

# HOUSE BILL No. 4247

February 18, 2003, Introduced by Rep. Van Regenmorter and referred to the Committee on Criminal Justice.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 310d, 310e, 319, 624b, 625, 625a, 625c, 625g, 625i, and 625m (MCL 257.310d, 257.310e, 257.319, 257.624b, 257.625, 257.625a, 257.625c, 257.625g, 257.625i, and 257.625m), 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 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, and section 625i as amended by 1998 PA 354, 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.

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

13           (2) Upon completion of the first 12 months of probation, the  
14 secretary of state may require a licensee to be reexamined by the  
15 secretary of state if the licensee's driving record contains any  
16 of the following:

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

20           (b) Three convictions or 3 civil infraction determinations,  
21 or a combination of convictions and civil infraction  
22 determinations that equals 3, for moving violations.

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

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

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

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

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

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

12 (a) A moving violation resulting in a conviction or civil  
13 infraction determination.

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

16 (c) An accident for which the official police report  
17 indicates the licensee had been drinking ~~intoxicating~~ **alcoholic**  
18 liquor.

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

21 (4) The probationary period shall be extended pursuant to  
22 subsection (3) until the licensee completes 10 consecutive months  
23 without a moving violation, accident, or suspension enumerated in  
24 subsection (3).

25 (5) Upon completion of a reexamination, the secretary of  
26 state may suspend or impose probationary terms and conditions on  
27 the license of a probationary licensee, except that a

1 reexamination for subsection (2)(d), (e), or (f) shall not result  
2 in a license suspension or the imposition of probationary terms  
3 or conditions.

4 (6) For 24 months immediately after a licensee's probationary  
5 period, the secretary of state may require the licensee to be  
6 reexamined by the secretary of state if the licensee's driver  
7 record has a total of 9 or more points, as provided in section  
8 320a, imposed in a period of 2 years and if the licensee's record  
9 contains 1 or more of the following:

10 (a) A conviction for a violation of section 625(1), (3), (4),  
11 (5), (6), or (7), section 625m, former section 625(1) or (2), or  
12 former section 625b, a local ordinance substantially  
13 corresponding to section 625(1), (3), or (6), section 625m,  
14 former section 625(1) or (2), or former section 625b, or a law of  
15 another state substantially corresponding to section 625(1), (3),  
16 (4), (5), (6), or (7), section 625m, former section 625(1) or  
17 (2), or former section 625b.

18 (b) A conviction for driving while visibly impaired due to  
19 consumption of ~~intoxicating~~ **alcoholic** liquor, a controlled  
20 substance, or a combination of ~~intoxicating~~ **alcoholic** liquor  
21 and a controlled substance.

22 (c) A suspension of the licensee's license pursuant to  
23 section 625f.

24 (d) An accident for which the official police report  
25 indicates a moving violation on the part of the licensee.

26 (e) An accident for which the official police report  
27 indicates the licensee had been drinking ~~intoxicating~~ **alcoholic**

1 liquor.

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

6 (8) If a licensee fails to appear for a reexamination  
7 scheduled by the secretary of state pursuant to this section, the  
8 licensee's license may be suspended immediately and remain  
9 suspended until the licensee appears for a reexamination by the  
10 secretary of state.

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

14 (10) For purposes of this section:

15 (a) Upon conviction for a moving violation, the date of the  
16 violation shall be used in determining whether the conviction  
17 occurred within the probationary period.

18 (b) Upon entry of a civil infraction determination for a  
19 moving violation, the date of the violation shall be used in  
20 determining whether the civil infraction determination occurred  
21 within the probationary period.

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

25 (d) A suspension shall be considered part of a driving record  
26 from the date the suspension is imposed until the suspension is  
27 terminated.

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

7 Sec. 310e. (1) Except as otherwise provided in this act, an  
8 operator's or chauffeur's license issued to a person who is 17  
9 years of age or less shall be in a form as prescribed in section  
10 310 beginning July 1, 2003, and is valid only upon the issuance  
11 of a graduated driver license.

12 (2) The secretary of state shall designate graduated  
13 licensing provisions in a manner that clearly indicates that the  
14 person is subject to the appropriate provisions described in this  
15 section.

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

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

22 (b) Successfully completed segment 1 of a driver education  
23 course approved by the department of education including a  
24 minimum of 6 hours of on-the-road driving time with the  
25 instructor.

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

27 (4) A person issued a level 1 graduated licensing status may

1 operate a motor vehicle only when accompanied either by a  
2 licensed parent or legal guardian or, with the permission of the  
3 parent or legal guardian, a licensed driver 21 years of age or  
4 older. Except as otherwise provided in this section, a person is  
5 restricted to operating a motor vehicle with a level 1 graduated  
6 licensing status for not less than 6 months.

