

HOUSE BILL No. 4664

May 8, 2003, Introduced by Reps. Hummel, Palmer, Gaffney, Stahl, Ward, Nofs,
Brandenburg, Hoogendyk, Kooiman and Robertson and referred to the Committee on
Criminal Justice.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 303, 319, 625, and 625m (MCL 257.303,
257.319, 257.625, and 257.625m), section 303 as amended by 2002
PA 422, section 319 as amended by 2002 PA 534, and sections 625
and 625m as amended by 2000 PA 460.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 303. (1) The secretary of state shall not issue a
2 license under this act to any of the following persons described
3 in subdivisions (a) through (l):

4 (a) A person, as an operator, who is less than 18 years of
5 age, except as otherwise provided in this act.

6 (b) A person, as a chauffeur, who is less than 18 years of
7 age, except as otherwise provided in this act.

8 (c) A person whose license is suspended, revoked, denied, or

1 canceled in any state. If the suspension, revocation, denial, or
2 cancellation is not from the jurisdiction that issued the last
3 license to the person, the secretary of state may issue a license
4 after the expiration of 5 years from the effective date of the
5 most recent suspension, revocation, denial, or cancellation.

6 (d) A person who in the opinion of the secretary of state is
7 afflicted with or suffering from a physical or mental disability
8 or disease preventing that person from exercising reasonable and
9 ordinary control over a motor vehicle while operating the motor
10 vehicle upon the highways.

11 (e) A person who is unable to understand highway warning or
12 direction signs in the English language.

13 (f) A person who is unable to pass a knowledge, skill, or
14 ability test administered by the secretary of state in connection
15 with the issuance of an original operator's or chauffeur's
16 license, original motorcycle indorsement, or an original or
17 renewal of a vehicle group designation or vehicle indorsement.

18 (g) A person who has been convicted of, has received a
19 juvenile disposition for, or has been determined responsible for
20 2 or more moving violations under a law of this state, a local
21 ordinance substantially corresponding to a law of this state, or
22 a law of another state substantially corresponding to a law of
23 this state within the preceding 3 years, if the violations
24 occurred before issuance of an original license to the person in
25 this or another state.

26 (h) A nonresident including a foreign exchange student.

27 (i) A person who has failed to answer a citation or notice to

1 appear in court or for any matter pending or fails to comply with
2 an order or judgment of the court, including, but not limited to,
3 paying all fines, costs, fees, and assessments, in violation of
4 section 321a, until that person answers the citation or notice to
5 appear in court or for any matter pending or complies with an
6 order or judgment of the court, including, but not limited to,
7 paying all fines, costs, fees, and assessments, as provided under
8 section 321a.

9 (j) A person not licensed under this act who has been
10 convicted of, has received a juvenile disposition for, or has
11 been determined responsible for a crime or civil infraction
12 described in section 319, 324, or 904. A person shall be denied
13 a license under this subdivision for the length of time
14 corresponding to the period of the licensing sanction that would
15 have been imposed under section 319, 324, or 904 if the person
16 had been licensed at the time of the violation.

17 (k) A person not licensed under this act who has been
18 convicted of or received a juvenile disposition for committing a
19 crime described in section 319e. A person shall be denied a
20 license under this subdivision for the length of time that
21 corresponds to the period of the licensing sanction that would
22 have been imposed under section 319e if the person had been
23 licensed at the time of the violation.

24 (l) A person not licensed under this act who is determined to
25 have violated section 33b(1) of former 1933 (Ex Sess) PA 8,
26 section 703(1) of the Michigan liquor control code of 1998, 1998
27 PA 58, MCL 436.1703, or section 624a or 624b of this act. The

1 person shall be denied a license under this subdivision for a
2 period of time that corresponds to the period of the licensing
3 sanction that would have been imposed under those sections had
4 the person been licensed at the time of the violation.

5 (m) The secretary of state may deny issuance of an operator's
6 license until the age of 17 to a person not licensed under this
7 act who was convicted of or received a juvenile disposition for
8 violating or attempting to violate section 411a(2) of the
9 Michigan penal code, 1931 PA 328, MCL 750.411a, involving a
10 school when he or she was less than 14 years of age. A person
11 not issued a license under this subdivision is not eligible to
12 begin graduated licensing training until he or she attains 16
13 years of age.

