operating a vehicle upon a public highway or other
3 place open to the public or generally accessible to motor
4 vehicles, including an area designated for the parking of
5 vehicles, within this state and that the person by the
6 consumption of ~~intoxicating~~ **alcoholic** liquor may have affected
7 his or her ability to operate a vehicle, or reasonable cause to
8 believe that a person was operating a commercial motor vehicle
9 within the state while the person's blood, breath, or urine
10 contained any measurable amount of alcohol or while the person
11 had any detectable presence of ~~intoxicating~~ **alcoholic** liquor,
12 or reasonable cause to believe that a person who is less than 21
13 years of age was operating a vehicle upon a public highway or
14 other place open to the public or generally accessible to motor
15 vehicles, including an area designated for the parking of
16 vehicles, within this state while the person had any bodily
17 alcohol content as that term is defined in section 625(6), may
18 require the person to submit to a preliminary chemical breath
19 analysis. The following provisions apply with respect to a
20 preliminary chemical breath analysis administered under this
21 subsection:

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

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

1 (i) To assist the court or hearing officer in determining a
2 challenge to the validity of an arrest. This subparagraph does
3 not limit the introduction of other competent evidence offered to
4 establish the validity of an arrest.

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

11 (iii) As evidence of the defendant's breath alcohol content,
12 if offered by the prosecution to rebut testimony elicited on
13 cross-examination of a prosecution witness that the defendant's
14 breath alcohol content was lower at the time of the charged
15 offense than when a chemical test was administered under
16 subsection (6).

17 (c) A person who submits to a preliminary chemical breath
18 analysis remains subject to the requirements of sections 625c,
19 625d, 625e, and 625f for purposes of chemical tests described in
20 those sections.

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

25 (3) A peace officer shall use the results of a preliminary
26 chemical breath analysis conducted pursuant to this section to
27 determine whether to order a person out-of-service under

1 section 319d. A peace officer shall order out-of-service as
2 required under section 319d a person who was operating a
3 commercial motor vehicle and who refuses to submit to a
4 preliminary chemical breath analysis as provided in this
5 section. This section does not limit use of other competent
6 evidence by the peace officer to determine whether to order a
7 person out-of-service under section 319d.

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

15 (5) A person who was operating a commercial motor vehicle and
16 who refuses to submit to a preliminary chemical breath analysis
17 upon a peace officer's lawful request is guilty of a misdemeanor
18 punishable by imprisonment for not more than 93 days or a fine of
19 not more than \$100.00, or both.

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

23 (a) The amount of alcohol or presence of a controlled
24 substance or both in a driver's blood or urine or the amount of
25 alcohol in a person's breath at the time alleged as shown by
26 chemical analysis of the person's blood, urine, or breath is
27 admissible into evidence in any civil or criminal proceeding **and**

1 is presumed to be the same as at the time the person operated the
2 vehicle.

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

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

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

13 (iii) He or she is responsible for obtaining a chemical
14 analysis of a test sample obtained ~~pursuant to~~ **at** his or her
15 own request.

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

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

25 (c) A sample or specimen of urine or breath shall be taken
26 and collected in a reasonable manner. Only a licensed physician,
27 or an individual operating under the delegation of a licensed

1 physician under section 16215 of the public health code, 1978 PA
2 368, MCL 333.16215, qualified to withdraw blood and acting in a
3 medical environment, may withdraw blood at a peace officer's
4 request to determine the amount of alcohol or presence of a
5 controlled substance or both in the person's blood, as provided
6 in this subsection. Liability for a crime or civil damages
7 predicated on the act of withdrawing or analyzing blood and
8 related procedures does not attach to a licensed physician or
9 individual operating under the delegation of a licensed physician
10 who withdraws or analyzes blood or assists in the withdrawal or
11 analysis in accordance with this act unless the withdrawal or
12 analysis is performed in a negligent manner.

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

27 (e) If, after an accident, the driver of a vehicle involved

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

14 (f) If, after an accident, the driver of a vehicle involved
15 in the accident is deceased, a sample of the decedent's blood
16 shall be withdrawn in a manner directed by the medical examiner
17 to determine the amount of alcohol or the presence of a
18 controlled substance, or both, in the decedent's blood. The
19 medical examiner shall give the results of the chemical analysis
20 of the sample to the law enforcement agency investigating the
21 accident and that agency shall forward the results to the
22 department of state police.

23 (g) The department of state police shall promulgate uniform
24 rules in compliance with the administrative procedures act of
25 1969, 1969 PA 306, MCL 24.201 to 24.328, for the administration
26 of chemical tests for the purposes of this section. An
27 instrument used for a preliminary chemical breath analysis may be

1 House Bill No. 4247 as amended July 2 and 3, 2003
 1 used for a chemical test described in this subsection if approved
 2 under rules promulgated by the department of state police.

