

# HOUSE BILL NO. 4308

February 23, 2021, Introduced by Reps. Hammoud, Filler and Bellino and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 625, 625a, 625g, and 625m (MCL 257.625, 257.625a, 257.625g, and 257.625m), section 625 as amended by 2020 PA 383 and sections 625a, 625g, and 625m as amended by 2017 PA 153.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**1**       Sec. 625. (1) A person, whether licensed or not, shall not  
**2**       operate a vehicle on a highway or other place open to the general  
**3**       public or generally accessible to motor vehicles, including an area

1 designated for the parking of vehicles, within this state if the  
2 person is operating while intoxicated. As used in this section,  
3 "operating while intoxicated" means any of the following:

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

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

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

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

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

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

1 ~~blood, per 210 liters of breath, or per 67 milliliters of urine.~~

2 (c) The person's ability to operate the motor vehicle is  
3 visibly impaired due to the consumption of alcoholic liquor, a  
4 controlled substance, or other intoxicating substance, or a  
5 combination of alcoholic liquor, a controlled substance, or other  
6 intoxicating substance.

7 (3) A person, whether licensed or not, shall not operate a  
8 vehicle on a 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 when, due  
11 to the consumption of alcoholic liquor, a controlled substance, or  
12 other intoxicating substance, or a combination of alcoholic liquor,  
13 a controlled substance, or other intoxicating substance, the  
14 person's ability to operate the vehicle is visibly impaired. If a  
15 person is charged with violating subsection (1), a finding of  
16 guilty under this subsection may be rendered.

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

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

28 (b) If the violation occurs while the person has an alcohol  
29 content of 0.17 grams or more per 100 milliliters of blood, per 210

1 liters of breath, or per 67 milliliters of urine, and within 7  
2 years of a prior conviction, the person is guilty of a felony  
3 punishable by imprisonment for not more than 20 years or a fine of  
4 not less than \$2,500.00 or more than \$10,000.00, or both. The  
5 judgment of sentence may impose the sanction permitted under  
6 section 625n. If the vehicle is not ordered forfeited under section  
7 625n, the court shall order vehicle immobilization under section  
8 904d in the judgment of sentence.

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

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

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

1 section 625n, the court shall order vehicle immobilization under  
2 section 904d in the judgment of sentence.

3 (b) If the violation occurs while the person has an alcohol  
4 content of 0.17 grams or more per 100 milliliters of blood, per 210  
5 liters of breath, or per 67 milliliters of urine, and within 7  
6 years of a prior conviction, the person is guilty of a felony  
7 punishable by imprisonment for not more than 10 years or a fine of  
8 not less than \$1,000.00 or more than \$5,000.00, or both. The  
9 judgment of sentence may impose the sanction permitted under  
10 section 625n. If the vehicle is not ordered forfeited under section  
11 625n, the court shall order vehicle immobilization under section  
12 904d in the judgment of sentence.

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

20 (a) An alcohol content of 0.02 grams or more but less than  
21 0.08 grams per 100 milliliters of blood, per 210 liters of breath,  
22 or per 67 milliliters of urine. ~~or, beginning October 1, 2021, the~~  
23 ~~person has an alcohol content of 0.02 grams or more but less than~~  
24 ~~0.10 grams per 100 milliliters of blood, per 210 liters of breath,~~  
25 ~~or per 67 milliliters of urine.~~

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

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

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

8 (i) Except as provided in subparagraph (ii), a person who  
9 violates this subdivision is guilty of a misdemeanor and must be  
10 sentenced to pay a fine of not less than \$200.00 or more than  
11 \$1,000.00 and to 1 or more of the following:

12 (A) Imprisonment for not more than 1 year.

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

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

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

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

27 (iii) A term of imprisonment imposed under subparagraph (ii) (A)  
28 or (B) must not be suspended unless the defendant agrees to  
29 participate in a specialty court program and successfully completes

1 the program.

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

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

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

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

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

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

18 (A) Imprisonment for not less than 5 days or more than 1 year.  
19 This term of imprisonment must not be suspended unless the  
20 defendant agrees to participate in a specialty court program and  
21 successfully completes the program.

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

24 (c) In the judgment of sentence under subdivision (a) (i) or  
25 (b) (i), the court may, unless the vehicle is ordered forfeited under  
26 section 625n, order vehicle immobilization as provided in section  
27 904d. In the judgment of sentence under subdivision (a) (ii) or  
28 (b) (ii), the court shall, unless the vehicle is ordered forfeited  
29 under section 625n, order vehicle immobilization as provided in

1 section 904d.