14 (n) The secretary of state may deny issuance of an operator's
15 license to a person less than 21 years of age not licensed under
16 this act who was convicted of or has received a juvenile
17 disposition for violating or attempting to violate
18 section 411a(2) of the Michigan penal code, 1931 PA 328, MCL
19 750.411a, involving a school when he or she was 14 years of age
20 or older, until 3 years after the date of the conviction or
21 juvenile disposition. A person not issued a license under this
22 subdivision is not eligible to begin graduated licensing training
23 or otherwise obtain an original operator's or chauffeur's license
24 until 3 years after the date of the conviction or juvenile
25 disposition.

26 (2) Upon receiving the appropriate records of conviction, the
27 secretary of state shall revoke the operator's or chauffeur's

1 license of a person and deny issuance of an operator's or
2 chauffeur's license to a person having any of the following,
3 whether under a law of this state, a local ordinance
4 substantially corresponding to a law of this state, or a law of
5 another state substantially corresponding to a law of this
6 state:

7 (a) Any combination of 2 convictions within 7 years for
8 reckless driving in violation of section 626.

9 (b) Any combination of 2 or more convictions within 7 years
10 for any of the following:

11 (i) A felony in which a motor vehicle was used.

12 (ii) A violation or attempted violation of section 601b(2) or
13 (3), section 601c(1) or (2), section 602a(4) or (5), section 617,
14 section 653a(3) or (4), or section 904(4) or (5).

15 (iii) Negligent homicide, manslaughter, or murder resulting
16 from the operation of a vehicle or an attempt to commit any of
17 those crimes.

18 (iv) A violation or attempted violation of section 479a(4) or
19 (5) of the Michigan penal code, 1931 PA 328, MCL 750.479a.

20 (c) Any combination of 2 convictions within 7 years for any
21 of the following or a combination of 1 conviction for a violation
22 or attempted violation of section 625(6) and 1 conviction for any
23 of the following within 7 years:

24 (i) A violation or attempted violation of section 625(1),
25 (3), (4), (5), or (7).

26 (ii) A violation of former section 625(1) or (2) or former
27 section 625b.

1 (iii) A violation or attempted violation of section 625m.

2 (d) One conviction for a violation or attempted violation of
3 section 315(5), section 601b(3), section 601c(2), section 602a(4)
4 or (5), section 617, section 625(4) or (5), section 653a(4), or
5 section 904(4) or (5).

6 (e) One conviction of negligent homicide, manslaughter, or
7 murder resulting from the operation of a vehicle or an attempt to
8 commit any of those crimes.

9 (f) One conviction for a violation or attempted violation of
10 section 479a(4) or (5) of the Michigan penal code, 1931 PA 328,
11 MCL 750.479a.

12 (g) Any combination of 3 convictions within 10 years for any
13 of the following or 1 conviction for a violation or attempted
14 violation of section 625(6) and any combination of 2 convictions
15 for any of the following within 10 years, if any of the
16 convictions resulted from an arrest on or after January 1, 1992:

17 (i) A violation or attempted violation of section 625(1),
18 (3), (4), (5), or (7).

19 (ii) A violation of former section 625(1) or (2) or former
20 section 625b.

21 (iii) A violation or attempted violation of section 625m.

22 (3) The secretary of state shall revoke a license under
23 subsection (2) notwithstanding a court order unless the court
24 order complies with section 323.

25 (4) The secretary of state shall not issue a license under
26 this act to a person whose license has been revoked under this
27 act or revoked and denied under subsection (2) until all of the

1 following occur, as applicable:

2 (a) The later of the following:

3 (i) The expiration of not less than 1 year after the license
4 was revoked or denied.

5 (ii) The expiration of not less than 5 years after the date
6 of a subsequent revocation or denial occurring within 7 years
7 after the date of any prior revocation or denial.

8 (b) For a denial under subsection (2)(a), (b), (c), and (g),
9 the person rebuts by clear and convincing evidence the
10 presumption resulting from the prima facie evidence that he or
11 she is a habitual offender. The convictions that resulted in the
12 revocation and denial constitute prima facie evidence that he or
13 she is a habitual offender.

14 (c) The person meets the requirements of the department.