3 (7) The provisions of subsection (6) relating to chemical
 4 testing do not limit the introduction of any other admissible
 5 evidence bearing upon ~~<<the question of whether a person was~~
 6 ~~impaired by, or under the influence of, intoxicating~~
 7 ~~liquor or a controlled substance, or a combination of~~
 8 ~~intoxicating~~ ~~liquor and a controlled substance, or~~
 9 ~~whether the person had an alcohol content of 0.10~~ ~~grams or~~
 10 ~~more per 100 milliliters of blood, per 210 liters of breath, or~~
 11 ~~per 67 milliliters of urine, or if the person is less than 21~~
 12 ~~years of age, whether the person had any bodily alcohol content~~
 13 ~~within his or her body. As used in this section, "any bodily~~
 14 ~~alcohol content" means either of the following:~~

15 ~~(a) An alcohol content of not less than 0.02 grams or more~~
 16 ~~than 0.07~~ ~~grams per 100 milliliters of blood, per~~
 17 ~~210 liters of breath, or per 67 milliliters of urine.~~

18 ~~(b) Any presence of alcohol within a person's body resulting~~
 19 ~~from the consumption of intoxicating~~ ~~liquor, other~~
 20 ~~than consumption of intoxicating~~ ~~liquor as a part of~~
 21 ~~a generally recognized religious service or ceremony. any of the~~
 following questions:

(a) Whether the person was impaired by, or under the influence of,
 alcoholic liquor, a controlled substance, or a combination of alcoholic
 liquor and a controlled substance.

(b) Whether the person had an alcohol content of 0.08 grams or more
 per 100 milliliters of blood, per 210 liters of breath, or per 67
 milliliters of urine or, beginning October 1, 2013, the person had an
 alcohol content of 0.10 grams or more per 100 milliliters of blood, per
 210 liters of breath, or per 67 milliliters of urine.

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

(i) An alcohol content of 0.02 grams or more but less than 0.08
 grams per 100 milliliters of blood, per 210 liters of breath, or per 67

milliliters of urine or, beginning October 1, 2013, the person had an alcohol content of 0.02 grams or more but less than 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

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

22 (8) If a chemical test described in subsection (6) is
23 administered, the test results shall be made available to the
24 person charged or the person's attorney upon written request to
25 the prosecution, with a copy of the request filed with the
26 court. The prosecution shall furnish the results at least 2 days
27 before the day of the trial. The prosecution shall offer the

1 test results as evidence in that trial. Failure to fully comply
2 with the request bars the admission of the results into evidence
3 by the prosecution.

4 ~~(9) Except in a prosecution relating solely to a violation~~
5 ~~of section 625(1)(b) or (6), the amount of alcohol in the~~
6 ~~driver's blood, breath, or urine at the time alleged as shown by~~
7 ~~chemical analysis of the person's blood, breath, or urine gives~~
8 ~~rise to the following presumptions:~~

9 ~~—— (a) If there were at the time 0.07 grams or less of alcohol~~
10 ~~per 100 milliliters of the defendant's blood, per 210 liters of~~
11 ~~the defendant's breath, or per 67 milliliters of the defendant's~~
12 ~~urine, it is presumed that the defendant's ability to operate a~~
13 ~~motor vehicle was not impaired due to the consumption of~~
14 ~~intoxicating liquor and that the defendant was not under the~~
15 ~~influence of intoxicating liquor.~~

16 ~~—— (b) If there were at the time more than 0.07 grams but less~~
17 ~~than 0.10 grams of alcohol per 100 milliliters of the defendant's~~
18 ~~blood, per 210 liters of the defendant's breath, or per 67~~
19 ~~milliliters of the defendant's urine, it is presumed that the~~
20 ~~defendant's ability to operate a vehicle was impaired within the~~
21 ~~provisions of section 625(3) due to the consumption of~~
22 ~~intoxicating liquor.~~

23 ~~—— (c) If there were at the time 0.10 grams or more of alcohol~~
24 ~~per 100 milliliters of the defendant's blood, per 210 liters of~~
25 ~~the breath, or per 67 milliliters of the defendant's urine, it is~~
26 ~~presumed that the defendant was under the influence of~~
27 ~~intoxicating liquor.~~

1 **(9)** ~~(10)~~ A person's refusal to submit to a chemical test as
2 provided in subsection (6) is admissible in a criminal
3 prosecution for a crime described in section 625c(1) only to show
4 that a test was offered to the defendant, but not as evidence in
5 determining the defendant's innocence or guilt. The jury shall
6 be instructed accordingly.

7 Sec. 625c. (1) A person who operates a vehicle upon a
8 public highway or other place open to the general public or
9 generally accessible to motor vehicles, including an area
10 designated for the parking of vehicles, within this state is
11 considered to have given consent to chemical tests of his or her
12 blood, breath, or urine for the purpose of determining the amount
13 of alcohol or presence of a controlled substance or both in his
14 or her blood or urine or the amount of alcohol in his or her
15 breath in all of the following circumstances:

16 (a) If the person is arrested for a violation of section
17 625(1), (3), (4), (5), (6), ~~or~~ (7), **or (8)**, section 625a(5), or
18 section 625m or a local ordinance substantially corresponding to
19 section 625(1), (3), ~~or~~ (6), **or (8)**, section 625a(5), or
20 section 625m.