7 (5) A person may be issued a level 2 graduated licensing  
8 status to operate a motor vehicle if the person has satisfied all  
9 of the following conditions:

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

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

14 (c) Not incurred a moving violation resulting in a conviction  
15 or civil infraction determination or been involved in an accident  
16 for which the official police report indicates a moving violation  
17 on the part of the person during the 90-day period immediately  
18 preceding application.

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

25 (e) Successfully completed a secretary of state approved  
26 performance road test. The secretary of state may enter into an  
27 agreement with another public or private person or agency,

1 including a city, village, or township, to conduct this  
2 performance road test. This subdivision applies to a person 16  
3 years of age or over only if the person has satisfied  
4 subdivisions (a), (b), (c), and (d).

5 (6) A person issued a level 2 graduated licensing status  
6 under subsection (5) shall remain at level 2 for not less than 6  
7 months and shall not operate a motor vehicle within this state  
8 from 12 midnight to 5 a.m. unless accompanied by a parent or  
9 legal guardian or a licensed driver over the age of 21 designated  
10 by the parent or legal guardian, or except when going to or from  
11 employment.

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

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

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

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

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

25 (8) The provisional period described in subsection (4) shall  
26 be extended under subsection (7) until the licensee completes 90  
27 consecutive days without a moving violation, an accident in which



1 a moving violation resulted, accident, suspension, or provisional  
2 period violation listed in subsection (7) or until age 18,  
3 whichever occurs first. The provisional period described in  
4 subsection (6) shall be extended under subsection (7) until the  
5 licensee completes 12 consecutive months without a moving  
6 violation, accident, suspension, or restricted period violation  
7 listed in subsection (7) or until age 18, whichever occurs  
8 first.

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

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

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

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

25 (13) For purposes of this section:

26 (a) Upon conviction for a moving violation, the date of the  
27 arrest for the violation shall be used in determining whether the

1 conviction occurred within a provisional licensure period under  
2 this section.

3 (b) Upon entry of a civil infraction determination for a  
4 moving violation, the date of issuance of a citation for a civil  
5 infraction shall be used in determining whether the civil  
6 infraction determination occurred within a provisional licensure  
7 period under this section.

8 (c) The date of the official police report shall be used in  
9 determining whether a licensee was driving a motor vehicle  
10 involved in an accident for which the official police report  
11 indicates a moving violation on the part of the licensee or  
12 indicates the licensee had been drinking ~~intoxicating~~ **alcoholic**  
13 liquor.

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

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

24 Sec. 319. (1) The secretary of state shall immediately  
25 suspend a person's license as provided in this section upon  
26 receiving a record of the person's conviction for a crime  
27 described in this section, whether the conviction is under a law

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

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

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

8 (b) A violation of section 413 of the Michigan penal code,  
9 1931 PA 328, MCL 750.413.

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

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

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

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

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

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

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

27 (3) The secretary of state shall suspend the person's license

1 for 90 days for any of the following crimes:

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

4 (b) A violation of section 601b(2), section 601c(1), section  
5 626, or section 653a(3).

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

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

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

15 (5) For perjury or making a false certification to the  
16 secretary of state under any law requiring the registration of a  
17 motor vehicle or regulating the operation of a vehicle on a  
18 highway, or for conduct prohibited under section 324(1) or a  
19 local ordinance substantially corresponding to section 324(1),  
20 the secretary shall suspend the person's license as follows:

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

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

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

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

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

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

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

14 (b) If the person has 2 or more prior convictions for an  
15 offense described in this subsection or section 33b(1) of former  
16 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may  
17 issue the person a restricted license after the first 60 days of  
18 suspension.

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

21 (a) For 180 days for a violation of section 625(1) if the  
22 person has no prior convictions within 7 years. The secretary of  
23 state may issue the person a restricted license during ~~all or~~ a  
24 specified portion of the suspension, except that the secretary of  
25 state shall not issue a restricted license during the first ~~30~~  
26 60 days of suspension.

27 (b) For ~~90~~ 120 days for a violation of section 625(3) if

1 the person has no prior convictions within 7 years. However, if  
2 the person is convicted of a violation of section 625(3), for  
3 operating a vehicle when, due to the consumption of a controlled  
4 substance or a combination of ~~intoxicating~~ **alcoholic** liquor and  
5 a controlled substance, the person's ability to operate the  
6 vehicle was visibly impaired, the secretary of state shall  
7 suspend the person's license under this subdivision for 180  
8 days. The secretary of state may issue the person a restricted  
9 license during ~~all or~~ a specified portion of the suspension,  
10 **except that the secretary of state shall not issue a restricted**  
11 **license during the first 30 days of suspension.**

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

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

19 (e) For 180 days for a violation of section 625(7) if the  
20 person has no prior convictions within 7 years. The secretary of  
21 state may issue the person a restricted license after the first  
22 90 days of suspension.