15 (5) Multiple convictions or civil infraction determinations
16 resulting from the same incident shall be treated as a single
17 violation for purposes of denial or revocation of a license under
18 this section.

19 **(6) The periods of time specified in subsection (2)(c) and**
20 **(g) for determining prior convictions do not include any periods**
21 **of time during which the person was incarcerated for committing a**
22 **crime, or was serving a term of probation or parole.**

23 **(7) ~~(6)~~ As used in this section, "felony in which a motor**
24 **vehicle was used" means a felony during the commission of which**
25 **the person operated a motor vehicle and while operating the**
26 **vehicle presented real or potential harm to persons or property**
27 **and 1 or more of the following circumstances existed:**

1 (a) The vehicle was used as an instrument of the felony.

2 (b) The vehicle was used to transport a victim of the
3 felony.

4 (c) The vehicle was used to flee the scene of the felony.

5 (d) The vehicle was necessary for the commission of the
6 felony.

7 Sec. 319. (1) The secretary of state shall immediately
8 suspend a person's license as provided in this section upon
9 receiving a record of the person's conviction for a crime
10 described in this section, whether the conviction is under a law
11 of this state, a local ordinance substantially corresponding to a
12 law of this state, or a law of another state substantially
13 corresponding to a law of this state.

14 (2) The secretary of state shall suspend the person's license
15 for 1 year for any of the following crimes:

16 (a) Fraudulently altering or forging documents pertaining to
17 motor vehicles in violation of section 257.

18 (b) A violation of section 413 of the Michigan penal code,
19 1931 PA 328, MCL 750.413.

20 (c) A violation of section 1 of former 1931 PA 214,
21 MCL 752.191, or section 626c.

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

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

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

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

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

7 (e) A violation of section 602a(2) or (3) of this act or
8 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328,
9 MCL 750.479a.

10 (3) The secretary of state shall suspend the person's license
11 for 90 days for any of the following crimes:

12 (a) Failing to stop and disclose identity at the scene of an
13 accident resulting in injury in violation of section 617a.

14 (b) A violation of section 601b(2), section 601c(1), section
15 626, or section 653a(3).

16 (c) Malicious destruction resulting from the operation of a
17 vehicle under section 382(1)(b), (c), or (d) of the Michigan
18 penal code, 1931 PA 328, MCL 750.382.

19 (d) A violation of section 703(2) of the Michigan liquor
20 control code of 1998, 1998 PA 58, MCL 436.1703.

21 (4) The secretary of state shall suspend the person's license
22 for 30 days for malicious destruction resulting from the
23 operation of a vehicle under section 382(1)(a) of the Michigan
24 penal code, 1931 PA 328, MCL 750.382.

25 (5) For perjury or making a false certification to the
26 secretary of state under any law requiring the registration of a
27 motor vehicle or regulating the operation of a vehicle on a

1 highway, or for conduct prohibited under section 324(1) or a
2 local ordinance substantially corresponding to section 324(1),
3 the secretary shall suspend the person's license as follows:

4 (a) If the person has no prior conviction for an offense
5 described in this subsection within 7 years, for 90 days.

6 (b) If the person has 1 or more prior convictions for an
7 offense described in this subsection within 7 years, for 1 year.

8 (6) For a violation of section 414 of the Michigan penal
9 code, 1931 PA 328, MCL 750.414, the secretary of state shall
10 suspend the person's license as follows:

11 (a) If the person has no prior conviction for that offense
12 within 7 years, for 90 days.

13 (b) If the person has 1 or more prior convictions for that
14 offense within 7 years, for 1 year.

15 (7) For a violation of section 624a or 624b of this act or
16 section 703(1) of the Michigan liquor control code of 1998, 1998
17 PA 58, MCL 436.1703, the secretary of state shall suspend the
18 person's license as follows:

19 (a) If the person has 1 prior conviction for an offense
20 described in this subsection or section 33b(1) of former 1933 (Ex
21 Sess) PA 8, for 90 days. The secretary of state may issue the
22 person a restricted license after the first 30 days of
23 suspension.

24 (b) If the person has 2 or more prior convictions for an
25 offense described in this subsection or section 33b(1) of former
26 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may
27 issue the person a restricted license after the first 60 days of

1 suspension.

