

HOUSE BILL No. 4015

January 11, 1989, Introduced by Reps. Honigman, Nye, Bandstra and Gire and referred to the Committee on Judiciary.

A bill to amend section 625 of Act No. 300 of the Public Acts of 1949, entitled as amended

"Michigan vehicle code,"

as amended by Act No. 109 of the Public Acts of 1987, being section 257.625 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 625 of Act No. 300 of the Public Acts of
2 1949, as amended by Act No. 109 of the Public Acts of 1987, being
3 section 257.625 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 625. (1) A person, whether licensed or not, who is
6 under the influence of intoxicating liquor or a controlled sub-
7 stance, or a combination of intoxicating liquor and a controlled
8 substance, shall not operate a vehicle upon a highway or other
9 place open to the general public, including an area designated

1 for the parking of vehicles, within the state. A peace officer
2 may, without a warrant, arrest a person when the peace officer
3 has reasonable cause to believe that the person was, at the time
4 of an accident, the driver of a vehicle involved in the accident
5 and was operating the vehicle upon a public highway or other
6 place open to the general public, including an area designated
7 for the parking of vehicles, in the state while in violation of
8 this subsection or of subsection (2), or of a local ordinance
9 substantially corresponding to this subsection or subsection
10 (2).

11 (2) A person, whether licensed or not, whose blood contains
12 0.10% or more by weight of alcohol, shall not operate a vehicle
13 upon a highway or other place open to the general public, includ-
14 ing an area designated for the parking of vehicles, within the
15 state.

16 (3) The owner of a vehicle or a person in charge or in con-
17 trol of a vehicle shall not authorize or knowingly permit the
18 vehicle to be operated upon a highway or other place open to the
19 general public, including an area designated for the parking of
20 motor vehicles, within the state by a person who is under the
21 influence of intoxicating liquor or a controlled substance, or a
22 combination of intoxicating liquor and a controlled substance.

23 (4) Except as otherwise provided in this section, a person
24 who is convicted of a violation of subsection (1), (2), or (3) is
25 guilty of a misdemeanor ~~—punishable—~~ AND SHALL BE PUNISHED by
26 imprisonment for not LESS THAN 1 DAY NOR more than 90 days. ~~—~~
27 ~~or~~ IN ADDITION, THE COURT MAY ORDER THE PERSON TO PAY a fine of

1 not less than \$100.00 nor more than \$500.00 ~~, or both, together~~
2 ~~with~~ AND THE costs of the prosecution. As part of the sentence
3 for a violation of subsection (1) or (2), the court shall order
4 the secretary of state to suspend the operator's or chauffeur's
5 license of the person for a period of not less than 6 months nor
6 more than 2 years. The court may order the secretary of state to
7 issue to the person a restricted license permitting the person
8 during all or a specified portion of the period of suspension to
9 drive only to and from the person's residence and work location;
10 in the course of the person's employment or occupation; to and
11 from an alcohol or drug education program or treatment program as
12 ordered by the court; to and from the person's residence and an
13 educational institution at which the person is enrolled as a stu-
14 dent; or pursuant to a combination of these restrictions. The
15 court may also order that the restricted license include the
16 requirement that a person shall not operate a motor vehicle
17 unless the vehicle is equipped with a functioning certified igni-
18 tion interlock device. The device shall be set to render the
19 motor vehicle inoperable if the device detects 0.02% or more by
20 weight of alcohol in the blood of the person who offers a breath
21 sample. The court may order installation of a certified ignition
22 interlock device on any motor vehicle that the person owns or
23 operates, the costs of which shall be borne by the person whose
24 license is restricted. The court shall not order the secretary
25 of state to issue a restricted chauffeur's license which would
26 permit a person to operate a truck or truck tractor, including a
27 trailer, which hauls hazardous material. The court shall not

1 order the secretary of state to issue a restricted license unless
2 the person states under oath and the court finds that the person
3 is unable to take public transportation to and from his or her
4 work location, place of alcohol or drug education or treatment,
5 or educational institution, and does not have any family members
6 or others able to provide transportation. The court order and
7 license shall indicate the person's work location and the
8 approved route or routes and permitted times of travel. For pur-
9 poses of this subsection, "work location" includes, as applica-
10 ble, either or both of the following:

11 (i) The specific place or places of employment.