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

27 (9) For a violation of section 367c of the Michigan penal

1 code, 1931 PA 328, MCL 750.367c, the secretary of state shall  
2 suspend the person's license as follows:

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

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

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

9 (11) For a violation or attempted violation of  
10 section 411a(2) of the Michigan penal code, 1931 PA 328,  
11 MCL 750.411a, involving a school, the secretary of state shall  
12 suspend the license of a person 14 years of age or over but less  
13 than 21 years of age until 3 years after the date of the  
14 conviction or juvenile disposition for the violation. The  
15 secretary of state may issue the person a restricted license  
16 after the first 365 days of suspension.

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

20 (13) If the secretary of state receives records of more than  
21 1 conviction of a person resulting from the same incident, a  
22 suspension shall be imposed only for the violation to which the  
23 longest period of suspension applies under this section.

24 (14) The secretary of state may waive a restriction,  
25 suspension, or revocation of a person's license imposed under  
26 this act if the person submits proof that a court in another  
27 state revoked, suspended, or restricted his or her license for a

1 period equal to or greater than the period of a restriction,  
2 suspension, or revocation prescribed under this act for the  
3 violation and that the revocation, suspension, or restriction was  
4 served for the violation, or may grant a restricted license.

5 (15) The secretary of state shall not issue a restricted  
6 license to a person whose license is suspended under this section  
7 unless a restricted license is authorized under this section and  
8 the person is otherwise eligible for a license.

9 (16) The secretary of state shall not issue a restricted  
10 license to a person under subsection (8) that would permit the  
11 person to operate a commercial motor vehicle that transports  
12 hazardous material in amounts requiring a placard under the  
13 hazardous materials regulations, 49 C.F.R. parts 100 to 199.

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

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

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

19 (i) The person's residence.

20 (ii) The person's work location.

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

23 (iv) The court probation department.

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

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

27 (vii) A place of regularly occurring medical treatment for a



1 serious condition for the person or a member of the person's  
2 household or immediate family.

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

7 (19) Subject to subsection (21), as used in subsection (8),  
8 "prior conviction" means a conviction for any of the following,  
9 whether under a law of this state, a local ordinance  
10 substantially corresponding to a law of this state, or a law of  
11 another state substantially corresponding to a law of this  
12 state:

13 (a) Except as provided in subsection (20), a violation or  
14 attempted violation of section 625(1), (3), (4), (5), (6), or  
15 (7), section 625m, former section 625(1) or (2), or former  
16 section 625b.

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

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

26 (21) If 2 or more convictions described in subsection (19)  
27 are convictions for violations arising out of the same

1 transaction, only 1 conviction shall be used to determine whether  
2 the person has a prior conviction.

3       Sec. 624b. (1) A person less than 21 years of age shall not  
4 knowingly transport or possess alcoholic liquor in a motor  
5 vehicle as an operator or occupant unless the person is employed  
6 by a licensee under the Michigan liquor control code of 1998,  
7 1998 PA 58, MCL 436.1101 to 436.2303, a common carrier designated  
8 by the liquor control commission under the Michigan liquor  
9 control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, the  
10 liquor control commission, or an agent of the liquor control  
11 commission and is transporting or having the alcoholic liquor in  
12 a motor vehicle under the person's control during regular working  
13 hours and in the course of the person's employment. This section  
14 does not prevent a person less than 21 years of age from  
15 knowingly transporting alcoholic liquor in a motor vehicle if a  
16 person at least 21 years of age is present inside the motor  
17 vehicle. A person who violates this subsection is guilty of a  
18 misdemeanor. As part of the sentence, the person may be ordered  
19 to perform community service and undergo substance abuse  
20 screening and assessment at his or her own expense as described  
21 in section 703(1) of the Michigan liquor control code of 1998,  
22 1998 PA 58, MCL 436.1703.

23       (2) Within 30 days after the conviction for a violation of  
24 subsection (1) by the operator of a motor vehicle, which  
25 conviction has become final, the arresting law enforcement  
26 officer or the officer's superior may make a complaint before the  
27 court from which the warrant was issued. The complaint shall be

1 under oath and shall describe the motor vehicle in which  
2 alcoholic liquor was possessed or transported by the operator,  
3 who is less than 21 years of age, in committing the violation and  
4 requesting that the motor vehicle be impounded as provided in  
5 this section. Upon the filing of the complaint, the court shall  
6 issue to the owner of the motor vehicle an order to show cause  
7 why the motor vehicle should not be impounded. The order to show  
8 cause shall fix a date and time for a hearing, which shall not be  
9 less than 10 days after the issuance of the order. The order  
10 shall be served by delivering a true copy to the owner not less  
11 than 3 full days before the date of hearing or, if the owner  
12 cannot be located, by sending a true copy by certified mail to  
13 the last known address of the owner. If the owner is a  
14 nonresident of the state, service may be made upon the secretary  
15 of state as provided in section 403.