2 (8) The secretary of state shall suspend the person's license
3 for a violation of section 625 or 625m as follows:

4 (a) For 180 days for a violation of section 625(1) if the
5 person has no prior convictions within 7 years. The secretary of
6 state may issue the person a restricted license during all or a
7 specified portion of the suspension, except that the secretary of
8 state shall not issue a restricted license during the first 30
9 days of suspension.

10 (b) For 90 days for a violation of section 625(3) if the
11 person has no prior convictions within 7 years. However, if the
12 person is convicted of a violation of section 625(3), for
13 operating a vehicle when, due to the consumption of a controlled
14 substance or a combination of intoxicating liquor and a
15 controlled substance, the person's ability to operate the vehicle
16 was visibly impaired, the secretary of state shall suspend the
17 person's license under this subdivision for 180 days. The
18 secretary of state may issue the person a restricted license
19 during all or a specified portion of the suspension.

20 (c) For 30 days for a violation of section 625(6) if the
21 person has no prior convictions within 7 years. The secretary of
22 state may issue the person a restricted license during all or a
23 specified portion of the suspension.

24 (d) For 90 days for a violation of section 625(6) if the
25 person has 1 or more prior convictions for that offense within 7
26 years.

27 (e) For 180 days for a violation of section 625(7) if the

1 person has no prior convictions within 7 years. The secretary of
2 state may issue the person a restricted license after the first
3 90 days of suspension.

4 (f) For 90 days for a violation of section 625m if the person
5 has no prior convictions within 7 years. The secretary of state
6 may issue the person a restricted license during all or a
7 specified portion of the suspension.

8 (9) For a violation of section 367c of the Michigan penal
9 code, 1931 PA 328, MCL 750.367c, the secretary of state shall
10 suspend the person's license as follows:

11 (a) If the person has no prior conviction for an offense
12 described in this subsection within 7 years, for 6 months.

13 (b) If the person has 1 or more convictions for an offense
14 described in this subsection within 7 years, for 1 year.

15 (10) For a violation of section 315(4), the secretary of
16 state may suspend the person's license for 6 months.

17 (11) For a violation or attempted violation of
18 section 411a(2) of the Michigan penal code, 1931 PA 328,
19 MCL 750.411a, involving a school, the secretary of state shall
20 suspend the license of a person 14 years of age or over but less
21 than 21 years of age until 3 years after the date of the
22 conviction or juvenile disposition for the violation. The
23 secretary of state may issue the person a restricted license
24 after the first 365 days of suspension.

25 (12) Except as provided in subsection (14), a suspension
26 under this section shall be imposed notwithstanding a court order
27 unless the court order complies with section 323.

1 (13) If the secretary of state receives records of more than
2 1 conviction of a person resulting from the same incident, a
3 suspension shall be imposed only for the violation to which the
4 longest period of suspension applies under this section.

5 (14) The secretary of state may waive a restriction,
6 suspension, or revocation of a person's license imposed under
7 this act if the person submits proof that a court in another
8 state revoked, suspended, or restricted his or her license for a
9 period equal to or greater than the period of a restriction,
10 suspension, or revocation prescribed under this act for the
11 violation and that the revocation, suspension, or restriction was
12 served for the violation, or may grant a restricted license.

13 (15) The secretary of state shall not issue a restricted
14 license to a person whose license is suspended under this section
15 unless a restricted license is authorized under this section and
16 the person is otherwise eligible for a license.

17 (16) The secretary of state shall not issue a restricted
18 license to a person under subsection (8) that would permit the
19 person to operate a commercial motor vehicle that transports
20 hazardous material in amounts requiring a placard under the
21 hazardous materials regulations, 49 C.F.R. parts 100 to 199.

22 (17) A restricted license issued under this section shall
23 permit the person to whom it is issued to drive under 1 or more
24 of the following circumstances:

25 (a) In the course of the person's employment or occupation.

26 (b) To and from any combination of the following:

27 (i) The person's residence.

1 (ii) The person's work location.

2 (iii) An alcohol or drug education or treatment program as
3 ordered by the court.

4 (iv) The court probation department.

5 (v) A court-ordered community service program.

6 (vi) An educational institution at which the person is
7 enrolled as a student.

