

HOUSE BILL No. 4972

July 13, 1989, Introduced by Reps. Perry Bullard, Gire, Bennett, Weeks, Webb, Honigman, Hollister, Maynard, Berman, Bandstra and DeMars and referred to the Committee on Judiciary.

A bill to amend sections 303, 319, 320a, 323, 323a, 625, 625a, 625b, 625c, 625d, 625f, 625i, and 904 of Act No. 300 of the Public Acts of 1949, entitled as amended

"Michigan vehicle code,"

sections 303, 323, and 904 as amended by Act No. 346 of the Public Acts of 1988, section 319 as amended by Act No. 406 of the Public Acts of 1988, section 320a as amended by Act No. 154 of the Public Acts of 1987, sections 323a, 625a, 625c, 625d, and 625f as amended and section 625i as added by Act No. 310 of the Public Acts of 1982, and sections 625 and 625b as amended by Act No. 109 of the Public Acts of 1987, being sections 257.303, 257.319, 257.320a, 257.323, 257.323a, 257.625, 257.625a, 257.625b, 257.625c, 257.625d, 257.625f, 257.625i, and 257.904 of the Michigan Compiled Laws; to add sections 27b, 624a, 624b, and 910; and to repeal certain acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 303, 319, 320a, 323, 323a, 625, 625a,
2 625b, 625c, 625d, 625f, 625i, and 904 of Act No. 300 of the
3 Public Acts of 1949, sections 303, 323, and 904 as amended by Act
4 No. 346 of the Public Acts of 1988, section 319 as amended by Act
5 No. 406 of the Public Acts of 1988, section 320a as amended by
6 Act No. 154 of the Public Acts of 1987, sections 323a, 625a,
7 625c, 625d, and 625f as amended and section 625i as added by Act
8 No. 310 of the Public Acts of 1982, and sections 625 and 625b as
9 amended by Act No. 109 of the Public Acts of 1987, being sections
10 257.303, 257.319, 257.320a, 257.323, 257.323a, 257.625, 257.625a,
11 257.625b, 257.625c, 257.625d, 257.625f, 257.625i, and 257.904 of
12 the Michigan Compiled Laws, are amended and sections 27b, 624a,
13 624b, and 910 are added to read as follows:

14 SEC. 27B. "LOCAL ORDINANCE" MEANS AN ORDINANCE OR OTHER
15 FORM OF LAW ENACTED BY A LOCAL UNIT OF GOVERNMENT IN THIS OR
16 ANOTHER STATE.

17 Sec. 303. (1) The secretary of state shall not issue a
18 license under this act:

19 (a) To a person, as an operator, who is ~~+17 years of age or~~
20 less THAN 18 YEARS OF AGE, except that the secretary of state may
21 issue a license to a person who is not less than 16 years of age
22 and who has satisfactorily passed a driver education course and
23 examination given by a public school or nonpublic school of this
24 or another state offering a course approved by the department of
25 education, or an equivalent COURSE AND examination as prescribed
26 in section 811. The secretary of state may issue to a person not

1 less than 14 years of age a restricted license as provided in
2 this act. This subdivision shall not apply to a person who has
3 been the holder of a valid driver's license issued by another
4 state, territory, or possession of the United States or another
5 sovereignty for at least 1 year immediately before application
6 for a driver's license under this act.

7 (b) To a person, as a chauffeur, who is 17 years of age or
8 less, except that the secretary of state may issue a license to a
9 person who is not less than 16 years of age and who has satisfac-
10 torily passed a driver education course and examination given by
11 a public school or nonpublic school of this or another state
12 offering a course approved by the department of education, or an
13 equivalent COURSE AND examination as prescribed in section 811.

14 (c) To a person whose license has been suspended during the
15 period for which the license was suspended.

16 (d) To a person whose license has been revoked under this
17 act until the later of the following:

18 (i) The expiration of not less than 1 year after the license
19 was revoked.

20 (ii) The expiration of not less than 5 years after the date
21 of a subsequent revocation occurring within 7 years after the
22 date of any prior revocation.

23 (e) To a person who is an habitual violator of the criminal
24 laws relating to operating a vehicle while impaired by or under
25 the influence of intoxicating liquor or a controlled substance or
26 a combination of intoxicating liquor and a controlled substance,
27 or with a blood alcohol content of 0.10% or more by weight of

1 alcohol. Convictions of any of the following, whether under a
2 law of this state, a local ordinance substantially corresponding
3 to a law of this state, or a law of another state substantially
4 corresponding to a law of this state, shall be prima facie evi-
5 dence that the person is an habitual violator as described in
6 this subdivision:

7 (i) Two convictions under section 625(1) ~~or (2), or 1 con-~~
8 ~~viction under section 625(1) and 1 conviction under section~~
9 ~~625(2)~~ within ~~7~~ 10 years.

10 (ii) ~~Three~~ ANY COMBINATION OF 3 convictions under section
11 ~~625b~~ 625(1) AND (3) within 10 years.

12 (f) To a person who in the opinion of the secretary of state
13 is afflicted with or suffering from a physical or mental disabil-
14 ity or disease which prevents that person from exercising reason-
15 able and ordinary control over a motor vehicle while operating
16 the motor vehicle upon the highways.

17 (g) To a person who is unable to understand highway warning
18 or direction signs in the English language.

19 (h) To a person who is an habitually reckless driver. Four
20 convictions of reckless driving under this act or any other law
21 of this state relating to reckless driving or under a local ordi-
22 nance of this state or a law of another state which defines the
23 term "reckless driving" substantially similar to the law of this
24 state shall be prima facie evidence that the person is an habitu-
25 ally reckless driver.

26 (i) To a person who is an habitual criminal. Two
27 convictions of a felony involving the use of a motor vehicle in

1 this or another state shall be prima facie evidence that the
2 person is an habitual criminal.

3 (j) To a person who is unable to pass a knowledge, skill, or
4 ability test administered by the secretary of state in connection
5 with the issuance of an original operator's or chauffeur's
6 license, original motorcycle indorsement, or an original or
7 renewal of a vehicle group designation or vehicle indorsement.

8 (k) To a person who has been convicted, received a probate
9 court finding, or been determined responsible for 2 or more
10 moving violations under a law of this state, a local ordinance
11 substantially corresponding to a law of this state, or a law of
12 another state substantially corresponding to a law of this state,
13 within the preceding 3 years, if the violations occurred prior to
14 the issuance of an original license to the person in this or
15 another state.

16 (l) TO A PERSON NOT LICENSED UNDER THIS ACT WHO HAS BEEN
17 CONVICTED, RECEIVED A PROBATE COURT FINDING, OR BEEN DETERMINED
18 RESPONSIBLE FOR COMMITTING ANY OF THE CRIMES OR CIVIL INFRACTIONS
19 DESCRIBED IN SECTIONS 319, 324, AND 904. A PERSON SHALL BE
20 DENIED A LICENSE UNDER THIS SUBDIVISION FOR THE LENGTH OF TIME
21 WHICH CORRESPONDS TO THE PERIOD OF THE LICENSING SANCTION WHICH
22 WOULD HAVE BEEN IMPOSED UNDER SECTION 319, 324, OR 904 IF THE
23 PERSON HAD BEEN LICENSED AT THE TIME OF VIOLATION.

24 (M) ~~-(l)-~~ To a nonresident.

25 (2) Upon receipt of the appropriate records of conviction,
26 the secretary of state shall revoke the operator's or chauffeur's
27 license of a person having any of the following convictions,

1 whether under a law of this state, a local ordinance
 2 substantially corresponding to a law of this state, or a law of
 3 another state substantially corresponding to a law of this
 4 state:

5 (a) Four convictions of reckless driving within 7 years.

6 (b) Two convictions of a felony involving the use of a motor
 7 vehicle within ~~7~~ 10 years.

8 (c) Two convictions under section 625(1) ~~or (2), or 1 con-~~
 9 ~~viction under section 625(1) and 1 conviction under section~~
 10 ~~625(2)~~ within ~~7~~ 10 years.

11 (d) ~~Three~~ ANY COMBINATION OF 3 convictions under section
 12 ~~625b~~ 625(1) AND (3) within 10 years.

13 (3) The secretary of state shall revoke a license under sub-
 14 section (2) notwithstanding a court order issued under section
 15 ~~625~~ 625(1) or ~~625b~~ (3), or a local ordinance substantially
 16 corresponding to section 625(1) or ~~(2) or 625b~~ (3).

17 Sec. 319. (1) The secretary of state shall immediately sus-
 18 pend for a period of not less than 90 days, nor more than 2
 19 years, the license of a person upon receiving a record of the
 20 conviction of the person or the entry of a probate court order of
 21 disposition for a child found to be within the provisions of
 22 chapter XIIA of Act No. 288 of the Public Acts of 1939, being
 23 sections 712A.1 to 712A.28 of the Michigan Compiled Laws, for any
 24 of the following crimes or attempts to commit any of the follow-
 25 ing crimes, whether the conviction or probate court disposition
 26 is under a law of this state, a local ordinance substantially

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

3 (a) Fraudulently altering or forging documents pertaining to
4 motor vehicles, in violation of section 257.

5 (b) Perjury or the making of a false certification to the
6 secretary of state under any law requiring the registration of a
7 motor vehicle or regulating the operation of a motor vehicle on a
8 highway.

9 (c) A violation of section 324, 413, or 414 of the Michigan
10 penal code, Act No. 328 of the Public Acts of 1931, being sec-
11 tions 750.324, 750.413, and 750.414 of the Michigan Compiled
12 Laws; or a violation of section 1 of Act No. 214 of the Public
13 Acts of 1931, being section 752.191 of the Michigan Compiled
14 Laws.

15 (d) Conviction upon 3 charges of reckless driving within the
16 preceding ~~12~~ 36 months.

17 (e) Failing to stop and disclose identity at the scene of an
18 accident resulting in death or injury to another person, in vio-
19 lation of section 617.

20 (f) A felony in which a motor vehicle was used. As used in
21 this section, "felony in which a motor vehicle was used" means a
22 felony during the commission of which the person convicted oper-
23 ated a motor vehicle and while operating the vehicle presented
24 real or potential harm to persons or property and 1 or more of
25 the following circumstances existed:

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

1 (ii) The vehicle was used to transport a victim of the
2 felony.

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

4 (iv) The vehicle was necessary for the commission of the
5 felony.

6 (2) The secretary of state shall suspend, for the period
7 described in subsection (1), the license of a person upon receiv-
8 ing the record of conviction of the person for a violation of a
9 law of another state substantially corresponding to section
10 625(1). ~~or (2).~~

11 (3) The secretary of state shall suspend the license of a
12 person convicted of malicious destruction resulting from the
13 operation of a motor vehicle under section 382 of the Michigan
14 penal code, Act No. 328 of the Public Acts of 1931, as amended,
15 being section 750.382 of the Michigan Compiled Laws, for a period
16 of not more than 1 year as ordered by the court as part of the
17 sentence.

18 (4) The secretary of state shall immediately suspend the
19 license of a person for the period specified in the certificate
20 of conviction upon receipt of the person's license and certifi-
21 cate of conviction forwarded to the secretary of state pursuant
22 to section 367c of the Michigan penal code, Act No. 328 of the
23 Public Acts of 1931, being section 750.367c of the Michigan
24 Compiled Laws.

25 (5) The secretary of state shall suspend, for a period of
26 not less than ~~6~~ 2 months ~~nor~~ OR more than 18 months, the
27 license of a person having the following convictions within a

1 ~~7-year~~ 10-YEAR period, whether under the law of this state, a
2 local ordinance substantially corresponding to a law of this
3 state, or a law of another state substantially corresponding to a
4 law of this state:

5 (a) Two convictions under section ~~625b~~ 625(3).