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

1 the motor vehicle wherever located and to store the vehicle in a  
2 public or private garage at the expense and risk of the owner of  
3 the vehicle. The owner of the vehicle may appeal the order to  
4 the circuit court and the provisions governing the taking of  
5 appeals from judgments for damages apply to the appeal. This  
6 section does not prevent a bona fide lienholder from exercising  
7 rights under a lien.

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

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

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

24 Sec. 625. (1) A person, whether licensed or not, shall not  
25 operate a vehicle upon a highway or other place open to the  
26 general public or generally accessible to motor vehicles,  
27 including an area designated for the parking of vehicles, within

1 this state if either of the following applies:

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

5 (b) The person has an alcohol content of 0.10 grams or more  
6 per 100 milliliters of blood, per 210 liters of breath, or per 67  
7 milliliters of urine.

8 (2) The owner of a vehicle or a person in charge or in  
9 control of a vehicle shall not authorize or knowingly permit the  
10 vehicle to be operated upon a highway or other place open to the  
11 general public or generally accessible to motor vehicles,  
12 including an area designated for the parking of motor vehicles,  
13 within this state by a person who is under the influence of  
14 ~~intoxicating~~ **alcoholic** liquor, a controlled substance, or a  
15 combination of ~~intoxicating~~ **alcoholic** liquor and a controlled  
16 substance, who has an alcohol content of ~~0.10~~ **0.08** grams or  
17 more per 100 milliliters of blood, per 210 liters of breath, or  
18 per 67 milliliters of urine, or whose ability to operate the  
19 motor vehicle is visibly impaired due to the consumption of  
20 ~~intoxicating~~ **alcoholic** liquor, a controlled substance, or a  
21 combination of ~~intoxicating~~ **alcoholic** liquor and a controlled  
22 substance.

23 (3) A person, whether licensed or not, shall not operate a  
24 vehicle upon a highway or other place open to the general public  
25 or generally accessible to motor vehicles, including an area  
26 designated for the parking of vehicles, within this state ~~when,~~  
27 ~~due~~ **while intoxicated. Operating while intoxicated means either**

1 of the following:

2 (a) Due to the consumption of ~~intoxicating~~ alcoholic  
3 liquor, a controlled substance, or a combination of  
4 ~~intoxicating~~ alcoholic liquor and a controlled substance, the  
5 person's ability to operate the vehicle is visibly impaired. ~~If~~  
6 ~~a person is charged with violating subsection (1), a finding of~~  
7 ~~guilty under this subsection may be rendered.~~

8 (b) The person has an alcohol content of 0.08 grams or more  
9 but less than 0.10 grams per 100 milliliters of blood, per 210  
10 liters of breath, or per 67 milliliters of urine.

11 (4) A person, whether licensed or not, who operates a motor  
12 vehicle in violation of subsection (1) or (3) and by the  
13 operation of that motor vehicle causes the death of another  
14 person is guilty of a crime as follows:

15 (a) Except as provided in subdivision (b), the person is  
16 guilty of a felony punishable by imprisonment for not more than  
17 15 years or a fine of not less than \$2,500.00 or more than  
18 \$10,000.00, or both. The judgment of sentence may impose the  
19 sanction permitted under section 625n. If the vehicle is not  
20 ordered forfeited under section 625n, the court shall order  
21 vehicle immobilization under section 904d in the judgment of  
22 sentence.

23 (b) If, at the time of the violation, the person is operating  
24 a motor vehicle in a manner proscribed under section 653a and  
25 causes the death of a police officer, firefighter, or other  
26 emergency response personnel, the person is guilty of a felony  
27 punishable by imprisonment for not more than 20 years or a fine

1 of not less than \$2,500.00 or more than \$10,000.00, or both.  
 2 This subdivision applies regardless of whether the person is  
 3 charged with the violation of section 653a. The judgment of  
 4 sentence may impose the sanction permitted under section 625n.  
 5 If the vehicle is not ordered forfeited under section 625n, the  
 6 court shall order vehicle immobilization under section 904d in  
 7 the judgment of sentence.

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

20 ~~—— (a) Loss of a limb or use of a limb.~~

21 ~~—— (b) Loss of a hand, foot, finger, or thumb or use of a hand,~~  
 22 ~~foot, finger, or thumb.~~

23 ~~—— (c) Loss of an eye or ear or use of an eye or ear.~~

24 ~~—— (d) Loss or substantial impairment of a bodily function.~~

25 ~~—— (e) Serious visible disfigurement.~~

26 ~~—— (f) A comatose state that lasts for more than 3 days.~~

27 ~~—— (g) Measurable brain damage or mental impairment.~~

1 ~~—— (h) A skull fracture or other serious bone fracture.~~

2 ~~—— (i) Subdural hemorrhage or subdural hematoma.~~

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

10 (a) An alcohol content of ~~not less than~~ 0.02 grams or more  
 11 **but less** than ~~0.07~~ **0.08** grams per 100 milliliters of blood, per  
 12 210 liters of breath, or per 67 milliliters of urine.