21 (b) If the person is arrested for felonious driving,
22 negligent homicide, manslaughter, or murder resulting from the
23 operation of a motor vehicle, and the peace officer had
24 reasonable grounds to believe the person was operating the
25 vehicle ~~while impaired by or under the influence of intoxicating~~
26 ~~liquor or a controlled substance or a combination of intoxicating~~
27 ~~liquor and a controlled substance, or while having 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 while having any bodily
4 alcohol content. As used in this subdivision, "any bodily
5 alcohol content" means either of the following:~~

~~6 — (i) An alcohol content of not less than 0.02 grams or more
7 than 0.07 grams per 100 milliliters of blood, per 210 liters of
8 breath, or per 67 milliliters of urine.~~

~~9 — (ii) Any presence of alcohol within a person's body resulting
10 from the consumption of intoxicating liquor, other than
11 consumption of intoxicating liquor as part of a generally
12 recognized religious service or ceremony. **in violation of
13 section 625.**~~

14 (2) A person who is afflicted with hemophilia, diabetes, or a
15 condition requiring the use of an anticoagulant under the
16 direction of a physician is not considered to have given consent
17 to the withdrawal of blood.

18 (3) The tests shall be administered as provided in section
19 625a(6).

20 Sec. 625f. (1) If a person who refuses to submit to a
21 chemical test pursuant to section 625d does not request a hearing
22 within 14 days after the date of notice pursuant to section 625e,
23 the secretary of state shall impose the following license
24 sanctions:

25 (a) If the person was operating a vehicle other than a
26 commercial motor vehicle, suspend or deny the person's operator's
27 or chauffeur's license or permit to drive, or nonresident

1 operating privilege, for ~~6 months~~ **1 year** or, for a second or
2 subsequent refusal within 7 years, for ~~1 year~~ **2 years**. If the
3 person is a resident without a license or permit to operate a
4 vehicle in the state, the secretary of state shall not issue the
5 person a license or permit for ~~6 months~~ **1 year** or, for a second
6 or subsequent refusal within 7 years, for ~~1 year~~ **2 years**.

7 (b) If the person was operating a commercial motor vehicle,
8 for the first refusal, suspend all vehicle group designations on
9 the person's operator's or chauffeur's license or permit or
10 nonresident privilege to operate a commercial motor vehicle or,
11 if the person is a resident without a license or permit to
12 operate a commercial motor vehicle in the state, not issue the
13 person an operator's or chauffeur's license with vehicle group
14 designations, for 1 year.

15 (c) If the person was operating a commercial motor vehicle,
16 for a second or subsequent refusal that occurred in a separate
17 incident from and within 10 years of a prior refusal, revoke all
18 vehicle group designations on the person's operator's or
19 chauffeur's license or permit or nonresident privilege to operate
20 a commercial motor vehicle or, if the person is a resident
21 without a license or permit to operate a commercial motor vehicle
22 in the state, not issue the person an operator's or chauffeur's
23 license with vehicle group designations, for not less than 10
24 years and until the person is approved for the issuance of a
25 vehicle group designation.

26 (d) If the person was operating a commercial motor vehicle
27 and was arrested for an offense enumerated in section 625c other

1 than a violation of section 625a(5) or 625m, impose the license
2 sanction described in subdivision (a) and the license sanction
3 described in subdivision (b) or (c), as applicable.

4 (2) If a hearing is requested, the secretary of state shall
5 hold the hearing in the same manner and under the same conditions
6 as provided in section 322. Not less than 5 days' notice of the
7 hearing shall be mailed to the person requesting the hearing, to
8 the peace officer who filed the report under section 625d, and if
9 the prosecuting attorney requests receipt of the notice, to the
10 prosecuting attorney of the county where the arrest was made.
11 The hearing officer may administer oaths, issue subpoenas for the
12 attendance of necessary witnesses, and grant a reasonable request
13 for an adjournment. Not more than 1 adjournment shall be granted
14 to a party and the length of an adjournment shall not exceed 14
15 days. A hearing under this subsection shall be scheduled to be
16 held within 45 days after the date of arrest for the violation.
17 The hearing officer shall not impose any sanction for a failure
18 to comply with these time limits.

19 (3) Except for delay attributable to the unavailability of
20 the defendant, a witness, or material evidence, or due to an
21 interlocutory appeal or exceptional circumstances, but not a
22 delay caused by docket congestion, a hearing shall be finally
23 adjudicated within 77 days after the date of arrest. The hearing
24 officer shall not impose any sanction for a failure to comply
25 with this time limit.

26 (4) The hearing shall cover only the following issues:

27 (a) Whether the peace officer had reasonable grounds to

1 believe that the person had committed a crime described in
2 section 625c(1).