8 (vii) A place of regularly occurring medical treatment for a
9 serious condition for the person or a member of the person's
10 household or immediate family.

11 (18) While driving with a restricted license, the person
12 shall carry proof of his or her destination and the hours of any
13 employment, class, or other reason for traveling and shall
14 display that proof upon a peace officer's request.

15 (19) Subject to subsection (21), as used in subsection (8),
16 "prior conviction" means a conviction for any of the following,
17 whether under a law of this state, a local ordinance
18 substantially corresponding to a law of this state, or a law of
19 another state substantially corresponding to a law of this
20 state:

21 (a) Except as provided in subsection (20), a violation or
22 attempted violation of section 625(1), (3), (4), (5), (6), or
23 (7), section 625m, former section 625(1) or (2), or former
24 section 625b.

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

1 (20) Except for purposes of the suspensions described in
2 subsection (8)(c) and (d), only 1 violation or attempted
3 violation of section 625(6), a local ordinance substantially
4 corresponding to section 625(6), or a law of another state
5 substantially corresponding to section 625(6) may be used as a
6 prior conviction.

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

11 **(22) The periods of time specified in subsection (8) for**
12 **determining prior convictions do not include any periods of time**
13 **during which the person was incarcerated for committing a crime,**
14 **or was serving a term of probation or parole.**

15 Sec. 625. (1) A person, whether licensed or not, shall not
16 operate a vehicle upon a highway or other place open to the
17 general public or generally accessible to motor vehicles,
18 including an area designated for the parking of vehicles, within
19 this state if either of the following applies:

20 (a) The person is under the influence of intoxicating liquor,
21 a controlled substance, or a combination of intoxicating liquor
22 and a controlled substance.

23 (b) The person has an alcohol content of 0.10 grams or more
24 per 100 milliliters of blood, per 210 liters of breath, or per 67
25 milliliters of urine.

26 (2) The owner of a vehicle or a person in charge or in
27 control of a vehicle shall not authorize or knowingly permit the

1 vehicle to be operated upon a highway or other place open to the
2 general public or generally accessible to motor vehicles,
3 including an area designated for the parking of motor vehicles,
4 within this state by a person who is under the influence of
5 intoxicating liquor, a controlled substance, or a combination of
6 intoxicating liquor and a controlled substance, who has an
7 alcohol content of 0.10 grams or more per 100 milliliters of
8 blood, per 210 liters of breath, or per 67 milliliters of urine,
9 or whose ability to operate the motor vehicle is visibly impaired
10 due to the consumption of intoxicating liquor, a controlled
11 substance, or a combination of intoxicating liquor and a
12 controlled substance.

13 (3) A person, whether licensed or not, shall not operate a
14 vehicle upon a highway or other place open to the general public
15 or generally accessible to motor vehicles, including an area
16 designated for the parking of vehicles, within this state when,
17 due to the consumption of intoxicating liquor, a controlled
18 substance, or a combination of intoxicating liquor and a
19 controlled substance, the person's ability to operate the vehicle
20 is visibly impaired. If a person is charged with violating
21 subsection (1), a finding of guilty under this subsection may be
22 rendered.

23 (4) A person, whether licensed or not, who operates a motor
24 vehicle in violation of subsection (1) or (3) and by the
25 operation of that motor vehicle causes the death of another
26 person is guilty of a crime as follows:

27 (a) Except as provided in subdivision (b), the person is

1 guilty of a felony punishable by imprisonment for not more than
2 15 years or a fine of not less than \$2,500.00 or more than
3 \$10,000.00, or both. The judgment of sentence may impose the
4 sanction permitted under section 625n. If the vehicle is not
5 ordered forfeited under section 625n, the court shall order
6 vehicle immobilization under section 904d in the judgment of
7 sentence.

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

20 (5) A person, whether licensed or not, who operates a motor
21 vehicle in violation of subsection (1) or (3) and by the
22 operation of that motor vehicle causes a serious impairment of a
23 body function of another person is guilty of a felony punishable
24 by imprisonment for not more than 5 years or a fine of not less
25 than \$1,000.00 or more than \$5,000.00, or both. The judgment of
26 sentence may impose the sanction permitted under section 625n.
27 If the vehicle is not ordered forfeited under section 625n, the

1 court shall order vehicle immobilization under section 904d in
2 the judgment of sentence. As used in this subsection, "serious
3 impairment of a body function" includes, but is not limited to, 1
4 or more of the following:

5 (a) Loss of a limb or use of a limb.