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

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

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

24 (i) Except as provided in subparagraph (ii), a person who  
 25 violates this subdivision is guilty of a misdemeanor and shall be  
 26 sentenced to pay a fine of not less than ~~\$200.00~~ **\$400.00** or  
 27 more than \$1,000.00 and to 1 or more of the following:



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

5 (B) Community service for not less than 30 days or more than  
6 90 days.

7 (ii) If the violation occurs within 7 years of a prior  
8 conviction or within 10 years of 2 or more prior convictions, a  
9 person who violates this subdivision is guilty of a felony and  
10 shall be sentenced to pay a fine of not less than ~~-\$500.00~~  
11 **\$800.00** or more than \$5,000.00 and to either of the following:

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

14 (B) Probation with imprisonment in the county jail for not  
15 less than 30 days or more than 1 year and community service for  
16 not less than 60 days or more than 180 days. Not less than 48  
17 hours of this imprisonment shall be served consecutively. This  
18 term of imprisonment shall not be suspended.

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

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

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

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

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

2 (ii) If the violation occurs within 7 years of a prior  
3 conviction or within 10 years of 2 or more prior convictions, a  
4 person who violates this subdivision shall be sentenced to pay a  
5 fine of not less than ~~\$200.00~~ **\$400.00** or more than \$1,000.00  
6 and to 1 or more of the following:

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

11 (B) Community service for not less than 30 days or more than  
12 90 days.

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

20 (d) This subsection does not prohibit a person from being  
21 charged with, convicted of, or punished for a violation of  
22 subsection (4) or (5) that is committed by the person while  
23 violating this subsection. However, points shall not be assessed  
24 under section 320a for both a violation of subsection (4) or (5)  
25 and a violation of this subsection for conduct arising out of the  
26 same transaction.

27 (8) If a person is convicted of violating subsection (1), all

1 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~~ **90** days.

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

7 (iii) A fine of not less than ~~\$100.00~~ **\$200.00** or more than  
8 ~~\$500.00~~ **\$1,000.00**.

9 (b) If the violation occurs within 7 years of a prior  
10 conviction, the person shall be sentenced to pay a fine of not  
11 less than ~~\$200.00~~ **\$400.00** or more than ~~\$1,000.00~~ **\$2,000.00**  
12 and 1 or more of the following:

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

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

18 (c) If the violation occurs within 10 years of 2 or more  
19 prior convictions, the person is guilty of a felony and shall be  
20 sentenced to pay a fine of not less than ~~\$500.00~~ **\$800.00** or  
21 more than \$5,000.00 and to either of the following:

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

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

1 be served consecutively.

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

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

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

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

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

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

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

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

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

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

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

6 (iii) A fine of not ~~more than \$300.00~~ **less than \$100.00 or**  
7 **more than \$500.00.**

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~~ **\$400.00** or more than ~~\$1,000.00~~ **\$2,000.00,**  
11 and 1 or more of the 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~~ **\$800.00** or  
20 more than \$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 (11) If a person is convicted of violating subsection (6),  
12 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.

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

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

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

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

21           (16) A prior conviction shall be established at sentencing by  
22 1 or more of the following:

23           (a) An abstract of conviction.

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

25           (c) An admission by the defendant.

26           (17) Except as otherwise provided in subsection (19), if a  
27 person is charged with operating a vehicle while under the

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

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

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



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

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

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

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

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

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

24 (22) In a prosecution for a violation of subsection (6), the  
25 defendant bears the burden of proving that the consumption of  
26 ~~intoxicating~~ **alcoholic** liquor was a part of a generally  
27 recognized religious service or ceremony by a preponderance of

1 the evidence.

2 (23) Subject to subsection (25), as used in this section,  
3 "prior conviction" means a conviction for any of the following,  
4 whether under a law of this state, a local ordinance  
5 substantially corresponding to a law of this state, or a law of  
6 another state substantially corresponding to a law of this  
7 state:

8 (a) Except as provided in subsection (24), a violation or  
9 attempted violation of subsection (1), (3), (4), (5), (6), or  
10 (7), section 625m, former section 625(1) or (2), or former  
11 section 625b.

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

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

16 (24) Except for purposes of the enhancement described in  
17 subsection (11)(b), only 1 violation or attempted violation of  
18 subsection (6), a local ordinance substantially corresponding to  
19 subsection (6), or a law of another state substantially  
20 corresponding to subsection (6) may be used as a prior  
21 conviction.

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

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

1 (a) The peace officer has reasonable cause to believe the  
2 person was, at the time of an accident in this state, the  
3 operator of a vehicle involved in the accident and was operating  
4 the vehicle in violation of section 625 or a local ordinance  
5 substantially corresponding to section 625.