2 (d) This subsection does not prohibit a person from being  
3 charged with, convicted of, or punished for a violation of  
4 subsection (4) or (5) that is committed by the person while  
5 violating this subsection. However, points shall not be assessed  
6 under section 320a for both a violation of subsection (4) or (5)  
7 and a violation of this subsection for conduct arising out of the  
8 same transaction.

9 (8) A person, whether licensed or not, shall not operate a  
10 vehicle on a highway or other place open to the general public or  
11 generally accessible to motor vehicles, including an area  
12 designated for the parking of vehicles, within this state if the  
13 person has in his or her body any amount of a controlled substance  
14 listed in schedule 1 under section 7212 of the public health code,  
15 1978 PA 368, MCL 333.7212, or a rule promulgated under that  
16 section, or of a controlled substance described in section  
17 7214(a) (iv) of the public health code, 1978 PA 368, MCL 333.7214.

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

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

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

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

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



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

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

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

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

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

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

19 (d) A term of imprisonment imposed under subdivision (b) or  
20 (c) must not be suspended unless the defendant agrees to  
21 participate in a specialty court program and successfully completes  
22 the program.

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

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

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

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

6 (b) If the person operating the motor vehicle violated  
7 subsection (4), a felony punishable by imprisonment for not more  
8 than 5 years or a fine of not less than \$1,500.00 or more than  
9 \$10,000.00, or both.

10 (c) If the person operating the motor vehicle violated  
11 subsection (5), a felony punishable by imprisonment for not more  
12 than 2 years or a fine of not less than \$1,000.00 or more than  
13 \$5,000.00, or both.

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

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

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

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

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

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

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

27 (ii) Community service for not less than 30 days or more than  
28 90 days.

29 (c) If the violation occurs after 2 or more prior convictions,

1 regardless of the number of years that have elapsed since any prior  
2 conviction, the person is guilty of a felony and must be sentenced  
3 to pay a fine of not less than \$500.00 or more than \$5,000.00 and  
4 either of the following:

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

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

12 (d) A term of imprisonment imposed under subdivision (b) or  
13 (c) must not be suspended unless the defendant agrees to  
14 participate in a specialty court program and successfully completes  
15 the program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 motion.

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

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

5 (b) An abstract of conviction.

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

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

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

10 (f) Information contained in a presentence report.

11 (g) An admission by the defendant.

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

25 (19) Except as otherwise provided in subsection (20), if a  
26 person is charged with operating a vehicle while his or her ability  
27 to operate the vehicle was visibly impaired due to his or her  
28 consumption of a controlled substance or other intoxicating  
29 substance or a combination of alcoholic liquor, a controlled

1 substance, or other intoxicating substance in violation of  
2 subsection (3) or a local ordinance substantially corresponding to  
3 subsection (3), the court shall require the jury to return a  
4 special verdict in the form of a written finding or, if the court  
5 convicts the person without a jury or accepts a plea of guilty or  
6 nolo contendere, the court shall make a finding as to whether, due  
7 to the consumption of a controlled substance or a combination of  
8 alcoholic liquor, a controlled substance, or other intoxicating  
9 substance, the person's ability to operate a motor vehicle was  
10 visibly impaired at the time of the violation.

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

14 (a) Whether the defendant was under the influence of a  
15 controlled substance or a combination of alcoholic liquor, a  
16 controlled substance, or other intoxicating substance at the time  
17 of the violation.

18 (b) Whether the defendant was visibly impaired due to his or  
19 her consumption of a controlled substance or a combination of  
20 alcoholic liquor, a controlled substance, or other intoxicating  
21 substance at the time of the violation.

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

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

29 (b) On a form or forms prescribed by the state court

1 administrator, forward to the department of state police a record  
2 that specifies the penalties imposed by the court, including any  
3 term of imprisonment, and any sanction imposed under section 625n  
4 or 904d.

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

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

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

19 (25) As used in this section:

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

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

25 (A) The official United States Pharmacopoeia.

26 (B) The official Homeopathic Pharmacopoeia of the United  
27 States.

28 (C) The official National Formulary.

29 (ii) A substance, other than food, taken into a person's body,

1 including, but not limited to, vapors or fumes, that is used in a  
2 manner or for a purpose for which it was not intended, and that may  
3 result in a condition of intoxication.

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

10 (i) Except as provided in subsection (26), a violation or  
11 attempted violation of any of the following:

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

19 (B) Section 625m.

20 (C) Former section 625b.

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

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

25 (26) Except for purposes of the enhancement described in  
26 subsection (12)(b), only 1 violation or attempted violation of  
27 subsection (6), a local ordinance substantially corresponding to  
28 subsection (6), or a law of another state substantially  
29 corresponding to subsection (6) may be used as a prior conviction.