6 (b) Loss of a hand, foot, finger, or thumb or use of a hand,
7 foot, finger, or thumb.

8 (c) Loss of an eye or ear or use of an eye or ear.

9 (d) Loss or substantial impairment of a bodily function.

10 (e) Serious visible disfigurement.

11 (f) A comatose state that lasts for more than 3 days.

12 (g) Measurable brain damage or mental impairment.

13 (h) A skull fracture or other serious bone fracture.

14 (i) Subdural hemorrhage or subdural hematoma.

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

22 (a) An alcohol content of not less than 0.02 grams or more
23 than 0.07 grams per 100 milliliters of blood, per 210 liters of
24 breath, or per 67 milliliters of urine.

25 (b) Any presence of alcohol within a person's body resulting
26 from the consumption of intoxicating liquor, other than
27 consumption of intoxicating liquor as a part of a generally

1 recognized religious service or ceremony.

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

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

9 (i) Except as provided in subparagraph (ii), a person who
10 violates this subdivision is guilty of a misdemeanor and shall be
11 sentenced to pay a fine of not less than \$200.00 or more than
12 \$1,000.00 and to 1 or more of the following:

13 (A) Imprisonment for not less than 5 days or more than 1
14 year. Not less than 48 hours of this imprisonment shall be
15 served consecutively. This term of imprisonment shall not be
16 suspended.

17 (B) Community service for not less than 30 days or more than
18 90 days.

19 (ii) If the violation occurs within 7 years of a prior
20 conviction or within 10 years of 2 or more prior convictions, a
21 person who violates this subdivision is guilty of a felony and
22 shall be sentenced to pay a fine of not less than \$500.00 or more
23 than \$5,000.00 and to either of the following:

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

26 (B) Probation with imprisonment in the county jail for not
27 less than 30 days or more than 1 year and community service for

1 not less than 60 days or more than 180 days. Not less than 48
2 hours of this imprisonment shall be served consecutively. This
3 term of imprisonment shall not be suspended.

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

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

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

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

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

14 (ii) If the violation occurs within 7 years of a prior
15 conviction or within 10 years of 2 or more prior convictions, a
16 person who violates this subdivision shall be sentenced to pay a
17 fine of not less than \$200.00 or more than \$1,000.00 and to 1 or
18 more of the following:

19 (A) Imprisonment for not less than 5 days or more than 1
20 year. Not less than 48 hours of this imprisonment shall be
21 served consecutively. This term of imprisonment shall not be
22 suspended.

23 (B) Community service for not less than 30 days or more than
24 90 days.

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

1 section 904d. In the judgment of sentence under subdivision
2 (a)(ii) or (b)(ii), the court shall, unless the vehicle is
3 ordered forfeited under section 625n, order vehicle
4 immobilization as provided in section 904d.

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

12 (8) If a person is convicted of violating subsection (1), all
13 of the following apply:

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

17 (i) Community service for not more than 45 days.

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

19 (iii) A fine of not less than \$100.00 or more than \$500.00.

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

24 (i) Imprisonment for not less than 5 days or more than 1
25 year. Not less than 48 hours of the term of imprisonment imposed
26 under this subparagraph shall be served consecutively.

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

1 90 days.

2 (c) If the violation occurs within 10 years of 2 or more
3 prior convictions, the person is guilty of a felony and shall be
4 sentenced to pay a fine of not less than \$500.00 or more than
5 \$5,000.00 and to either of the following:

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

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

13 (d) A term of imprisonment imposed under subdivision (b) or
14 (c) shall not be suspended.

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

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

23 (9) A person who is convicted of violating subsection (2) is
24 guilty of a crime as follows:

25 (a) Except as provided in subdivisions (b) and (c), a
26 misdemeanor punishable by imprisonment for not more than 93 days
27 or a fine of not less than \$100.00 or more than \$500.00, or

1 both.