6 (b) One conviction under section 625(1) ~~or (2) followed by~~
7 AND 1 conviction under section ~~625b~~ 625(3).

8 (6) Upon receipt of a certificate of conviction pursuant to
9 section 33b(3) of the Michigan liquor control act, Act No. 8 of
10 the Public Acts of the Extra Session of 1933, being section
11 436.33b of the Michigan Compiled Laws, or a local ordinance or
12 law of another state substantially corresponding to section
13 33b(3) of Act No. 8 of the Public Acts of the Extra Session of
14 1933, the secretary of state shall suspend the person's
15 operator's or chauffeur's license for a period of 90 days. A
16 suspension under this subsection shall be in addition to any
17 other suspension of the person's license.

18 (7) Upon receipt of the record of the conviction of a
19 person, or the entry of a probate court order of disposition for
20 a child found to be within the provisions of chapter XIIA of Act
21 No. 288 of the Public Acts of 1939, for a violation of section
22 602a of this act or section 479a(1), (4), or (5) of Act No. 328
23 of the Public Acts of 1931, being section 750.479a of the
24 Michigan Compiled Laws, the secretary of state immediately shall
25 suspend the license of the person for the period ordered by the
26 court as part of the sentence or disposition.

1 (8) UPON RECEIPT OF THE RECORD OF CONVICTION OR PROBATE
2 COURT FINDING OF A PERSON FOR A VIOLATION OF SECTION 624A OR OF A
3 LOCAL ORDINANCE OR LAW OF ANOTHER STATE SUBSTANTIALLY CORRESPOND-
4 ING TO SECTION 624A, THE SECRETARY OF STATE SHALL SUSPEND FOR THE
5 FOLLOWING PERIODS OF TIME THE PERSON'S LICENSE TO OPERATE A MOTOR
6 VEHICLE ON THE PUBLIC HIGHWAYS OF THIS STATE:

7 (A) NINETY DAYS FOR A FIRST OFFENSE.

8 (B) SIX MONTHS FOR A SECOND OFFENSE.

9 (C) ONE YEAR FOR A THIRD OR SUBSEQUENT OFFENSE.

10 (9) A SUSPENSION PURSUANT TO THIS SECTION SHALL BE IMPOSED
11 NOTWITHSTANDING A COURT ORDER ISSUED UNDER SECTION 625(1) OR (3),
12 OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO SECTION
13 625(1) OR (3).

14 (10) ~~(8)~~ For purposes of this section, the secretary of
15 state shall treat a conviction or probate court disposition for a
16 child found to be within the provisions of chapter XIIA of Act
17 No. 288 of the Public Acts of 1939 for an attempted offense as if
18 the offense had been completed.

19 Sec. 320a. (1) The secretary of state, within 10 days after
20 the receipt of a properly prepared abstract from this or another
21 state, shall record the date of conviction, civil infraction
22 determination, or probate court finding, and the number of points
23 for each, based on the following formula, except as otherwise
24 provided in this section and section 629c:

25 (a) Manslaughter, negligent homicide, or a felony
26 resulting from the operation of a motor vehicle..... 6 points

- 1 (b) Operating a motor vehicle while under the
 2 influence of intoxicating liquor or a controlled
 3 substance, or a combination of an intoxicating liquor
 4 and a controlled substance, or while having a blood
 5 alcohol content of 0.10% or more by weight of alcohol.. 6 points
- 6 (c) Failing to stop and disclose identity at the
 7 scene of an accident when required by law..... 6 points
- 8 (d) Operating a motor vehicle in a reckless manner 6 points
- 9 (e) Violation of any law or ordinance pertaining
 10 to speed by exceeding the lawful maximum by more than
 11 15 miles per hour..... 4 points
- 12 (f) Violation of section ~~625b~~ 625(3) or a law or
 13 ordinance substantially corresponding to section 625b.. 4 points
- 14 (g) Fleeing or eluding an officer..... 6 points
- 15 (h) Violation of section ~~626a~~ 625(3) or a law or
 16 ordinance substantially corresponding to section 626a.. 4 points
- 17 (i) Violation of any law or ordinance pertaining
 18 to speed by exceeding the lawful maximum by more than
 19 10 but not more than 15 miles per hour or careless
 20 driving in violation of section 626b or a law or ordi-
 21 nance substantially corresponding to section 626b..... 3 points
- 22 (j) Violation of any law or ordinance pertaining
 23 to speed by exceeding the lawful maximum by 10 miles
 24 per hour or less..... 2 points
- 25 (k) Disobeying a traffic signal or stop sign, or
 26 improper passing..... 3 points

1 (L) VIOLATIONS OF SECTION 624A OR 625B OR A LAW OR
 2 ORDINANCE SUBSTANTIALLY CORRESPONDING TO SECTION 624A
 3 OR 625B.....

4 (M) ~~(L)~~ All other moving violations pertaining
 5 to the operation of motor vehicles reported under this
 6 section..... 2 points

7 (2) Points shall not be entered for a violation of section
 8 311, 658, 717, 719, 719a, or 723.

9 (3) Points shall not be entered for bond forfeitures.

10 (4) Points shall not be entered for overweight loads or for
 11 defective equipment.

12 (5) If more than 1 conviction, civil infraction determina-
 13 tion, or probate court finding results from the same incident,
 14 points shall be entered only for the violation which receives the
 15 highest number of points under this section.

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

22 (7) If a person is determined to be responsible for a civil
 23 infraction for a violation of a law or ordinance pertaining to
 24 speed by exceeding the lawful maximum on a street or highway
 25 which maximum was reduced by Act No. 28 of the Public Acts of
 26 1974, then points shall be entered only pursuant to the
 27 following:

1 (a) Sixty miles per hour to the lawful maximum in
 2 effect before being reduced by Act No. 28 of the Public
 3 Acts of 1974..... 1 point

4 (b) Exceeding the lawful maximum in effect before
 5 being reduced by Act No. 28 of the Public Acts of 1974,
 6 by 10 miles per hour or less..... 2 points

7 (c) Exceeding the lawful maximum in effect before
 8 being reduced by Act No. 28 of the Public Acts of 1974,
 9 by more than 10 but not more than 15 miles per hour.... 3 points

10 (d) Exceeding the lawful maximum in effect before
 11 being reduced by Act No. 28 of the Public Acts of 1974,
 12 by more than 15 miles per hour..... 4 points

13 (8) Notwithstanding subsection (7), if a person violates a
 14 speed restriction established by an executive order issued during
 15 a state of energy emergency as provided by Act No. 191 of the
 16 Public Acts of 1982, being sections 10.81 to 10.89 of the
 17 Michigan Compiled Laws, the secretary of state shall enter points
 18 for the violation pursuant to subsection (1).

19 (9) The secretary of state shall enter 6 points upon the
 20 record of a person whose license is suspended or denied pursuant
 21 to section 625f for refusal to submit to a chemical test
 22 described in section 625a. However, if a conviction, civil
 23 infraction determination, or probate court finding results from

1 the same incident, additional points for that offense shall not
2 be entered.

3 (10) If a Michigan driver commits a violation in another
4 state that would be a civil infraction if committed in Michigan,
5 and a conviction results solely because of the failure of the
6 Michigan driver to appear in that state to contest the violation,
7 upon receipt of the abstract of conviction by the secretary of
8 state, the violation shall be noted on the driver's record, but
9 no points shall be assessed against his or her driver's license.

10 Sec. 323. (1) A person who is aggrieved by a final determi-
11 nation of the secretary of state denying the person an operator's
12 or chauffeur's license, a vehicle group designation, or an
13 indorsement on a license or revoking, suspending, or restricting
14 an operator's or chauffeur's license, vehicle group designation,
15 or an indorsement may, WITHIN 60 DAYS AFTER THE DETERMINATION,
16 petition for a review of the determination in the circuit court
17 in the county where the person was arrested if the denial or sus-
18 pension was imposed pursuant to section 625f or pursuant to the
19 order of a trial court under section 328 or, in all other cases,
20 in the circuit court in the county of residence of the person.

21 (2) The circuit court shall enter an order setting the cause
22 for hearing for a day certain ~~in not to exceed~~ WHICH IS NOT
23 MORE THAN 60 days after the date of the order. The order,
24 together with a copy of the petition which shall include the
25 person's full name, current address, birth date, and driver's
26 license number, and all supporting affidavits, shall be served on
27 the secretary of state's office in Lansing not less than 20 days

1 before the date set for the hearing. If the person is seeking a
2 review of the record prepared pursuant to section 625f(3) to
3 determine whether the hearing officer properly determined the
4 issues enumerated in section 625f(2), then the service upon the
5 secretary of state shall be made not less than 50 days before the
6 date set for the hearing.

7 (3) Except as provided in ~~subsection (4)~~ SUBSECTIONS (4)
8 AND (6), the court may take testimony and examine into all the
9 facts and circumstances incident to the denial, suspension,
10 restriction, or revocation of the person's license. The court
11 may affirm, modify, or set aside the restriction, suspension,
12 revocation, or denial except that the court shall not order the
13 secretary of state to issue a restricted or unrestricted
14 chauffeur's license which would permit a person to drive a truck
15 or truck tractor, including a trailer, which hauls a hazardous
16 material. The order of the court shall be duly entered and THE
17 PETITIONER SHALL FILE a certified copy ~~shall be filed~~
18 ~~immediately~~ with the secretary of state's office in Lansing
19 WITHIN 7 DAYS AFTER ENTRY OF THE ORDER.

20 (4) In reviewing a determination resulting in a denial or
21 suspension under section 625f, the court shall confine its con-
22 sideration to 1 or both of the following:

23 (a) A review of the record prepared pursuant to section
24 625f(3) to determine whether the hearing officer properly deter-
25 mined the issues enumerated in section 625f(2).

26 (b) A determination of whether to order the issuance of a
27 restricted license as provided in section 323c.

1 (5) This section shall not apply to a denial, revocation,
2 suspension, or restriction imposed pursuant to a court order
3 issued as part of the sentence for ~~of~~ a conviction of a viola-
4 tion of section ~~625 or 625b~~ 625(1) OR (3), or a local ordinance
5 substantially corresponding to section 625(1) or ~~(2) or 625b~~
6 (3).

7 (6) IN REVIEWING A DETERMINATION RESULTING IN A DENIAL OR
8 REVOCATION UNDER SECTION 303(1)(E), 303(2)(C), OR 303(2)(D), THE
9 COURT SHALL CONFINE ITS CONSIDERATION TO A REVIEW OF THE RECORD
10 PREPARED PURSUANT TO SECTION 322 OR THE DRIVING RECORD CREATED
11 UNDER SECTION 204A. THE COURT SHALL SET ASIDE THE DETERMINATION
12 OF THE SECRETARY OF STATE ONLY IF SUBSTANTIAL RIGHTS OF THE PETI-
13 TIONER HAVE BEEN PREJUDICED BECAUSE THE DETERMINATION IS ANY OF
14 THE FOLLOWING:

15 (A) IN VIOLATION OF THE CONSTITUTION OR A STATUTE.

16 (B) IN EXCESS OF THE STATUTORY AUTHORITY OR JURISDICTION OF
17 THE SECRETARY OF STATE.

18 (C) MADE UPON UNLAWFUL PROCEDURE RESULTING IN MATERIAL PREJ-
19 UDICE TO THE PETITIONER.

20 (D) NOT SUPPORTED BY COMPETENT, MATERIAL, AND SUBSTANTIAL
21 EVIDENCE ON THE WHOLE RECORD.

22 (E) ARBITRARY, CAPRICIOUS, OR CLEARLY AN ABUSE OR UNWAR-
23 RANTED EXERCISE OF DISCRETION.