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

12 (2) A peace officer who has reasonable cause to believe that  
13 a person was operating a vehicle upon a public highway or other  
14 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 and that the person by the  
17 consumption of ~~intoxicating~~ **alcoholic** liquor may have affected  
18 his or her ability to operate a vehicle, or reasonable cause to  
19 believe that a person was operating a commercial motor vehicle  
20 within the state while the person's blood, breath, or urine  
21 contained any measurable amount of alcohol or while the person  
22 had any detectable presence of ~~intoxicating~~ **alcoholic** liquor,  
23 or reasonable cause to believe that a person who is less than 21  
24 years of age was operating a vehicle upon a public highway or  
25 other place open to the public or generally accessible to motor  
26 vehicles, including an area designated for the parking of  
27 vehicles, within this state while the person had any bodily

1 alcohol content as that term is defined in section 625(6), may  
2 require the person to submit to a preliminary chemical breath  
3 analysis. The following provisions apply with respect to a  
4 preliminary chemical breath analysis administered under this  
5 subsection:

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

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

12 (i) To assist the court or hearing officer in determining a  
13 challenge to the validity of an arrest. This subparagraph does  
14 not limit the introduction of other competent evidence offered to  
15 establish the validity of an arrest.

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

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

1 (c) A person who submits to a preliminary chemical breath  
2 analysis remains subject to the requirements of sections 625c,  
3 625d, 625e, and 625f for purposes of chemical tests described in  
4 those sections.

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

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

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

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

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

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

7 (a) The amount of alcohol or presence of a controlled  
8 substance or both in a driver's blood or urine or the amount of  
9 alcohol in a person's breath at the time alleged as shown by  
10 chemical analysis of the person's blood, urine, or breath is  
11 admissible into evidence in any civil or criminal proceeding.

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

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

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

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

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

1 obtain a court order.

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

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

22 (d) A chemical test described in this subsection shall be  
23 administered at the request of a peace officer having reasonable  
24 grounds to believe the person has committed a crime described in  
25 section 625c(1). A person who takes a chemical test administered  
26 at a peace officer's request as provided in this section shall be  
27 given a reasonable opportunity to have a person of his or her own

1 choosing administer 1 of the chemical tests described in this  
2 subsection within a reasonable time after his or her detention.  
3 The test results are admissible and shall be considered with  
4 other admissible evidence in determining the defendant's  
5 innocence or guilt. If the person charged is administered a  
6 chemical test by a person of his or her own choosing, the person  
7 charged is responsible for obtaining a chemical analysis of the  
8 test sample.

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

23 (f) If, after an accident, the driver of a vehicle involved  
24 in the accident is deceased, a sample of the decedent's blood  
25 shall be withdrawn in a manner directed by the medical examiner  
26 to determine the amount of alcohol or the presence of a  
27 controlled substance, or both, in the decedent's blood. The



1 medical examiner shall give the results of the chemical analysis  
2 of the sample to the law enforcement agency investigating the  
3 accident and that agency shall forward the results to the  
4 department of state police.

5 (g) The department of state police shall promulgate uniform  
6 rules in compliance with the administrative procedures act of  
7 1969, 1969 PA 306, MCL 24.201 to 24.328, for the administration  
8 of chemical tests for the purposes of this section. An  
9 instrument used for a preliminary chemical breath analysis may be  
10 used for a chemical test described in this subsection if approved  
11 under rules promulgated by the department of state police.

12 (7) The provisions of subsection (6) relating to chemical  
13 testing do not limit the introduction of any other admissible  
14 evidence bearing upon the question of whether a person was  
15 impaired by, or under the influence of, ~~intoxicating~~ **alcoholic**  
16 liquor or a controlled substance, or a combination of  
17 ~~intoxicating~~ **alcoholic** liquor and a controlled substance, or  
18 whether the person had an alcohol content of ~~0.10~~ **0.08** grams or  
19 more per 100 milliliters of blood, per 210 liters of breath, or  
20 per 67 milliliters of urine, or if the person is less than 21  
21 years of age, whether the person had any bodily alcohol content  
22 within his or her body. As used in this section, "any bodily  
23 alcohol content" means either of the following:

24 (a) An alcohol content of ~~not less than~~ 0.02 grams or more  
25 **but less** than ~~0.07~~ **0.08** grams per 100 milliliters of blood, per  
26 210 liters of breath, or per 67 milliliters of urine.

27 (b) Any presence of alcohol within a person's body resulting

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

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

13 (9) Except in a prosecution relating solely to a violation of  
14 section 625(1)(b), **(3)(b)**, or (6), the amount of alcohol in the  
15 driver's blood, breath, or urine at the time alleged as shown by  
16 chemical analysis of the person's blood, breath, or urine gives  
17 rise to the following presumptions:

18 (a) If there were at the time ~~0.07 grams or~~ less **than 0.08**  
19 **grams** of alcohol per 100 milliliters of the defendant's blood,  
20 per 210 liters of the defendant's breath, or per 67 milliliters  
21 of the defendant's urine, it is presumed that the defendant's  
22 ability to operate a motor vehicle was not impaired due to the  
23 consumption of ~~intoxicating~~ **alcoholic** liquor and that the  
24 defendant was not under the influence of ~~intoxicating~~ **alcoholic**  
25 liquor.

