

HOUSE BILL No. 5855

June 5, 1990, Introduced by Reps. Martin, Nye, Bandstra, Walberg, Law, Sparks, Muxlow, Wartner, Ouwinga, Dolan, Kulchitsky, DeMars and Crandall and referred to the Committee on Judiciary.

A bill to amend sections 625 and 625b 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 sections 257.625 and 257.625b of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 625 and 625b of Act No. 300 of the
2 Public Acts of 1949, as amended by Act No. 109 of the Public Acts
3 of 1987, being sections 257.625 and 257.625b of the Michigan
4 Compiled Laws, are amended to read 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 by imprisonment for not more
26 than 90 days, or a fine of not less than \$100.00 nor more than
27 \$500.00, or both, together with costs of the prosecution. As

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

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

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

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

13 (5) A person who violates subsection (1) or (2) or a local
14 ordinance substantially corresponding to subsection (1) or (2)
15 within 7 years of a prior conviction may be sentenced to impris-
16 onment for not more than 1 year, or a fine of not more than
17 \$1,000.00, or both. As part of the sentence, the court shall
18 order the secretary of state to revoke the operator's or
19 chauffeur's license of the person. For purposes of this section,
20 "prior conviction" means a conviction under subsection (1) or
21 (2), a local ordinance substantially corresponding to subsection
22 (1) or (2), or a law of another state substantially corresponding
23 to subsection (1) or (2).

24 (6) A person who violates subsection (1) or (2) or a local
25 ordinance substantially corresponding to subsection (1) or (2)
26 within 10 years of 2 or more prior convictions, as defined in
27 subsection (5), is guilty of a felony. As part of the sentence,

1 the court shall order the secretary of state to revoke the
2 operator's or chauffeur's license of the person.

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

12 (8) Before imposing sentence for a violation of subsection
13 (1) or (2) or a local ordinance substantially corresponding to
14 subsection (1) or (2), the court shall order the person to
15 undergo screening and assessment by a person or agency designated
16 by the office of substance abuse services, to determine whether
17 the person is likely to benefit from rehabilitative services,
18 including alcohol or drug education, ~~and~~ alcohol or drug treat-
19 ment programs, OR CONFINEMENT IN A DRUNK DRIVER DETENTION AND
20 CORRECTION CENTER. As part of the sentence, the court may order
21 the person to participate in and successfully complete 1 or more
22 appropriate rehabilitative programs, OR THE COURT MAY REQUIRE THE
23 PERSON TO BE CONFINED IN A DRUNK DRIVER DETENTION AND CORRECTION
24 CENTER UNDER A PROBATION ORDER ISSUED PURSUANT TO SECTION 3D OF
25 CHAPTER XI OF THE CODE OF CRIMINAL PROCEDURE, ACT NO. 175 OF THE
26 PUBLIC ACTS OF 1927, BEING SECTION 771.3D OF THE MICHIGAN
27 COMPILED LAWS. The person shall pay for the costs of the

1 screening, assessment, ~~and~~ rehabilitative services, AND
2 CONFINEMENT AND TREATMENT IN A CENTER.

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.

1 (11) AS USED IN THIS SECTION AND SECTION 625B, "DRUNK DRIVER
2 DETENTION AND CORRECTION CENTER" OR "CENTER" MEANS THAT TERM AS
3 DEFINED IN SECTION 2 OF THE DRUNK DRIVER DETENTION AND CORRECTION
4 CENTER ACT.

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

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

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

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

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

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

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

25 (5) As part of the sentence for a violation of this section
26 or a local ordinance substantially corresponding to this section,
27 the court may order the person to perform service to the

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

6 (6) Before imposing sentence for a violation of this section
7 or a local ordinance substantially corresponding to this section,
8 the court shall order the person to undergo screening and assess-
9 ment by a person or agency designated by the office of substance
10 abuse services, to determine whether the person is likely to ben-
11 efit from rehabilitative services, including alcohol or drug
12 education, ~~and~~ alcohol or drug treatment programs, OR CONFINE-
13 MENT IN A DRUNK DRIVER DETENTION AND CORRECTION CENTER. As part
14 of the sentence, the court may order the person to participate in
15 and successfully complete 1 or more appropriate rehabilitative
16 programs, OR THE COURT MAY REQUIRE THE PERSON TO BE CONFINED IN A
17 DRUNK DRIVER DETENTION AND CORRECTION CENTER UNDER A PROBATION
18 ORDER ISSUED PURSUANT TO SECTION 3D OF CHAPTER XI OF THE CODE OF
19 CRIMINAL PROCEDURE, ACT NO. 175 OF THE PUBLIC ACTS OF 1927, BEING
20 SECTION 771.3D OF THE MICHIGAN COMPILED LAWS. The person shall
21 pay for the costs of the screening, assessment, ~~and~~ rehabilita-
22 tive services, AND CONFINEMENT AND TREATMENT IN A CENTER.

23 (7) Before accepting a plea of guilty under this section,
24 the court shall advise the accused of the statutory consequences
25 possible as a result of a plea of guilty in respect to suspension
26 or revocation of an operator's or chauffeur's license, the

1 penalty imposed for violation of this section, and the limitation
2 on the right of appeal.

3 (8) The operator's or chauffeur's license of a person found
4 guilty of violating this section, or a local ordinance substan-
5 tially corresponding to this section, shall be surrendered to the
6 court in which the person was convicted. The court shall immedi-
7 ately forward the surrendered license and an abstract of convic-
8 tion to the secretary of state. The abstract of conviction shall
9 indicate the sentence imposed. Upon receipt of and pursuant to
10 the abstract of conviction, the secretary of state shall suspend
11 or revoke the person's license and, if ordered by the court and
12 the person is otherwise eligible for a license, issue to the
13 person a restricted license stating the limited driving privi-
14 leges indicated on the abstract. If the license is not forwarded
15 to the secretary of state, an explanation of the reason why the
16 license is absent shall be attached. If the conviction is
17 appealed to circuit court, that court may, ex parte, order the
18 secretary of state to rescind the suspension, revocation, or
19 restricted license issued pursuant to this section.

20 Section 2. This amendatory act shall take effect January 1,
21 1991.

22 Section 3. This amendatory act shall not take effect unless
23 all of the following bills of the 85th Legislature are enacted
24 into law:

25 (a) Senate Bill No. ____ or House Bill No. 5854 (request
26 no. 01762'89).

1 (b) Senate Bill No. _____ or House Bill No. 5856 (request
2 no. 01762'89 b).

3 (c) Senate Bill No. _____ or House Bill No. 5857 (request
4 no. 01762'89 c).

5 (d) Senate Bill No. _____ or House Bill No. 5858 (request
6 no. 01762'89 d).