12 (ii) The territory or territories regularly visited by the
13 person in pursuance of the person's occupation.

14 (5) A person who violates subsection (1) or (2) or a local
15 ordinance substantially corresponding to subsection (1) or (2)
16 within 7 years of a prior conviction ~~may~~ SHALL be ~~sentenced~~
17 ~~to~~ PUNISHED BY imprisonment for not LESS THAN 1 DAY NOR more
18 than 1 year. ~~or~~ IN ADDITION, THE COURT MAY ORDER THE PERSON
19 TO PAY a fine of not more than \$1,000.00. ~~, or both.~~ As part
20 of the sentence, the court shall order the secretary of state to
21 revoke the operator's or chauffeur's license of the person. For
22 purposes of this section, "prior conviction" means a conviction
23 under subsection (1) or (2), a local ordinance substantially cor-
24 responding to subsection (1) or (2), or a law of another state
25 substantially corresponding to subsection (1) or (2).

26 (6) A person who violates subsection (1) or (2) or a local
27 ordinance substantially corresponding to subsection (1) or (2)

1 within 10 years of 2 or more prior convictions, as defined in
2 subsection (5), is guilty of a felony AND SHALL BE PUNISHED BY
3 IMPRISONMENT FOR A MANDATORY MINIMUM TERM OF NOT LESS THAN 1 DAY
4 AND A MAXIMUM TERM OF NOT MORE THAN 4 YEARS. IN ADDITION, THE
5 COURT MAY ORDER THE PERSON TO PAY A FINE OF NOT MORE THAN
6 \$2,000.00. As part of the sentence, the court shall order the
7 secretary of state to revoke the operator's or chauffeur's
8 license of the person.

9 (7) As part of the sentence for a violation of subsection
10 (1) or (2), or a local ordinance substantially corresponding to
11 subsection (1) or (2), the court may order the person to perform
12 service to the community, as designated by the court, without
13 compensation, for a period not to exceed 12 days. The person
14 shall reimburse the state or appropriate local unit of government
15 for the cost of insurance incurred by the state or local unit of
16 government as a result of the person's activities under this
17 subsection.

18 (8) Before imposing sentence for a violation of subsection
19 (1) or (2) or a local ordinance substantially corresponding to
20 subsection (1) or (2), the court shall order the person to
21 undergo screening and assessment by a person or agency designated
22 by the office of substance abuse services, to determine whether
23 the person is likely to benefit from rehabilitative services,
24 including alcohol or drug education and alcohol or drug treatment
25 programs. As part of the sentence, the court may order the
26 person to participate in and successfully complete 1 or more
27 appropriate rehabilitative programs. The person shall pay for

1 the costs of the screening, assessment, and rehabilitative
2 services.

3 (9) Before accepting a plea of guilty under this section,
4 the court shall advise the accused of the statutory consequences
5 possible as the result of a plea of guilty in respect to suspen-
6 sion or revocation of an operator's or chauffeur's license, the
7 penalty imposed for violation of this section, and the limitation
8 on the right of appeal.

9 (10) The operator's or chauffeur's license of a person found
10 guilty of violating subsection (1) or (2), or a local ordinance
11 substantially corresponding to subsection (1) or (2), shall be
12 surrendered to the court in which the person was convicted, and
13 the court shall immediately forward the surrendered license and
14 an abstract of conviction to the secretary of state. The
15 abstract of conviction shall indicate the sentence imposed. Upon
16 receipt of, and pursuant to the abstract of conviction, the sec-
17 retary of state shall suspend or revoke the person's license and,
18 if ordered by the court and the person is otherwise eligible for
19 a license, issue to the person a restricted license stating the
20 limited driving privileges indicated on the abstract. If the
21 license is not forwarded to the secretary of state, an explana-
22 tion of the reason why the license is absent shall be attached.
23 If the conviction is appealed to circuit court, that court may,
24 ex parte, order the secretary of state to rescind the suspension,
25 revocation, or restricted license issued pursuant to this
26 section.