24 (F) AFFECTED BY OTHER SUBSTANTIAL AND MATERIAL ERROR OF LAW.

25 (7) ~~(6)~~ This section shall not apply to a denial, revoca-
26 tion, suspension, or restriction imposed pursuant to the
27 financial responsibility act contained in chapter V.

1 Sec. 323a. (1) A person who is aggrieved by a final
2 determination of the secretary of state suspending or revoking
3 the operator's or chauffeur's license of the person may, WITHIN
4 60 DAYS AFTER THE DETERMINATION, petition the circuit court for
5 the county in which ~~was entered~~ the conviction or civil infrac-
6 tion determination resulting in the license being suspended or
7 revoked WAS ENTERED, or the circuit court for the county of resi-
8 dence of the person if the license was suspended or revoked as
9 provided in section 318, or for the accumulation of 12 or more
10 points as provided in sections 320 and 320a, for an order staying
11 the revocation or suspension of the license. The court may enter
12 an ex parte order staying the suspension or revocation subject to
13 terms and conditions prescribed by the court until the determina-
14 tion of an appeal to the secretary of state or of an appeal or a
15 review by the circuit court, or for a lesser time which the court
16 considers proper, except that the court shall not enter an ex
17 parte order staying the suspension or revocation of a person who
18 drives a truck or truck tractor, including a trailer, which hauls
19 hazardous material.

20 (2) This section shall not apply to a suspension for a vio-
21 lation of the financial responsibility act contained in chapter
22 V.

23 SEC. 624A. (1) A PERSON LESS THAN 21 YEARS OF AGE SHALL NOT
24 KNOWINGLY TRANSPORT OR POSSESS ALCOHOLIC LIQUOR IN A MOTOR VEHI-
25 CLE UPON A HIGHWAY OR OTHER PLACE OPEN TO THE GENERAL PUBLIC,
26 INCLUDING AN AREA DESIGNATED FOR THE PARKING OF VEHICLES, UNLESS
27 THE PERSON IS EMPLOYED BY A PERSON LICENSED PURSUANT TO THE

1 MICHIGAN LIQUOR CONTROL ACT, ACT NO. 8 OF THE PUBLIC ACTS OF THE
2 EXTRA SESSION OF 1933, BEING SECTIONS 436.1 TO 436.58 OF THE
3 MICHIGAN COMPILED LAWS, THE LIQUOR CONTROL COMMISSION, OR AN
4 AGENT OF THE LIQUOR CONTROL COMMISSION AND THE PERSON IS TRANS-
5 PORTING THE ALCOHOLIC LIQUOR DURING REGULAR WORKING HOURS AND IN
6 THE COURSE OF EMPLOYMENT.

7 (2) A PERSON WHO VIOLATES THIS SECTION IS RESPONSIBLE FOR A
8 CIVIL INFRACTION.

9 SEC. 624B. (1) A PERSON SHALL NOT TRANSPORT ALCOHOLIC
10 LIQUOR IN A CONTAINER WHICH IS OPEN OR UNCAPPED OR UPON WHICH THE
11 SEAL IS BROKEN, WITHIN THE PASSENGER COMPARTMENT OF A VEHICLE
12 UPON A HIGHWAY OR OTHER PLACE OPEN TO THE GENERAL PUBLIC, INCLUD-
13 ING AN AREA DESIGNATED FOR THE PARKING OF VEHICLES. IF THE VEHI-
14 CLE DOES NOT HAVE A TRUNK OR OTHER COMPARTMENT SEPARATE FROM THE
15 PASSENGER COMPARTMENT, A CONTAINER WHICH IS OPEN OR UNCAPPED OR
16 UPON WHICH THE SEAL IS BROKEN SHALL BE ENCASED OR ENCLOSED.

17 (2) A PERSON WHO VIOLATES THIS SECTION IS RESPONSIBLE FOR A
18 CIVIL INFRACTION.

19 (3) THIS SECTION DOES NOT APPLY TO A CHARTERED VEHICLE
20 LICENSED BY THE MICHIGAN PUBLIC SERVICE COMMISSION.

21 Sec. 625. (1) A person, whether licensed or not, ~~who is~~
22 ~~under the influence of intoxicating liquor or a controlled sub-~~
23 ~~stance, or a combination of intoxicating liquor and a controlled~~
24 ~~substance,~~ shall not operate a vehicle upon a highway or other
25 place open to the general public, including an area designated
26 for the parking of vehicles, within the state ~~. A peace officer~~
27 ~~may, without a warrant, arrest a person when the peace officer~~

1 ~~has reasonable cause to believe that the person was, at the time~~
2 ~~of an accident, the driver of a vehicle involved in the accident~~
3 ~~and was operating the vehicle upon a public highway or other~~
4 ~~place open to the general public, including an area designated~~
5 ~~for the parking of vehicles, in the state while in violation of~~
6 ~~this subsection or of subsection (2), or of a local ordinance~~
7 ~~substantially corresponding to this subsection or subsection~~
8 ~~(2).~~ IF EITHER OF THE FOLLOWING APPLY:

9 (A) THE PERSON IS UNDER THE INFLUENCE OF INTOXICATING LIQUOR
10 OR A CONTROLLED SUBSTANCE, OR A COMBINATION OF INTOXICATING
11 LIQUOR AND A CONTROLLED SUBSTANCE.

12 (B) THE PERSON'S BLOOD CONTAINS 0.10% OR MORE BY WEIGHT OF
13 ALCOHOL.

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

19 (2) ~~(3)~~ The owner of a vehicle or a person in charge or in
20 control of a vehicle shall not authorize or knowingly permit the
21 vehicle to be operated upon a highway or other place open to the
22 general public, including an area designated for the parking of
23 motor vehicles, within the state by a person who is under the
24 influence of intoxicating liquor or a controlled substance, or a
25 combination of intoxicating liquor and a controlled substance, OR
26 WHOSE BLOOD CONTAINS 0.10% OR MORE BY WEIGHT OF ALCOHOL.

1 (3) A PERSON SHALL NOT OPERATE A VEHICLE UPON A HIGHWAY OR
2 OTHER PLACE OPEN TO THE GENERAL PUBLIC, INCLUDING AN AREA
3 DESIGNATED FOR THE PARKING OF VEHICLES, WITHIN THE STATE WHEN,
4 DUE TO THE CONSUMPTION OF AN INTOXICATING LIQUOR, A CONTROLLED
5 SUBSTANCE, OR A COMBINATION OF AN INTOXICATING LIQUOR AND A CON-
6 TROLLED SUBSTANCE, THE PERSON HAS VISIBLY IMPAIRED HIS OR HER
7 ABILITY TO OPERATE THE VEHICLE. IF A PERSON IS CHARGED WITH VIO-
8 LATING SUBSECTION (1), A FINDING OF GUILTY UNDER THIS SUBSECTION
9 MAY BE RENDERED.

10 (4) IF A PERSON IS CONVICTED OF A VIOLATION OF SUBSECTION
11 (1), THE FOLLOWING SANCTIONS SHALL APPLY:

12 (A) ~~(4)~~ Except as otherwise provided in ~~this section, a~~
13 ~~person who is convicted of a violation of subsection (1), (2), or~~
14 ~~(3)~~ SUBDIVISIONS (B) AND (C), THE PERSON is guilty of a misde-
15 meanor, punishable by imprisonment for not more than 90 days, or
16 a fine of not less than \$100.00 nor more than \$500.00, or both,
17 together with costs of the prosecution. ~~As part of the sentence~~
18 ~~for a violation of subsection (1) or (2), the~~ THE court shall
19 order the secretary of state to IMPOSE LICENSE SANCTIONS PURSUANT
20 TO SECTION 625B. ~~suspend the operator's or chauffeur's license~~
21 ~~of the person for a period of not less than 6 months nor more~~
22 ~~than 2 years. The court may order the secretary of state to~~
23 ~~issue to the person a restricted license permitting the person~~
24 ~~during all or a specified portion of the period of suspension to~~
25 ~~drive only to and from the person's residence and work location,~~
26 ~~in the course of the person's employment or occupation, to and~~
27 ~~from an alcohol or drug education program or treatment program as~~

~~1 ordered by the court, to and from the person's residence and an
2 educational institution at which the person is enrolled as a stu-
3 dent, or pursuant to a combination of these restrictions. The
4 court may also order that the restricted license include the
5 requirement that a person shall not operate a motor vehicle
6 unless the vehicle is equipped with a functioning certified igni-
7 tion interlock device. The device shall be set to render the
8 motor vehicle inoperable if the device detects 0.02% or more by
9 weight of alcohol in the blood of the person who offers a breath
10 sample. The court may order installation of a certified ignition
11 interlock device on any motor vehicle that the person owns or
12 operates, the costs of which shall be borne by the person whose
13 license is restricted. The court shall not order the secretary
14 of state to issue a restricted chauffeur's license which would
15 permit a person to operate a truck or truck tractor, including a
16 trailer, which hauls hazardous material. The court shall not
17 order the secretary of state to issue a restricted license unless
18 the person states under oath and the court finds that the person
19 is unable to take public transportation to and from his or her
20 work location, place of alcohol or drug education or treatment,
21 or educational institution, and does not have any family members
22 or others able to provide transportation. The court order and
23 license shall indicate the person's work location and the
24 approved route or routes and permitted times of travel. For pur-
25 poses of this subsection, "work location" includes, as applica-
26 ble, either or both of the following:~~

1 ~~(i) The specific place or places of employment.~~

2 ~~(ii) The territory or territories regularly visited by the~~
 3 ~~person in pursuance of the person's occupation.~~

4 (B) ~~(5) A person who violates subsection (1) or (2) or a~~
 5 ~~local ordinance substantially corresponding to subsection (1) or~~
 6 ~~(2) within 7~~ IF THE VIOLATION OCCURS WITHIN 10 years of a prior
 7 conviction, THE PERSON may be sentenced to imprisonment for not
 8 more than 1 year, or a fine of not LESS THAN \$200.00 NOR more
 9 than \$1,000.00, or both. ~~As part of the sentence, the~~ THE
 10 COURT MAY ORDER THE PERSON TO PAY THE COSTS OF THE PROSECUTION
 11 AND SHALL IMPOSE LICENSE SANCTIONS PURSUANT TO SECTION 625B. THE
 12 court shall order the secretary of state to revoke the operator's
 13 or chauffeur's license of the person. ~~For purposes of this sec-~~
 14 ~~tion, "prior conviction" means a conviction under subsection (1)~~
 15 ~~or (2), a local ordinance substantially corresponding to subsec-~~
 16 ~~tion (1) or (2), or a law of another state substantially corre-~~
 17 ~~sponding to subsection (1) or (2).~~

18 (C) ~~(6) A person who violates subsection (1) or (2) or a~~
 19 ~~local ordinance substantially corresponding to subsection (1) or~~
 20 ~~(2)~~ IF THE VIOLATION OCCURS within 10 years of 2 or more prior
 21 convictions, ~~as defined in subsection (5),~~ THE PERSON is guilty
 22 of a felony. ~~As part of the sentence, the~~ THE court shall
 23 order the secretary of state to ~~revoke the operator's or~~
 24 ~~chauffeur's license of the person~~ IMPOSE LICENSE SANCTIONS PUR-
 25 SUANT TO SECTION 625B.