3 (b) Whether the person was placed under arrest for a crime
4 described in section 625c(1).

5 (c) If the person refused to submit to the test upon the
6 request of the officer, whether the refusal was reasonable.

7 (d) Whether the person was advised of the rights under
8 section 625a(6).

9 (5) A person shall not order a hearing officer to make a
10 particular finding on any issue enumerated in subsection (4)(a)
11 to (d).

12 (6) The hearing officer shall make a record of a hearing held
13 pursuant to this section. The record shall be prepared and
14 transcribed in accordance with section 86 of the administrative
15 procedures act of 1969, ~~Act No. 306 of the Public Acts of 1969,~~
16 ~~being section 24.286 of the Michigan Compiled Laws~~ **1969 PA 306,**
17 **MCL 24.286.** Upon notification of the filing of a petition for
18 judicial review pursuant to section 323 and not less than 10 days
19 before the matter is set for review, the hearing officer shall
20 transmit to the court in which the petition was filed the
21 original or a certified copy of the official record of the
22 proceedings. Proceedings at which evidence was presented need
23 not be transcribed and transmitted if the sole reason for review
24 is to determine whether the court will order the issuance of a
25 restricted license. The parties to the proceedings for judicial
26 review may stipulate that the record be shortened. A party
27 unreasonably refusing to stipulate to a shortened record may be

1 taxed by the court in which the petition is filed for the
2 additional costs. The court may permit subsequent corrections to
3 the record.

4 (7) If the person who requested a hearing does not prevail,
5 the secretary of state shall impose the following license
6 sanctions after the hearing:

7 (a) If the person was operating a vehicle other than a
8 commercial motor vehicle, suspend or deny issuance of a license
9 or driving permit or a nonresident operating privilege of the
10 person for ~~6 months~~ **1 year** or, for a second or subsequent
11 refusal within 7 years, for ~~1 year~~ **2 years**. If the person is a
12 resident without a license or permit to operate a vehicle in the
13 state, the secretary of state shall not issue the person a
14 license or permit for ~~6 months~~ **1 year** or, for a second or
15 subsequent refusal within 7 years, for ~~1 year~~ **2 years**. The
16 person may file a petition in the circuit court of the county in
17 which the arrest was made to review the suspension or denial as
18 provided in section 323.

19 (b) If the person was operating a commercial motor vehicle,
20 impose the sanction prescribed under subsection (1)(b) or (1)(c),
21 as applicable. The person may file a petition in the circuit
22 court of the county in which the arrest was made to review the
23 suspension or denial as provided in section 323.

24 (c) If the person was operating a commercial motor vehicle
25 and was arrested for an offense enumerated in section 625c other
26 than a violation of section 625a(5) or 625m, impose the license
27 sanctions described in subdivisions (a) and (b).

1 (8) If the person who requested the hearing prevails, the
2 peace officer who filed the report under section 625d may, with
3 the consent of the prosecuting attorney, file a petition in the
4 circuit court of the county in which the arrest was made to
5 review the determination of the hearing officer as provided in
6 section 323.

7 (9) When it has been finally determined that a nonresident's
8 privilege to operate a vehicle in the state has been suspended or
9 denied, the department shall give notice in writing of the action
10 taken to the motor vehicle administrator of the state of the
11 person's residence and of each state in which he or she has a
12 license to operate a motor vehicle.

13 Sec. 625g. (1) If a person refuses a chemical test offered
14 pursuant to section 625a(6), or submits to the chemical test or
15 a chemical test is performed pursuant to a court order and the
16 test reveals an unlawful alcohol content, the peace officer who
17 requested the person to submit to the test shall do all of the
18 following:

19 (a) On behalf of the secretary of state, immediately
20 confiscate the person's license or permit to operate a motor
21 vehicle and, if the person is otherwise eligible for a license or
22 permit, issue a temporary license or permit to the person. The
23 temporary license or permit shall be on a form provided by the
24 secretary of state.

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

27 (i) Forward a copy of the written report of the person's

1 refusal to submit to a chemical test required under section 625d
2 to the secretary of state.

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

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

7 (2) If a person submits to a chemical test offered pursuant
8 to section 625a(6) that requires an analysis of blood or urine
9 and a report of the results of that chemical test is not
10 immediately available, the peace officer who requested the person
11 to submit to the test shall comply with subsection (1)(a) pending
12 receipt of the test report. If the report reveals an unlawful
13 alcohol content, the peace officer who requested the person to
14 submit to the test shall immediately comply with
15 subsection (1)(b). If the report does not reveal an unlawful
16 alcohol content, the peace officer who requested the person to
17 submit to the test shall immediately notify the person of the
18 test results and immediately return the person's license or
19 permit by first-class mail to the address given at the time of
20 arrest.