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

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

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

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

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

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

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

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

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

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

27 (iii) As evidence of the defendant's breath alcohol content, if  
28 offered by the prosecution to rebut testimony elicited on cross-  
29 examination of a prosecution witness that the defendant's breath

1 alcohol content was lower at the time of the charged offense than  
2 when a chemical test was administered under subsection (6).

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

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

10 (3) A peace officer shall use the results of a preliminary  
11 chemical breath analysis conducted under this section to determine  
12 whether to order a person out-of-service under section 319d. A  
13 peace officer shall order out-of-service as required under section  
14 319d a person who was operating a commercial motor vehicle and who  
15 refuses to submit to a preliminary chemical breath analysis as  
16 provided in this section. This section does not limit use of other  
17 competent evidence by the peace officer to determine whether to  
18 order a 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 must be advised that refusing a peace  
22 officer's request to take a test described in this section is a  
23 misdemeanor punishable by imprisonment for not more than 93 days or  
24 a fine of not more than \$100.00, or both, and will result in the  
25 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  
28 upon a peace officer's lawful request is guilty of a misdemeanor  
29 punishable by imprisonment for not more than 93 days or a fine of

1 not more than \$100.00, or both.

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

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

12 (b) A person arrested for a crime described in section 625c(1)  
13 must 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, he  
16 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 innocence  
21 or guilt.

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

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

28 (v) Refusing a peace officer's request to take a test  
29 described in subparagraph (i) will result in the suspension of his

1 or her operator's or chauffeur's license and vehicle group  
2 designation or operating privilege and in the addition of 6 points  
3 to his or her driver record.

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

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

1 person of his or her own choosing, the person charged is  
2 responsible for obtaining a chemical analysis of the test sample.

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

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

26 (g) The department of state police shall promulgate uniform  
27 rules in compliance with the administrative procedures act of 1969,  
28 1969 PA 306, MCL 24.201 to 24.328, for the administration of  
29 chemical tests for the purposes of this section. An instrument used

1 for a preliminary chemical breath analysis may be used for a  
2 chemical test described in this subsection if approved under rules  
3 promulgated by the department of state police.

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

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

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

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

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

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

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

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

15           (10) As used in this section:

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

18           (b) "Intoxicating substance" means that term as defined in  
19 section 625.

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

29           (a) On behalf of the secretary of state, immediately



1 confiscate the person's license or permit to operate a motor  
2 vehicle and, if the person is otherwise eligible for a license or  
3 permit, issue a temporary license or permit to the person. The  
4 temporary license or permit must be on a form provided by the  
5 secretary of state.

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

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

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

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

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

1 results and immediately return the person's license or permit by  
2 first-class mail to the address provided at the time of arrest.

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

5 (a) If the case is not prosecuted, for 90 days after issuance  
6 or until the person's license or permit is suspended under section  
7 625f, whichever occurs earlier. The prosecuting attorney shall  
8 notify the secretary of state if a case referred to the prosecuting  
9 attorney is not prosecuted. The arresting law enforcement agency  
10 shall notify the secretary of state if a case is not referred to  
11 the prosecuting attorney for prosecution.

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

16 (4) As used in this section:

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

19 (b) "Intoxicating substance" means that term as defined in  
20 section 625.

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

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

26 (ii) If the person tested was operating a commercial motor  
27 vehicle within this state, 0.04 grams or more of alcohol per 100  
28 milliliters of blood, per 210 liters of breath, or per 67  
29 milliliters of urine.

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

7           Sec. 625m. (1) A person, whether licensed or not, who has an  
8 alcohol content of 0.04 grams or more but less than 0.08 grams per  
9 100 milliliters of blood, per 210 liters of breath, or per 67  
10 milliliters of urine ~~or, beginning October 1, 2021, an alcohol~~  
11 ~~content of 0.04 grams or more but less than 0.10 grams per 100~~  
12 ~~milliliters of blood, per 210 liters of breath, or per 67~~  
13 ~~milliliters of urine,~~ shall not operate a commercial motor vehicle  
14 within this state.

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

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

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

28           (3) Except as otherwise provided in subsections (4) and (5), a  
29 person who is convicted of a violation of this section or a local

1 ordinance substantially corresponding to this section is guilty of  
2 a misdemeanor punishable by imprisonment for not more than 93 days  
3 or a fine of not more than \$300.00, or both, together with costs of  
4 the prosecution.

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

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

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

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

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

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

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

1 (i) This section.

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

9 (iii) Former section 625b.

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

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

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

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

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

24 Enacting section 2. This amendatory act does not take effect  
25 unless Senate Bill No. \_\_\_\_ or House Bill No. 4309 (request no.  
26 01914'21 a) of the 101st Legislature is enacted into law.