26 ~~(7) As part of the sentence for a violation of subsection~~
 27 ~~(1) or (2), or a local ordinance substantially corresponding to~~

~~1 subsection (1) or (2), the court may order the person to perform
2 service to the community, as designated by the court, without
3 compensation, for a period not to exceed 12 days. The person
4 shall reimburse the state or appropriate local unit of government
5 for the cost of insurance incurred by the state or local unit of
6 government as a result of the person's activities under this
7 subsection.~~

~~8 (8) Before imposing sentence for a violation of subsection
9 (1) or (2) or a local ordinance substantially corresponding to
10 subsection (1) or (2), the court shall order the person to
11 undergo screening and assessment by a person or agency designated
12 by the office of substance abuse services, to determine whether
13 the person is likely to benefit from rehabilitative services,
14 including alcohol or drug education and alcohol or drug treatment
15 programs. As part of the sentence, the court may order the
16 person to participate in and successfully complete 1 or more
17 appropriate rehabilitative programs. The person shall pay for
18 the costs of the screening, assessment, and rehabilitative
19 services.~~

20 (5) AS USED IN SUBSECTION (4), "PRIOR CONVICTION" MEANS A
21 CONVICTION UNDER SUBSECTION (1), A LOCAL ORDINANCE SUBSTANTIALLY
22 CORRESPONDING TO SUBSECTION (1), OR A LAW OF ANOTHER STATE SUB-
23 STANTIALLY CORRESPONDING TO SUBSECTION (1).

24 (6) A PERSON WHO IS CONVICTED OF A VIOLATION OF SUBSECTION
25 (2) IS GUILTY OF A MISDEMEANOR, PUNISHABLE BY IMPRISONMENT FOR
26 NOT MORE THAN 90 DAYS, OR A FINE OF NOT LESS THAN \$100.00 NOR

1 MORE THAN \$500.00, OR BOTH, TOGETHER WITH COSTS OF THE
2 PROSECUTION.

3 (7) IF A PERSON IS CONVICTED OF A VIOLATION OF SUBSECTION
4 (3), THE FOLLOWING SANCTIONS SHALL APPLY:

5 (A) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISIONS (B) AND
6 (C), THE PERSON IS GUILTY OF A MISDEMEANOR, PUNISHABLE BY IMPRIS-
7 ONMENT FOR NOT MORE THAN 90 DAYS, OR A FINE OF NOT MORE THAN
8 \$300.00, OR BOTH. THE COURT MAY ORDER THE PERSON TO PAY THE
9 COSTS OF THE PROSECUTION. THE COURT SHALL ORDER THE SECRETARY OF
10 STATE TO IMPOSE LICENSE SANCTIONS PURSUANT TO SECTION 625B.

11 (B) IF THE VIOLATION OCCURS WITHIN 10 YEARS OF A PRIOR CON-
12 VICTION, THE PERSON MAY BE SENTENCED TO IMPRISONMENT FOR NOT MORE
13 THAN 1 YEAR, OR A FINE OF NOT LESS THAN \$200.00 NOR MORE THAN
14 \$1,000.00, OR BOTH. THE COURT MAY ORDER THE PERSON TO PAY THE
15 COSTS OF THE PROSECUTION. THE COURT SHALL ORDER THE SECRETARY OF
16 STATE TO IMPOSE LICENSE SANCTIONS PURSUANT TO SECTION 625B.

17 (C) IF THE VIOLATION OCCURS WITHIN 10 YEARS OF 2 OR MORE
18 PRIOR CONVICTIONS, THE PERSON MAY BE SENTENCED TO IMPRISONMENT
19 FOR NOT MORE THAN 1 YEAR, OR A FINE OF NOT LESS THAN \$200.00 NOR
20 MORE THAN \$1,000.00, OR BOTH. THE COURT MAY ORDER THE PERSON TO
21 PAY THE COSTS OF THE PROSECUTION. THE COURT SHALL ORDER THE SEC-
22 RETARY OF STATE TO IMPOSE LICENSE SANCTIONS PURSUANT TO
23 SECTION 625B.

24 (8) AS USED IN SUBSECTION (7), "PRIOR CONVICTION" MEANS A
25 CONVICTION UNDER SUBSECTION (1) OR (3), A LOCAL ORDINANCE SUB-
26 STANTIALY CORRESPONDING TO SUBSECTION (1) OR (3), OR A LAW OF

1 ANOTHER STATE SUBSTANTIALLY CORRESPONDING TO SUBSECTION (1) OR
2 (3).

3 (9) A PEACE OFFICER MAY, WITHOUT A WARRANT, ARREST A PERSON
4 WHEN THE PEACE OFFICER HAS REASONABLE CAUSE TO BELIEVE THAT THE
5 PERSON WAS, AT THE TIME OF AN ACCIDENT, THE DRIVER OF A VEHICLE
6 INVOLVED IN THE ACCIDENT AND WAS OPERATING THE VEHICLE UPON A
7 PUBLIC HIGHWAY OR OTHER PLACE OPEN TO THE GENERAL PUBLIC, INCLUD-
8 ING AN AREA DESIGNATED FOR THE PARKING OF VEHICLES, IN THIS STATE
9 WHILE IN VIOLATION OF SUBSECTION (1) OR (3), OR OF A LOCAL ORDI-
10 NANCE SUBSTANTIALLY CORRESPONDING TO SUBSECTION (1) OR (3).

11 ~~(9) Before accepting a plea of guilty under this section,~~
12 ~~the court shall advise the accused of the statutory consequences~~
13 ~~possible as the result of a plea of guilty in respect to suspen-~~
14 ~~sion or revocation of an operator's or chauffeur's license, the~~
15 ~~penalty imposed for violation of this section, and the limitation~~
16 ~~on the right of appeal.~~

17 ~~(10) The operator's or chauffeur's license of a person~~
18 ~~found guilty of violating subsection (1) or (2), or a local ordi-~~
19 ~~nance substantially corresponding to subsection (1) or (2), shall~~
20 ~~be surrendered to the court in which the person was convicted,~~
21 ~~and the court shall immediately forward the surrendered license~~
22 ~~and an abstract of conviction to the secretary of state. The~~
23 ~~abstract of conviction shall indicate the sentence imposed. Upon~~
24 ~~receipt of, and pursuant to the abstract of conviction, the sec-~~
25 ~~retary of state shall suspend or revoke the person's license and,~~
26 ~~if ordered by the court and the person is otherwise eligible for~~
27 ~~a license, issue to the person a restricted license stating the~~

~~1 limited driving privileges indicated on the abstract. If the
2 license is not forwarded to the secretary of state, an explana-
3 tion of the reason why the license is absent shall be attached.
4 If the conviction is appealed to circuit court, that court may,
5 ex parte, order the secretary of state to rescind the suspension,
6 revocation, or restricted license issued pursuant to this
7 section.~~

8 Sec. 625a. (1) A PEACE OFFICER WHO HAS REASONABLE CAUSE TO
9 BELIEVE THAT A PERSON WAS OPERATING A VEHICLE UPON A PUBLIC HIGH-
10 WAY OR OTHER PLACE OPEN TO THE GENERAL PUBLIC, INCLUDING AN AREA
11 DESIGNATED FOR THE PARKING OF VEHICLES, IN THIS STATE, AND THAT
12 THE PERSON BY THE CONSUMPTION OF INTOXICATING LIQUOR MAY HAVE
13 AFFECTED HIS OR HER ABILITY TO OPERATE A VEHICLE, MAY REQUIRE THE
14 PERSON TO SUBMIT TO A PRELIMINARY CHEMICAL BREATH ANALYSIS.

15 (2) A PEACE OFFICER MAY ARREST A PERSON BASED IN WHOLE OR IN
16 PART UPON THE RESULTS OF A PRELIMINARY CHEMICAL BREATH ANALYSIS.

17 (3) THE RESULTS OF A PRELIMINARY CHEMICAL BREATH ANALYSIS
18 SHALL BE ADMISSIBLE IN A CRIMINAL PROSECUTION FOR A CRIME ENUMER-
19 ATED IN SUBSECTION (7) OR IN AN ADMINISTRATIVE HEARING, SOLELY TO
20 ASSIST THE COURT OR HEARING OFFICER IN DETERMINING A CHALLENGE TO
21 THE VALIDITY OF AN ARREST. THIS SUBSECTION DOES NOT LIMIT THE
22 INTRODUCTION OF OTHER COMPETENT EVIDENCE OFFERED TO ESTABLISH THE
23 VALIDITY OF AN ARREST.

24 (4) A PERSON WHO SUBMITS TO A PRELIMINARY CHEMICAL BREATH
25 ANALYSIS SHALL REMAIN SUBJECT TO THE REQUIREMENTS OF SUBSECTIONS
26 (6) TO (10) AND SECTIONS 625C, 625D, AND 625F FOR THE PURPOSES OF
27 CHEMICAL TESTS DESCRIBED IN THOSE SECTIONS.

1 (5) A PERSON WHO REFUSES TO SUBMIT TO A PRELIMINARY CHEMICAL
2 BREATH ANALYSIS UPON A LAWFUL REQUEST BY A PEACE OFFICER IS
3 RESPONSIBLE FOR A CIVIL INFRACTION.

4 (6) ~~-(+)~~ The amount of alcohol or presence of a controlled
5 substance or both in ~~the~~ A driver's blood at the time alleged
6 as shown by chemical analysis of the person's blood, urine, or
7 breath shall be admissible into evidence in a criminal prosecu-
8 tion for any of the following:

9 (a) A violation of section 625(1), (2), or (3), ~~or 625b,~~
10 or of a local ordinance substantially corresponding to section
11 625(1), (2), or (3). ~~, or 625b.~~

12 (b) Felonious driving, negligent homicide, or manslaughter
13 resulting from the operation of a motor vehicle while the driver
14 is alleged to have been impaired by or under the influence of
15 intoxicating liquor or a controlled substance or a combination of
16 intoxicating liquor and a controlled substance, or to have had a
17 blood alcohol content of 0.10% or more by weight of alcohol.

18 ~~-(2) If a test is given, the results of the test shall be~~
19 ~~made available to the person charged or the person's attorney~~
20 ~~upon written request to the prosecution, with a copy of the~~
21 ~~request filed with the court. The prosecution shall furnish the~~
22 ~~report at least 2 days before the day of the trial and the~~
23 ~~results shall be offered as evidence by the prosecution in a~~
24 ~~criminal proceeding. Failure to fully comply with the request~~
25 ~~shall bar the admission of the results into evidence by the~~
26 ~~prosecution.~~

1 ~~(3) Except in a prosecution relating solely to a violation~~
2 ~~of section 625(2), the amount of alcohol in the driver's blood at~~
3 ~~the time alleged as shown by chemical analysis of the person's~~
4 ~~blood, urine, or breath shall give rise to the following~~
5 ~~presumptions:~~

6 ~~(a) If there was at the time 0.07% or less by weight of~~
7 ~~alcohol in the defendant's blood, it shall be presumed that the~~
8 ~~defendant was not under the influence of intoxicating liquor.~~

9 ~~(b) If there was at the time in excess of 0.07% but less~~
10 ~~than 0.10% by weight of alcohol in the defendant's blood, it~~
11 ~~shall be presumed that the defendant's ability to operate a vehi-~~
12 ~~cle was impaired within the provisions of section 625b due to the~~
13 ~~consumption of intoxicating liquor.~~

14 ~~(c) If there was at the time 0.10% or more by weight of~~
15 ~~alcohol in the defendant's blood, it shall be presumed that the~~
16 ~~defendant was under the influence of intoxicating liquor.~~

17 (7) A PERSON ARRESTED FOR A CRIME ENUMERATED IN SUBSECTION
18 (6) SHALL BE ADVISED OF ALL OF THE FOLLOWING:

19 (A) THAT IF HE OR SHE TAKES A CHEMICAL TEST OF HIS OR HER
20 BLOOD, URINE, OR BREATH ADMINISTERED AT THE REQUEST OF A PEACE
21 OFFICER, HE OR SHE SHALL THEN HAVE THE RIGHT TO DEMAND THAT A
22 PERSON OF HIS OR HER OWN CHOOSING ADMINISTER 1 OF THE CHEMICAL
23 TESTS, THAT THE RESULTS OF THE TEST SHALL BE ADMISSIBLE AND SHALL
24 BE CONSIDERED WITH OTHER COMPETENT EVIDENCE IN DETERMINING THE
25 INNOCENCE OR GUILT OF THE DEFENDANT, AND THAT HE OR SHE SHALL BE
26 RESPONSIBLE FOR OBTAINING A CHEMICAL ANALYSIS OF THE TEST
27 SAMPLE.