26 (b) If there were at the time ~~more than 0.07 grams~~ **0.08**  
27 **grams or more** but less than 0.10 grams of alcohol per 100

1 milliliters of the defendant's blood, per 210 liters of the  
2 defendant's breath, or per 67 milliliters of the defendant's  
3 urine, it is presumed that the defendant's ability to operate a  
4 vehicle was impaired within the provisions of section 625(3) due  
5 to the consumption of ~~intoxicating~~ **alcoholic** liquor.

6 (c) If there were at the time 0.10 grams or more of alcohol  
7 per 100 milliliters of the defendant's blood, per 210 liters of  
8 the breath, or per 67 milliliters of the defendant's urine, it is  
9 presumed that the defendant was under the influence of  
10 ~~intoxicating~~ **alcoholic** liquor.

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

17 Sec. 625c. (1) A person who operates a vehicle upon a  
18 public highway or other place open to the general public or  
19 generally accessible to motor vehicles, including an area  
20 designated for the parking of vehicles, within this state is  
21 considered to have given consent to chemical tests of his or her  
22 blood, breath, or urine for the purpose of determining the amount  
23 of alcohol or presence of a controlled substance or both in his  
24 or her blood or urine or the amount of alcohol in his or her  
25 breath in all of the following circumstances:

26 (a) If the person is arrested for a violation of section  
27 625(1), (3), (4), (5), (6), or (7), section 625a(5), or section

1 625m or a local ordinance substantially corresponding to section  
2 625(1), (3), or (6), section 625a(5), or section 625m.

3 (b) If the person is arrested for felonious driving,  
4 negligent homicide, manslaughter, or murder resulting from the  
5 operation of a motor vehicle, and the peace officer had  
6 reasonable grounds to believe the person was operating the  
7 vehicle while impaired by or under the influence of  
8 ~~intoxicating~~ **alcoholic** liquor or a controlled substance or a  
9 combination of ~~intoxicating~~ **alcoholic** liquor and a controlled  
10 substance, or while having an alcohol content of ~~0.10~~ **0.08**  
11 grams or more per 100 milliliters of blood, per 210 liters of  
12 breath, or per 67 milliliters of urine, or if the person is less  
13 than 21 years of age while having any bodily alcohol content. As  
14 used in this subdivision, "any bodily alcohol content" means  
15 either of the following:

16 (i) An alcohol content of ~~not less than~~ 0.02 grams or more  
17 **but less** than ~~0.07~~ **0.08** grams per 100 milliliters of blood, per  
18 210 liters of breath, or per 67 milliliters of urine.

19 (ii) Any presence of alcohol within a person's body resulting  
20 from the consumption of ~~intoxicating~~ **alcoholic** liquor, other  
21 than consumption of ~~intoxicating~~ **alcoholic** liquor as part of a  
22 generally recognized religious service or ceremony.

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

27 (3) The tests shall be administered as provided in section

1 625a(6).

2       Sec. 625g. (1) If a person refuses a chemical test offered  
3 pursuant to section 625a(6), or submits to the chemical test or  
4 a chemical test is performed pursuant to a court order and the  
5 test reveals an unlawful alcohol content, the peace officer who  
6 requested the person to submit to the test shall do all of the  
7 following:

8       (a) On behalf of the secretary of state, immediately  
9 confiscate the person's license or permit to operate a motor  
10 vehicle and, if the person is otherwise eligible for a license or  
11 permit, issue a temporary license or permit to the person. The  
12 temporary license or permit shall be on a form provided by the  
13 secretary of state.

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

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

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

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

23       (2) If a person submits to a chemical test offered pursuant  
24 to section 625a(6) that requires an analysis of blood or urine  
25 and a report of the results of that chemical test is not  
26 immediately available, the peace officer who requested the person  
27 to submit to the test shall comply with subsection (1)(a) pending

1 receipt of the test report. If the report reveals an unlawful  
2 alcohol content, the peace officer who requested the person to  
3 submit to the test shall immediately comply with  
4 subsection (1)(b). If the report does not reveal an unlawful  
5 alcohol content, the peace officer who requested the person to  
6 submit to the test shall immediately notify the person of the  
7 test results and immediately return the person's license or  
8 permit by first-class mail to the address given at the time of  
9 arrest.

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

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

19 (b) If the case is prosecuted, until the criminal charges  
20 against the person are dismissed, the person is acquitted of  
21 those charges, or the person's license or permit is suspended,  
22 restricted, or revoked.

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

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

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

5 (c) If the person tested is not a person described in  
6 subdivision (a) or (b), ~~0.10~~ 0.08 grams or more of alcohol per  
7 100 milliliters of blood, per 210 liters of breath, or per 67  
8 milliliters of urine.