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

23 (a) If the case is not prosecuted, for 90 days after issuance
24 or until the person's license or permit is suspended pursuant to
25 section 625f, whichever occurs earlier. The prosecuting attorney
26 shall notify the secretary of state if a case referred to the
27 prosecuting attorney is not prosecuted. The arresting law

House Bill No. 4247 as amended July 2, 2003

1 enforcement agency shall notify the secretary of state if a case
2 is not referred to the prosecuting attorney for prosecution.

3 (b) If the case is prosecuted, until the criminal charges
4 against the person are dismissed, the person is acquitted of
5 those charges, or the person's license or permit is suspended,
6 restricted, or revoked.

7 (4) As used in this section, "unlawful alcohol content" means
8 any of the following, as applicable:

9 (a) If the person tested is less than 21 years of age, 0.02
10 grams or more of alcohol per 100 milliliters of blood, per 210
11 liters of breath, or per 67 milliliters of urine.

12 (b) If the person tested was operating a commercial motor
13 vehicle within this state, 0.04 grams or more of alcohol per 100
14 milliliters of blood, per 210 liters of breath, or per 67
15 milliliters of urine.

16 (c) If the person tested is not a person described in
17 subdivision (a) or (b), ~~0.10~~ 0.08 grams or more of alcohol per
18 100 milliliters of blood, per 210 liters of breath, or per 67
19 milliliters of urine <<, or, beginning October 1, 2013, 0.10 grams or
20 more of alcohol per 100 milliliters of blood, per 210 liters of breath,
21 or per 67 milliliters of urine>>.

22 Sec. 625i. (1) The department of state police shall prepare
23 an annual report ~~which~~ that shall be designated the Michigan
24 annual drunk driving audit. The secretary of state, circuit
25 court, district court, family division of circuit court,
26 municipal courts, and local units of government in this state
27 shall cooperate with the department of state police to provide
information necessary for the preparation of the report. A copy
of the report prepared under this subsection shall be submitted

1 to the governor, the secretary of the senate, the clerk of the
2 house of representatives, and the secretary of state on July 1 of
3 each year. The report shall contain for each county in the state
4 all of the following information applicable to the immediately
5 preceding calendar year:

6 (a) The number of alcohol related motor vehicle crashes
7 resulting in bodily injury, including a breakdown of the number
8 of those injuries occurring per capita of population and per road
9 mile in the county.

10 (b) The number of alcohol related motor vehicle crashes
11 resulting in death, including the breakdown described in
12 subdivision (a).

13 (c) The number of alcohol related motor vehicle crashes,
14 other than those enumerated in subdivisions (a) and (b),
15 including the breakdown described in subdivision (a).

16 (d) The number of arrests made for violations of section
17 ~~625(1)(a) or (b)~~ **625(1)** or local ordinances substantially
18 corresponding to section ~~625(1)(a) or (b)~~ **625(1)**.

19 (e) The number of arrests made for violations of section
20 625(3) or local ordinances substantially corresponding to section
21 625(3).

22 (f) The number of arrests made for violations of
23 section 625(6) or local ordinances substantially corresponding to
24 section 625(6).

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

27 (h) The number of arrests made for violations of section

1 625(7).

2 (i) The number of arrests made for violations of section
3 625(8).

4 (j) ~~(i)~~ The number of operator's or chauffeur's licenses
5 suspended pursuant to section 625f.

6 (k) ~~(j)~~ The number of arrests made for violations of
7 section 625m or local ordinances substantially corresponding to
8 section 625m.

9 (2) The secretary of state shall compile a report of
10 dispositions of charges for violations of section 625(1), (3),
11 (4), (5), (6), ~~or~~ (7), **or (8)** or section 625m or section 33b(1)
12 or (2) of former 1933 (Ex Sess) PA 8, section 703(1) or (2) of
13 the Michigan liquor control code of 1998, 1998 PA 58,
14 MCL 436.1703, or local ordinances substantially corresponding to
15 section 625(1), (3), ~~or~~ (6), **or (8)** or section 625m or section
16 33b(1) or (2) of former 1933 (Ex Sess) PA 8, or section 703(1) or
17 (2) of the Michigan liquor control code of 1998, 1998 PA 58,
18 MCL 436.1703, by each judge for inclusion in the annual report.
19 The report compiled by the secretary of state shall include
20 information regarding all of the following:

21 (a) The number of dismissals granted.

22 (b) The number of convictions entered.

23 (c) The number of acquittals entered.

24 (d) The average length of imprisonment imposed.

25 (e) The average length of community service imposed in lieu
26 of imprisonment.

27 (f) The average fine imposed.

1 (g) The number of vehicles ordered immobilized under section
2 904d.

3 (h) The number of vehicles ordered forfeited under section
4 625n.

5 (3) The secretary of state shall include in the compilation
6 under subsection (2) the number of licenses suspended, revoked,
7 or restricted for those violations.

8 (4) The department of state police shall enter into a
9 contract with the university of Michigan transportation research
10 institute, ~~in~~ **under** which the university of Michigan
11 transportation research institute shall evaluate the effect and
12 impact of the 1998 legislation addressing drunk and impaired
13 driving in this state and report its findings to the governor and
14 the legislature not later than October 1, 2002.