1 (B) THAT IF THE PERSON REFUSES THE REQUEST OF A PEACE
2 OFFICER TO TAKE A TEST DESCRIBED IN SUBDIVISION (A), A TEST SHALL
3 NOT BE GIVEN WITHOUT A COURT ORDER.

4 (C) THAT THE PERSON'S REFUSAL OF THE REQUEST OF A PEACE
5 OFFICER TO TAKE A TEST DESCRIBED IN SUBDIVISION (A) SHALL RESULT
6 IN THE SUSPENSION OF HIS OR HER OPERATOR'S OR CHAUFFEUR'S LICENSE
7 OR OPERATING PRIVILEGE, AND IN THE ADDITION OF 6 POINTS TO HIS OR
8 HER DRIVER RECORD.

9 (8) ~~-(4)-~~ A sample or specimen of urine or breath shall be
10 taken and collected in a reasonable manner. Only a licensed phy-
11 sician, or a licensed nurse or medical technician under the
12 direction of a licensed physician and qualified to withdraw blood
13 acting in a medical environment, at the request of a peace offi-
14 cer, may withdraw blood for the purpose of determining the amount
15 of alcohol or presence of a controlled substance or both in the
16 person's blood, as provided in this ~~act~~ SECTION. Liability for
17 a crime or civil damages predicated on the act of withdrawing
18 blood and related procedures shall not attach to a qualified
19 person who withdraws blood or assists in the withdrawal in
20 accordance with this act unless the withdrawal is performed in a
21 negligent manner.

22 (9) ~~-(5)- The tests~~ A CHEMICAL TEST DESCRIBED IN THIS
23 SECTION shall be administered at the request of a peace officer
24 having reasonable grounds to believe the person has committed a
25 crime described in subsection ~~-(1)-~~ (6). A person who takes a
26 chemical test administered at the request of a peace officer, as
27 provided in this section, shall be given a reasonable opportunity

1 to have a person of his or her own choosing administer 1 of the
2 chemical tests described in this section within a reasonable time
3 after his or her detention, and the results of the test shall be
4 admissible and shall be considered with other competent evidence
5 in determining the innocence or guilt of the defendant. If the
6 person charged is administered a chemical test by a person of his
7 or her own choosing, the person charged shall be responsible for
8 obtaining a chemical analysis of the test sample. ~~The person~~
9 ~~charged shall be informed that he or she has the right to demand~~
10 ~~that a person of his or her choosing administer 1 of the tests~~
11 ~~provided for in subsection (1), that the results of the test~~
12 ~~shall be admissible and shall be considered with other competent~~
13 ~~evidence in determining the innocence or guilt of the defendant,~~
14 ~~and that the person charged shall be responsible for obtaining a~~
15 ~~chemical analysis of the test sample.~~

16 ~~(6) The person charged shall be advised that if the person~~
17 ~~refuses the request of a peace officer to take a test described~~
18 ~~in this section, a test shall not be given without a court~~
19 ~~order. The person charged shall also be advised that the~~
20 ~~person's refusal of the request of a peace officer to take a test~~
21 ~~described in this section shall result in the suspension of his~~
22 ~~or her operator's or chauffeur's license or operating privilege,~~
23 ~~and in the addition of 6 points to his or her driver record.~~

24 ~~(7) This section shall not be construed as limiting the~~
25 ~~introduction of any other competent evidence bearing upon the~~
26 ~~question of whether or not the person was impaired by or under~~
27 ~~the influence of intoxicating liquor or a controlled substance,~~

1 ~~or a combination of intoxicating liquor and a controlled~~
2 ~~substance, or whether the person had a blood alcohol content of~~
3 ~~0.10% or more by weight of alcohol.~~

4 ~~(8) If a jury instruction regarding a defendant's refusal to~~
5 ~~submit to a chemical test under this section is requested by the~~
6 ~~prosecution or the defendant, the jury instruction shall be given~~
7 ~~as follows:~~

8 ~~"Evidence was admitted in this case which, if believed by~~
9 ~~the jury, could prove that the defendant had exercised his or her~~
10 ~~right to refuse a chemical test. You are instructed that such a~~
11 ~~refusal is within the statutory rights of the defendant and is~~
12 ~~not evidence of his guilt. You are not to consider such a~~
13 ~~refusal in determining the guilt or innocence of the defendant."~~

14 ~~(10) (9)~~ If after an accident the driver of a vehicle
15 involved in the accident is transported to a medical facility and
16 a sample of the driver's blood is withdrawn at that time for the
17 purpose of medical treatment, the results of a chemical analysis
18 of that sample shall be admissible in a criminal prosecution for
19 a crime described in subsection ~~(+)~~ (6) to show the amount of
20 alcohol or presence of a controlled substance or both in the
21 person's blood at the time alleged, regardless of whether the
22 person had been offered or had refused a chemical test. The med-
23 ical facility or person performing the chemical analysis shall
24 disclose the results of the analysis to a prosecuting attorney
25 who requests the results for use in a criminal prosecution as
26 provided in this subsection. A medical facility or person

1 disclosing information in compliance with this subsection shall
2 not be civilly or criminally liable for making the disclosure.

3 (11) ~~(10)~~ If after ~~a highway~~ AN accident the driver of a
4 vehicle involved in the accident is deceased, a sample of the
5 decedent's blood shall be withdrawn in a manner directed by the
6 medical examiner for the purpose of determining ~~blood~~ THE
7 AMOUNT OF alcohol ~~content~~ or presence of a controlled substance
8 or both IN THE DECEDENT'S BLOOD.

9 (12) THE PROVISIONS OF THIS SECTION FOR CHEMICAL TESTING
10 SHALL NOT BE CONSTRUED AS LIMITING THE INTRODUCTION OF ANY OTHER
11 COMPETENT EVIDENCE BEARING UPON THE QUESTION OF WHETHER OR NOT A
12 PERSON WAS IMPAIRED BY OR UNDER THE INFLUENCE OF INTOXICATING
13 LIQUOR OR A CONTROLLED SUBSTANCE, OR A COMBINATION OF INTOXICAT-
14 ING LIQUOR AND A CONTROLLED SUBSTANCE, OR WHETHER THE PERSON HAD
15 A BLOOD ALCOHOL CONTENT OF 0.10% OR MORE BY WEIGHT OF ALCOHOL.

16 (13) THE DEPARTMENT OF STATE POLICE MAY PROMULGATE UNIFORM
17 RULES FOR THE ADMINISTRATION OF CHEMICAL TESTS, INCLUDING PRELIM-
18 INARY CHEMICAL BREATH ANALYSIS, FOR THE PURPOSES OF THIS
19 SECTION.

20 (14) IF A CHEMICAL TEST DESCRIBED IN THIS SECTION IS ADMIN-
21 ISTERED, THE RESULTS OF THE TEST SHALL BE MADE AVAILABLE TO THE
22 PERSON CHARGED OR THE PERSON'S ATTORNEY UPON WRITTEN REQUEST TO
23 THE PROSECUTION, WITH A COPY OF THE REQUEST FILED WITH THE
24 COURT. THE PROSECUTION SHALL FURNISH THE REPORT AT LEAST 2 DAYS
25 BEFORE THE DAY OF THE TRIAL AND THE RESULTS SHALL BE OFFERED AS
26 EVIDENCE BY THE PROSECUTION IN A CRIMINAL PROCEEDING. FAILURE TO

1 FULLY COMPLY WITH THE REQUEST SHALL BAR THE ADMISSION OF THE
2 RESULTS INTO EVIDENCE BY THE PROSECUTION.

3 (15) EXCEPT IN A PROSECUTION RELATING SOLELY TO A VIOLATION
4 OF SECTION 625(1)(B), THE AMOUNT OF ALCOHOL IN THE DRIVER'S BLOOD
5 AT THE TIME ALLEGED AS SHOWN BY CHEMICAL ANALYSIS OF THE PERSON'S
6 BLOOD, URINE, OR BREATH SHALL GIVE RISE TO THE FOLLOWING
7 PRESUMPTIONS:

8 (A) IF THERE WAS AT THE TIME 0.07% OR LESS BY WEIGHT OF
9 ALCOHOL IN THE DEFENDANT'S BLOOD, IT SHALL BE PRESUMED THAT THE
10 DEFENDANT WAS NOT UNDER THE INFLUENCE OF INTOXICATING LIQUOR.

11 (B) IF THERE WAS AT THE TIME IN EXCESS OF 0.07% BUT LESS
12 THAN 0.10% BY WEIGHT OF ALCOHOL IN THE DEFENDANT'S BLOOD, IT
13 SHALL BE PRESUMED THAT THE DEFENDANT'S ABILITY TO OPERATE A VEHI-
14 CLE WAS IMPAIRED WITHIN THE PROVISIONS OF SECTION 625(3) DUE TO
15 THE CONSUMPTION OF INTOXICATING LIQUOR.

16 (C) IF THERE WAS AT THE TIME 0.10% OR MORE BY WEIGHT OF
17 ALCOHOL IN THE DEFENDANT'S BLOOD, IT SHALL BE PRESUMED THAT THE
18 DEFENDANT WAS UNDER THE INFLUENCE OF INTOXICATING LIQUOR.

19 (16) A PERSON'S REFUSAL TO SUBMIT TO A CHEMICAL TEST AS PRO-
20 VIDED IN THIS SECTION SHALL BE ADMISSIBLE IN A CRIMINAL PROSECU-
21 TION FOR A CRIME DESCRIBED IN SUBSECTION (6) ONLY FOR THE PURPOSE
22 OF SHOWING THAT A TEST WAS OFFERED TO THE DEFENDANT, BUT NOT AS
23 EVIDENCE IN DETERMINING INNOCENCE OR GUILT OF THE DEFENDANT. THE
24 JURY SHALL BE INSTRUCTED ACCORDINGLY.