9 Sec. 625i. (1) The department of state police shall prepare  
10 an annual report ~~which~~ **that** shall be designated the Michigan  
11 annual drunk driving audit. The secretary of state, circuit  
12 court, district court, family division of circuit court,  
13 municipal courts, and local units of government in this state  
14 shall cooperate with the department of state police to provide  
15 information necessary for the preparation of the report. A copy  
16 of the report prepared under this subsection shall be submitted  
17 to the governor, the secretary of the senate, the clerk of the  
18 house of representatives, and the secretary of state on July 1 of  
19 each year. The report shall contain for each county in the state  
20 all of the following information applicable to the immediately  
21 preceding calendar year:

22 (a) The number of alcohol related motor vehicle crashes  
23 resulting in bodily injury, including a breakdown of the number  
24 of those injuries occurring per capita of population and per road  
25 mile in the county.

26 (b) The number of alcohol related motor vehicle crashes  
27 resulting in death, including the breakdown described in

1 subdivision (a).

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

5 (d) The number of arrests made for violations of section  
6 ~~625(1)(a) or (b)~~ **625(1)** or local ordinances substantially  
7 corresponding to section ~~625(1)(a) or (b)~~ **625(1)**.

8 (e) The number of arrests made for violations of section  
9 625(3) or local ordinances substantially corresponding to section  
10 625(3).

11 (f) The number of arrests made for violations of  
12 section 625(6) or local ordinances substantially corresponding to  
13 section 625(6).

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

16 (h) The number of arrests made for violations of section  
17 625(7).

18 (i) The number of operator's or chauffeur's licenses  
19 suspended pursuant to section 625f.

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

22 (2) The secretary of state shall compile a report of  
23 dispositions of charges for violations of section 625(1), (3),  
24 (4), (5), (6), or (7) or section 625m or section 33b(1) or (2) of  
25 former 1933 (Ex Sess) PA 8, section 703(1) or (2) of the Michigan  
26 liquor control code of 1998, 1998 PA 58, MCL 436.1703, or local  
27 ordinances substantially corresponding to section 625(1), (3), or



1 (6) or section 625m or section 33b(1) or (2) of former 1933 (Ex  
2 Sess) PA 8, or section 703(1) or (2) of the Michigan liquor  
3 control code of 1998, 1998 PA 58, MCL 436.1703, by each judge for  
4 inclusion in the annual report. The report compiled by the  
5 secretary of state shall include information regarding all of the  
6 following:

7 (a) The number of dismissals granted.

8 (b) The number of convictions entered.

9 (c) The number of acquittals entered.

10 (d) The average length of imprisonment imposed.

11 (e) The average length of community service imposed in lieu  
12 of imprisonment.

13 (f) The average fine imposed.

14 (g) The number of vehicles ordered immobilized under section  
15 904d.

16 (h) The number of vehicles ordered forfeited under section  
17 625n.

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

21 (4) The department of state police shall enter into a  
22 contract with the university of Michigan transportation research  
23 institute, ~~in~~ **under** which the university of Michigan  
24 transportation research institute shall evaluate the effect and  
25 impact of the 1998 legislation addressing drunk and impaired  
26 driving in this state and report its findings to the governor and  
27 the legislature not later than October 1, ~~2002~~ **2004**.

1           Sec. 625m. (1) A person, whether licensed or not, who has  
2 an alcohol content of 0.04 grams or more but ~~not more~~ **less** than  
3 ~~0.07~~ **0.08** grams per 100 milliliters of blood, per 210 liters of  
4 breath, or per 67 milliliters of urine shall not operate a  
5 commercial motor vehicle within this state.

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

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

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

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

25           (4) A person who violates this section or a local ordinance  
26 substantially corresponding to this section within 7 years of 1  
27 prior conviction may be sentenced to imprisonment for not more

1 than 1 year or a fine of not more than \$1,000.00, or both.

2 (5) A person who violates this section or a local ordinance  
3 substantially corresponding to this section within 10 years of 2  
4 or more prior convictions is guilty of a felony and shall be  
5 sentenced to pay a fine of not less than \$500.00 or more than  
6 \$5,000.00 and to either of the following:

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

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

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

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

22 (a) Except as provided in subsection (8), a violation or  
23 attempted violation of this section, section 625(1), (3), (4),  
24 (5), (6), or (7), former section 625(1) or (2), or former section  
25 625b.

26 (b) Negligent homicide, manslaughter, or murder resulting  
27 from the operation of a vehicle or an attempt to commit any of

1 those crimes.

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

3 (8) Only 1 violation or attempted violation of  
4 section 625(6), a local ordinance substantially corresponding to  
5 section 625(6), or a law of another state substantially  
6 corresponding to section 625(6) may be used as a prior  
7 conviction.

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

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