

SENATE BILL No. 88

February 2, 1989, Introduced by Senators SEDERBURG and N. SMITH
and referred to the Committee on Judiciary.

A bill to amend section 625 of Act No. 300 of the Public Acts of 1949, entitled as amended
"Michigan vehicle code,"
as amended by Act No. 109 of the Public Acts of 1987, being section 257.625 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

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

23 (4) Except as otherwise provided in this section, a person
24 who is convicted of a violation of subsection (1), (2), or (3) is
25 guilty of a misdemeanor, punishable 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~~ SHALL be sentenced to
16 imprisonment for not LESS THAN 48 HOURS NOR more than 1 year,
17 ~~or~~ AND, IN ADDITION, a fine of not more than \$1,000.00 ~~, or~~
18 ~~both~~ MAY BE IMPOSED. THE COURT MAY ORDER THE PERSON TO PERFORM
19 NOT LESS THAN 10 DAYS NOR MORE THAN 22 DAYS OF SERVICE TO THE
20 COMMUNITY IN LIEU OF THE IMPRISONMENT. THE TERM OF IMPRISONMENT
21 OR COMMUNITY SERVICE IMPOSED UNDER THIS SUBSECTION SHALL NOT BE
22 SUSPENDED. As part of the sentence, the court shall order the
23 secretary of state to revoke the operator's or chauffeur's
24 license of the person. For purposes of this section, "prior
25 conviction" means a conviction under subsection (1) or (2), a
26 local ordinance substantially corresponding to subsection (1) or

1 (2), or a law of another state substantially corresponding to
2 subsection (1) or (2).

3 (6) A person who violates subsection (1) or (2) or a local
4 ordinance substantially corresponding to subsection (1) or (2)
5 within 10 years of 2 or more prior convictions, as defined in
6 subsection (5), is guilty of a felony. THE PERSON SHALL BE SEN-
7 TENCED TO IMPRISONMENT FOR NOT LESS THAN 48 HOURS NOR MORE THAN 5
8 YEARS, AND, IN ADDITION, A FINE OF NOT LESS THAN \$500.00 NOR MORE
9 THAN \$5,000.00 MAY BE IMPOSED. THE COURT MAY ORDER THE PERSON TO
10 PERFORM NOT LESS THAN 10 DAYS NOR MORE THAN 22 DAYS OF SERVICE TO
11 THE COMMUNITY IN LIEU OF THE IMPRISONMENT. THE TERM OF IMPRISON-
12 MENT OR COMMUNITY SERVICE IMPOSED UNDER THIS SUBSECTION SHALL NOT
13 BE SUSPENDED. As part of the sentence, the court shall order the
14 secretary of state to revoke the operator's or chauffeur's
15 license of the person.

16 (7) As part of the sentence for a violation of subsection
17 (1) or (2), or a local ordinance substantially corresponding to
18 subsection (1) or (2), the court may order the person to perform
19 service to the community, as designated by the court. ~~without~~
20 ~~compensation, for a~~ UNLESS SERVICE TO THE COMMUNITY IS ORDERED
21 UNDER SUBSECTION (5) OR (6) IN LIEU OF IMPRISONMENT, THE period
22 OF THAT SERVICE SHALL not ~~to~~ exceed 12 days. ~~The person~~ A
23 PERSON SENTENCED TO PERFORM SERVICE TO THE COMMUNITY UNDER THIS
24 SECTION SHALL NOT RECEIVE COMPENSATION, AND shall reimburse the
25 state or appropriate local unit of government for the cost of
26 insurance incurred by the state or local unit of government as a

1 result of the person's activities under this ~~subsection~~
2 SECTION.

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

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

21 (10) The operator's or chauffeur's license of a person found
22 guilty of violating subsection (1) or (2), or a local ordinance
23 substantially corresponding to subsection (1) or (2), shall be
24 surrendered to the court in which the person was convicted, and
25 the court shall immediately forward the surrendered license and
26 an abstract of conviction to the secretary of state. The
27 abstract of conviction shall indicate the sentence imposed. Upon

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

12 Section 2. This amendatory act shall take effect October 1,
13 1989.