25 (17) BEFORE ACCEPTING A PLEA OF GUILTY UNDER THIS SECTION,
26 THE COURT SHALL ADVISE THE ACCUSED OF THE MAXIMUM POSSIBLE TERM

1 OF IMPRISONMENT AND THE MAXIMUM POSSIBLE FINE THAT MAY BE IMPOSED
2 FOR VIOLATION OF THIS SECTION.

3 Sec. 625b. ~~(1) A person shall not operate a vehicle upon a~~
4 ~~highway or other place open to the general public, including an~~
5 ~~area designated for the parking of vehicles, within the state~~
6 ~~when, due to the consumption of an intoxicating liquor, a con-~~
7 ~~trolled substance, or a combination of an intoxicating liquor and~~
8 ~~a controlled substance, the person has visibly impaired his or~~
9 ~~her ability to operate the vehicle. If a person is charged with~~
10 ~~violating section 625(1) or (2), a finding of guilty is permissi-~~
11 ~~ble under this section.~~

12 ~~(2) Except as otherwise provided in this section, a person~~
13 ~~convicted of a violation of this section is guilty of a misde-~~
14 ~~meanor, punishable by imprisonment for not more than 90 days, or~~
15 ~~a fine of not more than \$300.00, or both, together with costs of~~
16 ~~the prosecution. As part of the sentence, the court shall order~~
17 ~~the secretary of state to suspend the operator's or chauffeur's~~
18 ~~license of the person for a period of not less than 90 days nor~~
19 ~~more than 1 year. The court may order the secretary of state to~~
20 ~~issue to the person a restricted license permitting the person~~
21 ~~during all or a specified portion of the period of suspension to~~
22 ~~drive only to and from the person's residence and work location;~~
23 ~~in the course of the person's employment or occupation; to and~~
24 ~~from an alcohol or drug education program or treatment program as~~
25 ~~ordered by the court; to and from the person's residence and an~~
26 ~~educational institution at which the person is enrolled as a~~
27 ~~student; or pursuant to a combination of these restrictions. The~~

~~1 court may also order that the restricted license include the
2 requirement that a person shall not operate a motor vehicle
3 unless the vehicle is equipped with a functioning certified igni-
4 tion interlock device. The device shall be set to render the
5 motor vehicle inoperable if the device detects 0.02% or more by
6 weight of alcohol in the blood of the person who offers a breath
7 sample. The court may order installation of a certified ignition
8 interlock device on any motor vehicle that the person owns or
9 operates, the costs of which shall be borne by the person whose
10 license is restricted. The court shall not order the secretary
11 of state to issue a restricted chauffeur's license which would
12 permit a person to operate a truck or truck tractor, including a
13 trailer, which hauls hazardous material. The court shall not
14 order the secretary of state to issue a restricted license unless
15 the person states under oath and the court finds that the person
16 is unable to take public transportation to and from his or her
17 work location, place of alcohol or drug education or treatment,
18 or educational institution, and does not have any family members
19 or others able to provide transportation. The court order and
20 license shall indicate the person's work location and the
21 approved route or routes and permitted times of travel. For pur-
22 poses of this subsection, "work location" includes, as applica-
23 ble, either or both of the following:~~

~~24 (i) The specific place or places of employment.~~

~~25 (ii) The territory or territories regularly visited by the~~

~~26 person in pursuance of the person's occupation.~~

1 ~~(3) A person who violates this section or a local ordinance~~
2 ~~substantially corresponding to this section within 7 years of a~~
3 ~~prior conviction may be sentenced to imprisonment for not more~~
4 ~~than 1 year, or a fine of not more than \$1,000.00, or both. As~~
5 ~~part of the sentence, the court shall order the secretary of~~
6 ~~state to suspend the operator's or chauffeur's license of the~~
7 ~~person for a period of not less than 6 months nor more than 18~~
8 ~~months. The court may order the secretary of state to issue to~~
9 ~~the person a restricted license as provided in subsection (2),~~
10 ~~except that a restricted license shall not be issued during the~~
11 ~~first 60 days of the suspension period. For purposes of this~~
12 ~~section, "prior conviction" means a conviction under this sec-~~
13 ~~tion, section 625(1) or (2), a local ordinance substantially cor-~~
14 ~~responding to this section or section 625(1) or (2), or a law of~~
15 ~~another state substantially corresponding to this section or sec-~~
16 ~~tion 625(1) or (2).~~

17 ~~(4) A person who violates this section, or a local ordinance~~
18 ~~substantially corresponding to this section, within 10 years of 2~~
19 ~~or more prior convictions, as defined in subsection (3), may be~~
20 ~~sentenced as provided in subsection (3), except that as part of~~
21 ~~the sentence the court shall order the secretary of state to~~
22 ~~revoke the operator's or chauffeur's license of the person.~~

23 ~~(5) As part of the sentence for a violation of this section~~
24 ~~or a local ordinance substantially corresponding to this section,~~
25 ~~the court may order the person to perform service to the communi-~~
26 ~~ty, as designated by the court, without compensation, for a~~
27 ~~period not to exceed 12 days. The person shall reimburse the~~

~~1 state or appropriate local unit of government for the cost of~~
~~2 insurance incurred by the state or local unit of government as a~~
~~3 result of the person's activities under this subsection.~~

4 (1) ~~-(6)-~~ Before imposing sentence for a violation of ~~this~~
5 section 625(1) OR (3) or a local ordinance substantially corre-
6 sponding to ~~this~~ section 625(1) OR (3), the court shall order
7 the person to undergo screening and assessment by THE COURT PRO-
8 BATION DEPARTMENT OR a person or agency designated by the office
9 of substance abuse services, to determine whether the person is
10 likely to benefit from rehabilitative services, including alcohol
11 or drug education and alcohol or drug treatment programs. As
12 part of the sentence, the court may order the person to partici-
13 pate in and successfully complete 1 or more appropriate rehabili-
14 tative programs. The person shall pay for the costs of the
15 screening, assessment, and rehabilitative services.

16 ~~-(7)- Before accepting a plea of guilty under this section,~~
17 ~~the court shall advise the accused of the statutory consequences~~
18 ~~possible as a result of a plea of guilty in respect to suspension~~
19 ~~or revocation of an operator's or chauffeur's license, the pen-~~
20 ~~alty imposed for violation of this section, and the limitation on~~
21 ~~the right of appeal.~~

22 ~~(8) The operator's or chauffeur's license of a person found~~
23 ~~guilty of violating this section, or a local ordinance substan-~~
24 ~~tially corresponding to this section, shall be surrendered to the~~
25 ~~court in which the person was convicted. The court shall immedi-~~
26 ~~ately forward the surrendered license and an abstract of~~
27 ~~conviction to the secretary of state. The abstract of conviction~~

~~1 shall indicate the sentence imposed. Upon receipt of and
2 pursuant to the abstract of conviction, the secretary of state
3 shall suspend or revoke the person's license and, if ordered by
4 the court and the person is otherwise eligible for a license,
5 issue to the person a restricted license stating the limited
6 driving privileges indicated on the abstract. If the license is
7 not forwarded to the secretary of state, an explanation of the
8 reason why the license is absent shall be attached. If the con-
9 viction is appealed to circuit court, that court may, ex parte,
10 order the secretary of state to rescind the suspension, revoca-
11 tion, or restricted license issued pursuant to this section.~~

12 (2) AS A PART OF THE SENTENCE FOR A CONVICTION UNDER
13 SECTION 625, OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO
14 SECTION 625, WHETHER OR NOT THE PERSON IS CONVICTED AS A MULTIPLE
15 OFFENDER, THE COURT MAY ORDER THE PERSON CONVICTED TO PERFORM
16 SERVICE TO THE COMMUNITY, AS DESIGNATED BY THE COURT, WITHOUT
17 COMPENSATION, FOR A PERIOD OF NOT MORE THAN 45 DAYS. THE PERSON
18 SHALL REIMBURSE THE STATE OR APPROPRIATE LOCAL UNIT OF GOVERNMENT
19 FOR THE COST OF INSURANCE INCURRED BY THE STATE OR LOCAL UNIT OF
20 GOVERNMENT AS A RESULT OF THE PERSON'S ACTIVITIES IN THIS
21 SERVICE.

22 (3) AS A PART OF THE SENTENCE FOR A CONVICTION UNDER SECTION
23 625(1) OR (3), OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING
24 TO SECTION 625(1) OR (3), WHETHER OR NOT THE PERSON IS CONVICTED
25 AS A MULTIPLE OFFENDER, THE COURT SHALL CONSIDER ALL PRIOR CON-
26 VITIONS CURRENTLY ENTERED UPON THE MICHIGAN DRIVING RECORD OF
27 THE PERSON, EXCEPT THOSE CONVICTIONS WHICH ARE DETERMINED BY THE

1 COURT TO BE CONSTITUTIONALLY INVALID, AND SHALL IMPOSE THE
2 FOLLOWING SANCTIONS:

3 (A) FOR A CONVICTION OF OPERATING UNDER THE INFLUENCE OR
4 HAVING AN UNLAWFUL BLOOD ALCOHOL LEVEL:

5 (i) IF THE COURT FINDS THAT THE PERSON HAS NO PRIOR CONVIC-
6 TIONS WITHIN 10 YEARS UNDER SECTION 625(1) OR (3), A LOCAL ORDI-
7 NANCE SUBSTANTIALLY CORRESPONDING TO SECTION 625(1) OR (3), OR A
8 LAW OF ANOTHER STATE SUBSTANTIALLY CORRESPONDING TO SECTION
9 625(1) OR (3), THE COURT SHALL ORDER THE SECRETARY OF STATE TO
10 SUSPEND THE OPERATOR'S OR CHAUFFEUR'S LICENSE OF THE PERSON FOR A
11 PERIOD OF NOT LESS THAN 6 MONTHS NOR MORE THAN 2 YEARS. THE
12 COURT MAY ORDER THE SECRETARY OF STATE TO ISSUE TO THE PERSON A
13 RESTRICTED LICENSE DURING ALL OR A SPECIFIED PORTION OF THE
14 PERIOD OF SUSPENSION, EXCEPT THAT A RESTRICTED LICENSE SHALL NOT
15 BE ISSUED DURING THE FIRST 30 DAYS OF THE SUSPENSION.

16 (ii) IF THE COURT FINDS THAT THE PERSON HAS 1 PRIOR CONVIC-
17 TION WITHIN 10 YEARS UNDER SECTION 625(3), A LOCAL ORDINANCE SUB-
18 STANTIALLY CORRESPONDING TO SECTION 625(3), OR A LAW OF ANOTHER
19 STATE SUBSTANTIALLY CORRESPONDING TO SECTION 625(3), THE COURT
20 SHALL ORDER THE SECRETARY OF STATE TO SUSPEND THE OPERATOR'S OR
21 CHAUFFEUR'S LICENSE OF THE PERSON FOR A PERIOD OF NOT LESS THAN
22 6 MONTHS NOR MORE THAN 2 YEARS. THE COURT MAY ORDER THE SECRE-
23 TARY OF STATE TO ISSUE TO THE PERSON A RESTRICTED LICENSE DURING
24 ALL OR ANY PORTION OF THE PERIOD OF SUSPENSION, EXCEPT THAT A
25 RESTRICTED LICENSE SHALL NOT BE ISSUED DURING THE FIRST 60 DAYS
26 OF THE PERIOD OF SUSPENSION.

1 (iii) IF THE COURT FINDS THAT THE PERSON HAS 1 OR MORE PRIOR
2 CONVICTIONS WITHIN 10 YEARS UNDER SECTION 625(1), A LOCAL
3 ORDINANCE SUBSTANTIALLY CORRESPONDING TO SECTION 625(1), OR A LAW
4 OF ANOTHER STATE SUBSTANTIALLY CORRESPONDING TO SECTION 625(1);
5 OR THAT THE PERSON HAS 2 OR MORE PRIOR CONVICTIONS WITHIN
6 10 YEARS UNDER SECTION 625(3), A LOCAL ORDINANCE SUBSTANTIALLY
7 CORRESPONDING TO SECTION 625(3), OR A LAW OF ANOTHER STATE SUB-
8 STANTIALLY CORRESPONDING TO SECTION 625(3), THE COURT SHALL ORDER
9 THE SECRETARY OF STATE TO REVOKE THE OPERATOR'S OR CHAUFFEUR'S
10 LICENSE OF THE PERSON AND SHALL NOT ORDER THE SECRETARY OF STATE
11 TO ISSUE A RESTRICTED LICENSE TO THE PERSON.

12 (B) FOR A CONVICTION OF IMPAIRED DRIVING:

13 (i) IF THE COURT FINDS THAT THE CONVICTED PERSON HAS NO
14 PRIOR CONVICTION WITHIN 10 YEARS UNDER SECTION 625(1) OR (3), A
15 LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO SECTION 625(1) OR
16 (3), OR A LAW OF ANOTHER STATE SUBSTANTIALLY CORRESPONDING TO
17 SECTION 625(1) OR (3), THEN THE COURT SHALL ORDER THE SECRETARY
18 OF STATE TO SUSPEND THE OPERATOR'S OR CHAUFFEUR'S LICENSE OF THE
19 PERSON FOR A PERIOD OF NOT LESS THAN 90 DAYS NOR MORE THAN
20 1 YEAR. THE COURT MAY ORDER THE SECRETARY OF STATE TO ISSUE TO
21 THE PERSON A RESTRICTED LICENSE DURING ALL OR A SPECIFIED PORTION
22 OF THE PERIOD OF SUSPENSION.