15 Sec. 625k. (1) The department shall approve an ignition
16 interlock device certified by a department-approved laboratory as
17 complying with the national highway traffic safety
18 administration's model specifications for breath alcohol ignition
19 interlock devices (BAIID), 57 F.R. p. 11772, April 7, 1992.
20 Subject to subsection (5), the department shall publish a list of
21 all manufacturers of approved certified devices.

22 (2) The secretary of state shall promulgate rules to
23 implement this section in compliance with the administrative
24 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

25 (3) The manufacturer of an ignition interlock device shall
26 bear the cost of that device's certification.

27 (4) A laboratory that certifies an ignition interlock device

1 as provided in this section shall immediately notify the
2 department of that certification.

3 (5) The department shall not include the manufacturer of a
4 certified ignition interlock device on the list of manufacturers
5 published under subsection (1) unless the manufacturer complies
6 with all of the following:

7 (a) The manufacturer has filed copies of all of the following
8 with the department:

9 (i) A bond executed as provided in section 625o or a letter
10 of credit.

11 (ii) Evidence of insurance as described in section 625l.

12 (iii) An affidavit that the ignition interlock device is all
13 of the following:

14 (A) An alcohol concentration measuring device that prevents a
15 motor vehicle from being started at any time without first
16 determining through a deep lung sample the operator's breath
17 alcohol level.

18 (B) Calibrated to render the motor vehicle incapable of being
19 started if the device detects an alcohol content of 0.025 grams
20 or more per 210 liters of breath of the person who offers a
21 breath sample.

22 (C) Set to periodically take samples while the vehicle is in
23 operation and to do 1 or both of the following:

24 (I) Emit a warning signal when the device detects an alcohol
25 content of 0.025 grams or more per 210 liters of breath in the
26 person who offers a breath sample.

27 (II) If it detects an alcohol content of 0.04 grams or more

1 per 210 liters of breath of the person who offers the breath
2 sample, render the vehicle inoperable as soon as the vehicle is
3 no longer being operated.

4 (b) The manufacturer of ignition interlock devices provides a
5 list of installers who are authorized to install and service its
6 ignition interlock devices to the secretary of state.

7 (c) Agrees to have service locations within 50 miles of any
8 location within this state.

9 (d) Agrees to provide an ignition interlock device without
10 cost to a person whose gross income for the immediately preceding
11 tax year based on his or her state income tax return was less
12 than 150% of the official poverty line for that same tax year
13 established in the poverty guidelines issued by the secretary of
14 health and human services under authority of section 673(2) of
15 the community services block grant act, subtitle B of title VI of
16 the omnibus budget reconciliation act of 1981, Public Law 97-35,
17 42 U.S.C. 9902. A person in whose vehicle an ignition interlock
18 device is installed without cost under this subdivision shall pay
19 a maintenance fee to the installer of not more than \$1.00 per
20 day.

21 (e) Agrees to periodically monitor installed ignition
22 interlock devices and if monitoring indicates that the device has
23 been circumvented, to communicate that fact to the secretary of
24 state **or to the court, as appropriate.**

25 (6) A manufacturer that has made a filing under subsection
26 (5) shall immediately notify the department if the device no
27 longer meets the requirements of subsection (5).

1 (7) A person who knowingly provides false information to the
2 department under subsection (4) or (5) is guilty of a felony
3 punishable by imprisonment for not less than 5 years or more than
4 10 years or a fine of not less than \$5,000.00 or more than
5 \$10,000.00, or both, together with costs of the prosecution.

6 (8) A person who negligently provides false information to
7 the department under subsection (4) or (5) is guilty of a
8 misdemeanor punishable by imprisonment for not more than 1 year
9 or a fine of not more than \$1,000.00, or both, together with
10 costs of the prosecution.

11 (9) A person who knowingly fails to comply with subsection
12 (6) is guilty of a felony punishable by imprisonment for not less
13 than 5 years or more than 10 years or a fine of not less than
14 \$5,000.00 or more than \$10,000.00, or both, together with costs
15 of the prosecution.

16 (10) A person who negligently fails to comply with subsection
17 (6) is guilty of a misdemeanor punishable by imprisonment for not
18 more than 1 year or a fine of not more than \$1,000.00, or both,
19 together with costs of the prosecution.

20 Sec. 625/. (1) The manufacturer of an ignition interlock
21 device shall design a warning label, and the person who has an
22 ignition interlock device shall promptly affix that label to each
23 ignition interlock device upon installation. The label shall
24 contain a warning that any person tampering, circumventing, or
25 otherwise misusing the device is guilty of a misdemeanor
26 punishable as provided by law.

27 (2) A person who has an ignition interlock device installed

1 and whose driving privilege is restricted shall not request or
2 solicit any other person to blow into an ignition interlock
3 device or to start a vehicle equipped with the device for the
4 purpose of providing the person whose driving privilege is
5 restricted with an operable vehicle.