23 (ii) IF THE COURT FINDS THAT THE PERSON HAS 1 PRIOR CONVIC-
24 TION WITHIN 10 YEARS UNDER SECTION 625(1) OR (3), A LOCAL ORDI-
25 NANCE SUBSTANTIALLY CORRESPONDING TO SECTION 625(1) OR (3), OR A
26 LAW OF ANOTHER STATE SUBSTANTIALLY CORRESPONDING TO
27 SECTION 625(1) OR (3), THE COURT SHALL ORDER THE SECRETARY OF

1 STATE TO SUSPEND THE OPERATOR'S OR CHAUFFEUR'S LICENSE OF THE
2 PERSON FOR A PERIOD OF NOT LESS THAN 6 MONTHS NOR MORE THAN
3 18 MONTHS. THE COURT MAY ORDER THE SECRETARY OF STATE TO ISSUE
4 TO THE PERSON A RESTRICTED LICENSE DURING ALL OR ANY PORTION OF
5 THE SUSPENSION PERIOD, EXCEPT THAT A RESTRICTED LICENSE SHALL NOT
6 BE ISSUED DURING THE FIRST 60 DAYS OF THE PERIOD OF SUSPENSION.

7 (iii) IF THE COURT FINDS THAT THE PERSON HAS 2 OR MORE PRIOR
8 CONVICTIONS WITHIN 10 YEARS UNDER SECTION 625(1) OR (3), A LOCAL
9 ORDINANCE SUBSTANTIALLY CORRESPONDING TO SECTION 625(1) OR (3),
10 OR A LAW OF ANOTHER STATE SUBSTANTIALLY CORRESPONDING TO SECTION
11 625(1) OR (3), THE COURT SHALL ORDER THE SECRETARY OF STATE TO
12 REVOKE THE OPERATOR'S OR CHAUFFEUR'S LICENSE OF THE PERSON AND
13 SHALL NOT ORDER THE SECRETARY OF STATE TO ISSUE A RESTRICTED
14 LICENSE TO THE PERSON.

15 (4) A RESTRICTED LICENSE ISSUED PURSUANT TO AN ORDER UNDER
16 SUBSECTION (3) SHALL PERMIT THE PERSON TO WHOM IT IS ISSUED TO DO
17 1 OR MORE OF THE FOLLOWING:

18 (A) DRIVE TO AND FROM THE PERSON'S RESIDENCE AND WORK
19 LOCATION.

20 (B) DRIVE IN THE COURSE OF THE PERSON'S EMPLOYMENT OR
21 OCCUPATION.

22 (C) DRIVE TO AND FROM THE PERSON'S RESIDENCE AND AN ALCOHOL
23 OR DRUG EDUCATION OR TREATMENT PROGRAM AS ORDERED BY THE COURT.

24 (D) DRIVE TO AND FROM THE PERSON'S RESIDENCE AND THE COURT
25 PROBATION DEPARTMENT, OR A COURT-ORDERED COMMUNITY SERVICE PRO-
26 GRAM, OR BOTH.

1 (E) DRIVE TO AND FROM THE PERSON'S RESIDENCE AND AN
2 EDUCATIONAL INSTITUTION AT WHICH THE PERSON IS ENROLLED AS A
3 STUDENT.

4 (F) DRIVE ONLY IN A MOTOR VEHICLE EQUIPPED WITH AN IGNITION
5 INTERLOCK DEVICE WHICH PREVENTS THE PERSON FROM OPERATING THE
6 MOTOR VEHICLE IF THE PERSON HAS A BLOOD ALCOHOL CONTENT IN VIOLA-
7 TION OF SECTION 625.

8 (5) THE COURT SHALL NOT ORDER THE SECRETARY OF STATE UNDER
9 SUBSECTION (3) TO ISSUE A RESTRICTED CHAUFFEUR'S LICENSE WHICH
10 WOULD PERMIT A PERSON TO OPERATE A TRUCK OR TRUCK TRACTOR,
11 INCLUDING A TRAILER, WHICH HAULS HAZARDOUS MATERIALS.

12 (6) THE COURT SHALL NOT ORDER THE SECRETARY OF STATE TO
13 ISSUE A RESTRICTED LICENSE UNLESS THE PERSON STATES UNDER OATH,
14 AND THE COURT FINDS, THAT THE PERSON IS UNABLE TO TAKE PUBLIC
15 TRANSPORTATION TO AND FROM HIS OR HER WORK LOCATION, PLACE OF
16 ALCOHOL OR DRUG EDUCATION TREATMENT, OR EDUCATIONAL INSTITUTION,
17 AND DOES NOT HAVE ANY FAMILY MEMBERS OR OTHERS ABLE TO PROVIDE
18 TRANSPORTATION.

19 (7) THE COURT ORDER UNDER SUBSECTION (3) AND THE RESTRICTED
20 LICENSE SHALL INDICATE THE WORK LOCATION OF THE PERSON TO WHOM IT
21 IS ISSUED AND THE APPROVED ROUTE OR ROUTES AND PERMITTED TIMES OF
22 TRAVEL. AS USED IN THIS SUBSECTION, "WORK LOCATION" MEANS, AS
23 APPLICABLE, EITHER THE SPECIFIC PLACE OR PLACES OF EMPLOYMENT, OR
24 THE TERRITORY OR TERRITORIES REGULARLY VISITED BY THE PERSON IN
25 PURSUANCE OF THE PERSON'S OCCUPATION, OR BOTH.

26 (8) THE OPERATOR'S OR CHAUFFEUR'S LICENSE OF A PERSON FOUND
27 GUILTY OF VIOLATING SECTION 625(1) OR (3), OR A LOCAL ORDINANCE

1 SUBSTANTIALLY CORRESPONDING TO SECTION 625(1) OR (3), SHALL BE
2 SURRENDERED TO THE COURT IN WHICH THE PERSON WAS CONVICTED. THE
3 COURT SHALL IMMEDIATELY FORWARD THE SURRENDERED LICENSE AND AN
4 ABSTRACT OF CONVICTION TO THE SECRETARY OF STATE. THE ABSTRACT
5 OF CONVICTION SHALL INDICATE THE SENTENCE IMPOSED. UPON RECEIPT
6 OF, AND PURSUANT TO, THE ABSTRACT OF CONVICTION, THE SECRETARY OF
7 STATE SHALL SUSPEND OR REVOKE THE PERSON'S LICENSE AND, IF
8 ORDERED BY THE COURT AND THE PERSON IS OTHERWISE ELIGIBLE FOR A
9 LICENSE, ISSUE TO THE PERSON A RESTRICTED LICENSE STATING THE
10 LIMITED DRIVING PRIVILEGES INDICATED ON THE ABSTRACT. IF THE
11 LICENSE IS NOT FORWARDED TO THE SECRETARY OF STATE, AN EXPLANA-
12 TION OF THE REASON WHY THE LICENSE IS ABSENT SHALL BE ATTACHED.
13 IF THE CONVICTION IS APPEALED TO CIRCUIT COURT, THE COURT MAY, EX
14 PARTE, ORDER THE SECRETARY OF STATE TO RESCIND THE SUSPENSION,
15 REVOCATION, OR RESTRICTED LICENSE ISSUED PURSUANT TO THIS
16 SECTION.

17 Sec. 625c. (1) A person who operates a vehicle upon a
18 public highway or other place open to the general public, includ-
19 ing an area designated for the parking of vehicles, in the state
20 is considered to have given consent to chemical tests of his or
21 her blood, breath, or urine for the purpose of determining the
22 amount of alcohol or presence of a controlled substance or both
23 in his or her blood ~~if~~ IN EITHER OF THE FOLLOWING CASES:

24 (a) ~~The~~ IF THE person is arrested for a violation of sec-
25 tion 625(1) or ~~(2) or 625b~~ (3), or a local ordinance substan-
26 tially corresponding to section 625(1) or ~~(2) or 625b~~ (3).

1 (b) ~~The~~ IF THE person is arrested for felonious driving,
2 negligent homicide, or manslaughter resulting from the operation
3 of a motor vehicle, and the peace officer had reasonable grounds
4 to believe that the person was operating the vehicle while
5 impaired by or under the influence of intoxicating liquor or a
6 controlled substance or a combination of intoxicating liquor and
7 a controlled substance, or while having a blood alcohol content
8 of 0.10% or more by weight of alcohol.

9 (2) A person who is afflicted with hemophilia, diabetes, or
10 a condition requiring the use of an anticoagulant under the
11 direction of a physician shall not be considered to have given
12 consent to the withdrawal of blood.

13 (3) The tests shall be administered as provided in section
14 625a.

15 Sec. 625d. If a person refuses the request of a peace offi-
16 cer to submit to a chemical test offered pursuant to section
17 625a, a test shall not be given without a court order. A written
18 report shall be forwarded to the secretary of state by the peace
19 officer. The report shall state that the officer had reasonable
20 grounds to believe that the person had committed a crime
21 described in section 625c(1), and that the person had refused to
22 submit to the test upon the request of the peace officer and had
23 been advised of the consequences of the refusal. The form of the
24 report shall be prescribed and furnished by the secretary of
25 state.

26 Sec. 625f. (1) If ~~the~~ A person ~~who~~ refuses to submit to
27 a chemical test pursuant to section 625d AND does not request a

1 hearing within 14 days of the date of notice pursuant to section
2 625e, the secretary of state shall suspend the person's
3 operator's or chauffeur's license or permit to drive, or nonresi-
4 dent operating privilege, for a period of 6 months, or for a
5 second or subsequent refusal within a period of ~~7~~ 10 years, for
6 1 year. If the person is a resident without a license or permit
7 to operate a vehicle in the state, the secretary OF STATE shall
8 deny to the person the issuance of a license or permit for a
9 period of 6 months, or ~~7~~ for a second or subsequent refusal
10 within a period of ~~7~~ 10 years, for 1 year.

11 (2) If a hearing is requested, the secretary of state shall
12 hold the hearing in the same manner and under the same conditions
13 as provided in section 322. ~~At least~~ NOT LESS THAN 10 days'
14 notice of the hearing shall be mailed to the person requesting
15 the hearing, to the peace officer who filed the report under sec-
16 tion 625d, and ~~7~~ if the prosecuting attorney requests receipt
17 of the notice, to the prosecuting attorney of the county where
18 the arrest was made. The hearing officer ~~shall be authorized~~
19 ~~to~~ MAY administer oaths, issue subpoenas for the attendance of
20 necessary witnesses, and ~~may~~ grant a reasonable request for an
21 adjournment. The hearing shall cover only the following issues:

22 (a) Whether the peace officer had reasonable grounds to
23 believe that the person had committed a crime described in sec-
24 tion 625c(1).

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

1 (c) Whether the person reasonably refused to submit to the
2 test upon the request of the officer.