6 (3) A person shall not blow into an ignition interlock device
7 or start a motor vehicle equipped with the device for the purpose
8 of providing an operable vehicle to a person who has an interlock
9 device installed and whose driving privilege is restricted.

10 (4) A person shall not tamper with or circumvent the
11 operation of an ignition interlock device.

12 (5) A person who violates subsection (2), (3), or (4) is
13 guilty of a misdemeanor punishable by imprisonment for not more
14 than 6 months or a fine of not more than \$5,000.00, or both.

15 (6) As used in this act, "ignition interlock device" or
16 "device" means an alcohol concentration measuring device that
17 prevents a motor vehicle from being started at any time without
18 first determining through a deep lung sample the operator's
19 breath alcohol level. The system shall be calibrated so that the
20 motor vehicle may not be started if the breath alcohol level of
21 the operator, as measured by the test, reaches a level of 0.025
22 grams per 210 liters of breath.

23 (7) The state, or the department, its officers, employees, or
24 agents, **or a court, its officers, employees, or agents** are not
25 liable in any claim or action that may arise, directly or
26 indirectly, out of any act or omission by a manufacturer,
27 installer, or servicing agent of an ignition interlock device

1 that results in damage to persons or property.

2 (8) A person shall not sell, lease, install, or monitor in a
3 vehicle in this state an ignition interlock device unless the
4 ignition interlock device manufacturer and provider carries
5 liability insurance covering product liability, including, but
6 not limited to, insurance to indemnify the department and any
7 person injured as a result of a design defect or the calibration
8 or removal of the ignition interlock device or a
9 misrepresentation about the ignition interlock device. The
10 insurance required by this subsection shall be in an amount of
11 not less than \$1,000,000.00 per incident.

12 (9) The provider of insurance described in this section may
13 cancel the insurance upon 30 days' written notice to the
14 department and is not liable for a claim arising from an event
15 that occurs after the effective date of a cancellation made in
16 compliance with this section.

17 (10) An ignition interlock device shall be serviced according
18 to manufacturer's standards. Service shall include, but not be
19 limited to, physical inspection of the device and vehicle for
20 tampering, calibration of the device, and monitoring of the data
21 contained within the device's memory. Only authorized employees
22 of the manufacturer or the department, **or other persons approved**
23 **by the court**, may observe the installation of a device.
24 Reasonable security measures must be taken to prevent the
25 customer from observing the installation of a device or obtaining
26 access to installation materials.

27 Sec. 625m. (1) A person, whether licensed or not, who has

House Bill No. 4247 as amended July 2, 2003

1 an alcohol content of 0.04 grams or more but ~~not more~~ **less** than
2 ~~0.07~~ **0.08** grams per 100 milliliters of blood, per 210 liters of
3 breath, or per 67 milliliters of urine <<, or, beginning October 1, 2013,
4 **an alcohol content of 0.04 grams or more but less than 0.10 grams per 100**
5 **milliliters of blood, per 210 liters of breath, or per 67 milliliters of**
6 **urine,>> shall not operate a**
7 commercial motor vehicle within this state.

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

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

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

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

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

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

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

8 (b) Probation with imprisonment in the county jail for not
9 less than 30 days or more than 1 year and community service for
10 not less than 60 days or more than 180 days. Not less than 48
11 hours of the imprisonment imposed under this subdivision shall be
12 served consecutively.

13 (6) A term of imprisonment imposed under subsection (4) or
14 (5) shall not be suspended.

15 (7) Subject to subsection (9), as used in this section,
16 "prior conviction" means a conviction for any of the following,
17 whether under a law of this state, a local ordinance
18 substantially corresponding to a law of this state, or a law of
19 another state substantially corresponding to a law of this
20 state:

21 (a) Except as provided in subsection (8), a violation or
22 attempted violation of ~~this section, section 625(1), (3), (4),~~
23 ~~(5), (6), or (7), former section 625(1) or (2), or former section~~
24 ~~625b.~~ **any of the following:**

25 (i) **This section.**

26 (ii) **Section 625, except a violation of section 625(2), or a**
27 **violation of any prior enactment of section 625 in which the**

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

6 (iii) Former section 625b.

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

10 ~~(c) A violation of section 653a(4).~~

11 (8) Only 1 violation or attempted violation of
12 section 625(6), a local ordinance substantially corresponding to
13 section 625(6), or a law of another state substantially
14 corresponding to section 625(6) may be used as a prior
15 conviction.

16 (9) If 2 or more convictions described in subsection (7) are
17 convictions for violations arising out of the same transaction,
18 only 1 conviction shall be used to determine whether the person
19 has a prior conviction.

20 Sec. 904d. (1) Vehicle immobilization applies as follows:

21 (a) For a conviction under section 625(1), (3), ~~or~~ (7), or
22 (8) or a local ordinance substantially corresponding to section
23 625(1) or (3) with no prior convictions, the court may order
24 vehicle immobilization for not more than 180 days.

25 (b) For a conviction under section 625(4) or (5) with no
26 prior convictions, the court shall order vehicle immobilization
27 for not more than 180 days.

1 (c) For a conviction under section 625(1), (3), (4), (5),
2 ~~or~~ (7), **or (8)** within 7 years after a prior conviction, the
3 court shall order vehicle immobilization for not less than 90
4 days or more than 180 days.

5 (d) For a conviction under section 625(1), (3), (4), (5),
6 ~~or~~ (7), **or (8)** within 10 years after 2 or more prior
7 convictions, the court shall order vehicle immobilization for not
8 less than 1 year or more than 3 years.

9 (2) For a conviction or civil infraction determination
10 resulting from a violation that occurred during a period of
11 suspension, revocation, or denial, the following apply:

12 (a) Except as provided in subdivision (b), for 1 prior
13 suspension, revocation, or denial under section 904(10), (11), or
14 (12) or former section 904(2) or (4) within the past 7 years, the
15 court may order vehicle immobilization for not more than 180
16 days.

17 (b) Except as provided in subdivisions (c) and (d), if the
18 person is convicted under section 904(4) or (5), the court shall
19 order vehicle immobilization for not more than 180 days.

20 (c) For any combination of 2 or 3 prior suspensions,
21 revocations, or denials under section 904(10), (11), or (12) or
22 former section 904(2) or (4) within the past 7 years, the court
23 shall order vehicle immobilization for not less than 90 days or
24 more than 180 days.

25 (d) For any combination of 4 or more prior suspensions,
26 revocations, or denials under section 904(10), (11), or (12) or
27 former section 904(2) or (4) within the past 7 years, the court

1 shall order vehicle immobilization for not less than 1 year or
2 more than 3 years.

3 (3) The defendant shall provide to the court the vehicle
4 identification number and registration plate number of the
5 vehicle involved in the violation.

6 (4) The court may order vehicle immobilization under this
7 section under either of the following circumstances:

8 (a) The defendant is the owner, co-owner, lessee, or
9 co-lessee of the vehicle operated during the violation.

10 (b) The owner, co-owner, lessee, or co-lessee knowingly
11 permitted the vehicle to be operated in violation of section
12 625(2) or section 904(2) regardless of whether a conviction
13 resulted.

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

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

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

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

23 (b) A vehicle that is registered in another state or that is
24 a rental vehicle.

25 (c) A vehicle owned by the federal government, this state, or
26 a local unit of government of this state.

27 (d) A vehicle not subject to registration under section 216.

1 (e) Any of the following:

2 (i) A violation of chapter II.

3 (ii) A violation of chapter V.

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

5 (iv) A parking violation.

6 (v) A bad check violation.

7 (vi) An equipment violation.

8 (vii) A pedestrian, passenger, or bicycle violation, other
 9 than a violation of section 703(1) or (2) of the Michigan liquor
 10 control code of 1998, 1998 PA 58, MCL 436.1703, or a local
 11 ordinance substantially corresponding to section 703(1) or (2) of
 12 the Michigan liquor control code of 1998, 1998 PA 58,
 13 MCL 436.1703, or section 624a or 624b or a local ordinance
 14 substantially corresponding to section 624a or 624b.

15 (viii) A violation of a local ordinance substantially
 16 corresponding to a violation described in subparagraphs (i) to
 17 (vii).

18 (8) As used in this section:

19 (a) Subject to ~~subsection~~ **subsections (9) and (10)**, "prior
 20 conviction" means a conviction for any of the following, whether
 21 under a law of this state, a local ordinance substantially
 22 corresponding to a law of this state, or a law of another state
 23 substantially corresponding to a law of this state:

24 (i) Except as otherwise provided in ~~this subparagraph~~
 25 **subsection (10)**, a violation or attempted violation of ~~section~~
 26 ~~625(1), (3), (4), (5), (6), or (7), section 625m, former section~~
 27 ~~625(1) or (2), or former section 625b. However, only 1 violation~~

1 ~~or attempted violation of section 625(6), a local ordinance~~
2 ~~substantially corresponding to section 625(6), or a law of~~
3 ~~another state substantially corresponding to section 625(6) may~~
4 ~~be used as a prior conviction. any of the following:~~

5 (A) 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 (B) Section 625m.

13 (C) Former section 625b.

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

17 (b) "Vehicle immobilization" means requiring the motor
18 vehicle involved in the violation immobilized in a manner
19 provided in section 904e.

20 (9) If 2 or more convictions described in subsection (8)(a)
21 are convictions for violations arising out of the same incident,
22 only 1 conviction shall be used to determine whether the person
23 has a prior conviction.

24 (10) Only 1 violation or attempted violation of section
25 625(6), a local ordinance substantially corresponding to section
26 625(6), or a law of another state substantially corresponding to
27 section 625(6) may be used as a prior conviction.

1 Enacting section 1. This amendatory act takes effect
2 September 30, 2003.