3 (d) Whether the person was advised of the rights under
4 ~~sections~~ SECTION 625a. ~~and 625c.~~

5 (3) The hearing officer shall make a record of proceedings
6 held pursuant to subsection (2). The record shall be prepared
7 and transcribed in accordance with section 86 of the administra-
8 tive procedures act of 1969, Act No. 306 of the Public Acts of
9 1969, being section 24.286 of the Michigan Compiled Laws. Upon
10 notification of the filing of a petition for judicial review pur-
11 suant to section 323, the hearing officer shall transmit to the
12 court in which the petition was filed, not less than 10 days
13 before the matter is set for review, the original or a certified
14 copy of the official record of the proceedings. Proceedings at
15 which evidence was presented need not be transcribed and trans-
16 mitted if the sole reason for review is to determine whether or
17 not the court will order the issuance of a restricted license.
18 The parties to the proceedings for judicial review may stipulate
19 that the record be shortened. A party unreasonably refusing to
20 stipulate to a shortened record may be taxed by the court in
21 which the petition is filed for the additional costs. The court
22 may permit subsequent corrections to the record.

23 (4) After the hearing, IF THE PERSON WHO REQUESTED THE HEAR-
24 ING DOES NOT PREVAIL, the secretary of state may suspend or deny
25 issuance of a license or driving permit or a nonresident operat-
26 ing privilege of the person ~~involved~~ for a period of 6 months,
27 or ~~7~~ for a second or subsequent refusal within ~~7~~ 10 years,

1 for 1 year. If the person ~~involved~~ is a resident without a
2 license or permit to operate a vehicle in the state, the secre-
3 tary of state may deny to the person the issuance of a license or
4 permit for a period of 6 months, or ~~—~~ for a second or subse-
5 quent refusal within ~~7~~ 10 years, for 1 year. The person
6 ~~involved~~ may file a petition in the circuit court of the county
7 in which the arrest was made to review the suspension or denial
8 as provided in section 323.

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

15 Sec. 625i. ~~(+)~~ The department of state police shall pre-
16 pare an annual report which shall be designated the Michigan
17 annual drunk driving audit. THE SECRETARY OF STATE AND THE CIR-
18 CUIT COURTS, DISTRICT COURTS, AND LOCAL UNITS OF GOVERNMENT IN
19 THIS STATE SHALL COOPERATE WITH THE DEPARTMENT OF STATE POLICE TO
20 PROVIDE INFORMATION NECESSARY FOR THE PREPARATION OF THE REPORT.
21 A COPY OF THE REPORT PREPARED UNDER THIS SUBSECTION SHALL BE SUB-
22 MITTED TO THE GOVERNOR, THE SECRETARY OF THE SENATE, THE CLERK OF
23 THE HOUSE OF REPRESENTATIVES, AND THE SECRETARY OF STATE ON
24 JUNE 1 OF EACH YEAR. The report shall contain for each county in
25 the state all of the following information applicable to the
26 immediately preceding calendar year:

1 (a) The number of alcohol related motor vehicle accidents
2 resulting in bodily injury, including a breakdown of the number
3 of those injuries occurring per capita of population and per road
4 mile in the county.

5 (b) The number of alcohol related motor vehicle accidents
6 resulting in death, including the breakdown described in subdivi-
7 sion (a).

8 (c) The number of alcohol related motor vehicle accidents,
9 other than those described in subdivisions (a) and (b), including
10 the breakdown described in subdivision (a).

11 (d) The number of arrests made for a violation of section
12 ~~625(1) or (2),~~ 625(1)(A) OR (B) or a local ordinance substan-
13 tially corresponding to section ~~625(1) or (2)~~ 625(1)(A) OR
14 (B).

15 (e) The number of arrests made for a violation of section
16 ~~625b~~ 625(3) or a local ordinance substantially corresponding to
17 section ~~625b~~ 625(3).

18 (f) The number of operator's or chauffeur's licenses sus-
19 pended pursuant to section 625f for refusal to submit to a chemi-
20 cal test.

21 (g) The number of convictions of crimes enumerated in subdi-
22 visions (d) and (e).

23 (h) The number of licenses suspended or revoked as a result
24 of convictions of crimes enumerated in subdivisions (d) and (e).

25 (i) The number of restricted licenses issued as a result of
26 convictions of crimes enumerated in subdivisions (d) and (e).

1 (j) The average fine, length of imprisonment, and period of
2 license suspension imposed as part of the sentence for each crime
3 enumerated in subdivisions (d) and (e).

4 ~~(2) The secretary of state and the circuit courts, district~~
5 ~~courts, and local units of government in the state shall cooper-~~
6 ~~ate with the department of state police to provide information~~
7 ~~necessary for the preparation of the report.~~

8 ~~(3) A copy of the report required under this section shall~~
9 ~~be submitted to the governor, to the secretary of the senate, and~~
10 ~~to the clerk of the house of representatives on June 1 of each~~
11 ~~year.~~

12 Sec. 904. (1) A person whose operator's or chauffeur's
13 license or registration certificate has been suspended or revoked
14 and who has been notified as provided in section 212 of that sus-
15 pension or revocation, or whose application for A license has
16 been denied, ~~as provided in this act,~~ or who has never applied
17 for a license, ~~and who operates~~ SHALL NOT OPERATE a motor vehi-
18 cle upon the highways of this state. ~~or who knowingly permits~~
19 A PERSON SHALL NOT KNOWINGLY PERMIT a motor vehicle owned by the
20 person to be operated ~~by another~~ upon a highway, except as per-
21 mitted under this act, ~~while the~~ BY A PERSON WHOSE license or
22 registration certificate is suspended or revoked, ~~or~~ whose
23 application for license has been denied, ~~as provided in this~~
24 ~~act,~~ OR WHO HAS NEVER APPLIED FOR A LICENSE. A PERSON WHO VIO-
25 LATES THIS SUBSECTION is guilty of a misdemeanor, punishable ~~—~~
26 ~~except as provided in subsections (2) and (3), by imprisonment~~
27 ~~for not less than 3 days nor more than 90 days, or a fine of not~~

1 ~~more than \$100.00, or both. Unless the vehicle was stolen or~~
2 ~~used with the permission of a person who did not knowingly permit~~
3 ~~an unlicensed driver to operate the vehicle, the registration~~
4 ~~plates of the vehicle shall be confiscated.~~ AS FOLLOWS:

5 (A) ~~(2) A person whose~~ IF THE PERSON'S operator's or
6 chauffeur's license has been suspended under section 321a because
7 that person has failed to answer a citation or has failed to
8 comply with an order or judgment issued pursuant to section 907
9 ~~and who operates a motor vehicle upon a highway, may be~~
10 ~~punished~~ by imprisonment for not more than 90 days, or a fine of
11 not more than \$100.00, or both.

12 (B) IF SUBDIVISION (A) DOES NOT APPLY, BY IMPRISONMENT FOR
13 NOT MORE THAN 90 DAYS, OR A FINE OF NOT MORE THAN \$500.00, OR
14 BOTH.

15 (C) ~~(3) A person convicted of~~ IF SUBDIVISION (A) DOES NOT
16 APPLY AND THE CONVICTION IS FOR a second or subsequent violation
17 of this ~~section is guilty of a misdemeanor, punishable~~
18 SUBSECTION, by imprisonment for not ~~less than 5 days nor~~ more
19 than 1 year, or a fine of not more than ~~\$500.00,~~ \$1,000.00, or
20 both. Unless the vehicle was stolen, the registration plates of
21 the vehicle shall be confiscated.

22 (2) ~~(4)~~ The secretary of state, upon receiving a record of
23 the conviction or probate court finding of a person upon a charge
24 of unlawful operation of a motor vehicle while the license of the
25 person is suspended ~~, revoked, or denied,~~ OR REVOKED or of the
26 conviction, civil infraction determination, or probate court
27 finding of a person for a MOVING violation of the ~~motor~~ vehicle

1 laws of this state OR A POLITICAL SUBDIVISION OF THIS STATE while
 2 the license of the person is suspended ~~, revoked, or denied,~~ OR
 3 REVOKED immediately shall extend the period of the first suspen-
 4 sion or revocation for an additional like period. ~~, or if a~~
 5 ~~period has not been determined, then for not less than 30 days~~
 6 ~~nor more than 1 year.~~ THIS SUBSECTION SHALL APPLY ONLY IF THE
 7 VIOLATION OCCURS DURING A SUSPENSION OF DEFINITE LENGTH OR BEFORE
 8 THE PERSON IS APPROVED FOR A LICENSE FOLLOWING A REVOCATION.

9 (3) ~~-(5)-~~ The secretary of state, upon receiving a record of
 10 the conviction, bond forfeiture, or a civil infraction determina-
 11 tion of a person upon a charge of unlawful operation of a motor
 12 vehicle requiring a class 1, class 2, or class 3 indorsement or
 13 vehicle group designation while the indorsement or designation is
 14 suspended pursuant to section 319a or 319b, OR REVOKED, immedi-
 15 ately shall extend the period of suspension OR REVOCATION for an
 16 additional like period. This subsection shall apply to a person
 17 who operates a commercial vehicle while disqualified under title
 18 XII of Public Law 99-570, 100 Stat. 3207. THIS SUBSECTION SHALL
 19 APPLY ONLY IF THE VIOLATION OCCURS DURING A SUSPENSION OF DEFINITE
 20 LENGTH OR BEFORE THE PERSON IS APPROVED FOR A LICENSE FOLLOWING
 21 A REVOCATION.

22 (4) ~~-(6)-~~ Before ~~the plea of the~~ A person is ~~accepted~~
 23 ~~under~~ ARRAIGNED BEFORE A DISTRICT COURT MAGISTRATE OR JUDGE ON A
 24 CHARGE OF VIOLATING this section, the arresting officer shall
 25 ~~check with~~ OBTAIN THE DRIVING RECORD OF THE PERSON FROM the
 26 secretary of state ~~to determine the record and status of the~~

1 ~~person according to the records of the secretary of state and so~~
2 ~~inform~~ AND SHALL FURNISH THE RECORD TO the court.

3 (5) ~~(7)~~ This section shall not apply to a person who oper-
4 ates a vehicle solely for the purpose of protecting human life or
5 property, if the life or property is endangered and the summoning
6 of prompt aid is essential.

7 SEC. 910. (1) A PERSON WHO IS CONVICTED OF AN ATTEMPT TO
8 COMMIT AN OFFENSE PROHIBITED BY THIS ACT SHALL BE PUNISHED AS IF
9 THE OFFENSE HAD BEEN COMPLETED.

10 (2) WHEN ASSESSING POINTS AND TAKING LICENSING ACTION UNDER
11 THIS ACT, THE SECRETARY OF STATE SHALL TREAT A CONVICTION OF AN
12 ATTEMPTED OFFENSE THE SAME AS IF THE OFFENSE HAD BEEN COMPLETED,
13 WHETHER THE ATTEMPTED OFFENSE IS PROHIBITED BY THIS ACT, ANOTHER
14 LAW OF THIS STATE, A LOCAL ORDINANCE, OR A LAW OF ANOTHER STATE.

15 (3) A JUDGE, DISTRICT COURT MAGISTRATE, TRAFFIC BUREAU, OR
16 PARKING VIOLATIONS BUREAU SHALL NOT ACCEPT AN ADMISSION OF
17 RESPONSIBILITY TO AN ATTEMPTED CIVIL INFRACTION NOR DETERMINE A
18 PERSON RESPONSIBLE FOR AN ATTEMPTED CIVIL INFRACTION. THE SECRE-
19 TARY OF STATE SHALL NOT ACCEPT AN ABSTRACT FOR AN ATTEMPTED CIVIL
20 INFRACTION NOR ASSESS ANY POINTS FOR SUCH A DETERMINATION.

21 Section 2. The following acts and parts of acts are
22 repealed:

23 (a) Sections 323c, 625g, 625h, and 625j of Act No. 300 of
24 the Public Acts of 1949, being sections 257.323c, 257.625g,
25 257.625h, and 257.625j of the Michigan Compiled Laws.

1 (b) Sections 33a and 34a of Act No. 8 of the Public Acts of
2 the Extra Session of 1933, being sections 436.33a and 436.34a of
3 the Michigan Compiled Laws.