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

6 (c) If the person operating the motor vehicle violated
7 subsection (5), a felony punishable by imprisonment for not more
8 than 2 years or a fine of not less than \$1,000.00 or more than
9 \$5,000.00, or both.

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

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

15 (i) Community service for not more than 45 days.

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

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

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

22 (i) Imprisonment for not less than 5 days or more than 1
23 year. Not less than 48 hours of the term of imprisonment imposed
24 under this subparagraph shall be served consecutively.

25 (ii) Community service for not less than 30 days or more than
26 90 days.

27 (c) If the violation occurs within 10 years of 2 or more

1 prior convictions, the person is guilty of a felony and shall be
2 sentenced to pay a fine of not less than \$500.00 or more than
3 \$5,000.00 and either of the following:

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

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

11 (d) A term of imprisonment imposed under subdivision (b) or
12 (c) shall not be suspended.

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

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

21 (11) If a person is convicted of violating subsection (6),
22 all of the following apply:

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

26 (i) Community service for not more than 45 days.

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

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

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

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

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

7 (12) In addition to imposing the sanctions prescribed under
8 this section, the court may order the person to pay the costs of
9 the prosecution under the code of criminal procedure, 1927
10 PA 175, MCL 760.1 to ~~776.22~~ **777.69**.

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

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

24 (15) If a person is charged with a violation of subsection
25 (1), (3), (4), (5), or (7) or section 625m, the court shall not
26 permit the defendant to enter a plea of guilty or nolo contendere
27 to a charge of violating subsection (6) in exchange for dismissal

1 of the original charge. This subsection does not prohibit the
2 court from dismissing the charge upon the prosecuting attorney's
3 motion.

4 (16) A prior conviction shall be established at sentencing by
5 1 or more of the following:

6 (a) An abstract of conviction.

7 (b) A copy of the defendant's driving record.

8 (c) An admission by the defendant.

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

21 (18) Except as otherwise provided in subsection (19), if a
22 person is charged with operating a vehicle while his or her
23 ability to operate the vehicle was visibly impaired due to his or
24 her consumption of a controlled substance or a combination of
25 intoxicating liquor and a controlled substance in violation of
26 subsection (3) or a local ordinance substantially corresponding
27 to subsection (3), the court shall require the jury to return a

1 special verdict in the form of a written finding or, if the court
2 convicts the person without a jury or accepts a plea of guilty or
3 nolo contendere, the court shall make a finding as to whether,
4 due to the consumption of a controlled substance or a combination
5 of intoxicating liquor and a controlled substance, the person's
6 ability to operate a motor vehicle was visibly impaired at the
7 time of the violation.

8 (19) A special verdict described in subsections (17) and (18)
9 is not required if a jury is instructed to make a finding solely
10 as to either of the following:

11 (a) Whether the defendant was under the influence of a
12 controlled substance or a combination of intoxicating liquor and
13 a controlled substance at the time of the violation.

14 (b) Whether the defendant was visibly impaired due to his or
15 her consumption of a controlled substance or a combination of
16 intoxicating liquor and a controlled substance at the time of the
17 violation.

18 (20) If a jury or court finds under subsection (17), (18), or
19 (19) that the defendant operated a motor vehicle under the
20 influence of or while impaired due to the consumption of a
21 controlled substance or a combination of a controlled substance
22 and an intoxicating liquor, the court shall do both of the
23 following:

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

25 (b) On a form or forms prescribed by the state court
26 administrator, forward to the department of state police a record
27 that specifies the penalties imposed by the court, including any

1 term of imprisonment, and any sanction imposed under section 625n
2 or 904d.

3 (21) Except as otherwise provided by law, a record described
4 in subsection (20)(b) is a public record and the department of
5 state police shall retain the information contained on that
6 record for not less than 7 years.

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

12 (23) Subject to subsection (25), as used in this section,
13 "prior conviction" means a conviction for any of the following,
14 whether under a law of this state, a local ordinance
15 substantially corresponding to a law of this state, or a law of
16 another state substantially corresponding to a law of this
17 state:

18 (a) Except as provided in subsection (24), a violation or
19 attempted violation of subsection (1), (3), (4), (5), (6), or
20 (7), section 625m, former section 625(1) or (2), or former
21 section 625b.

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

25 (c) A violation of section 653a(4).

26 (24) Except for purposes of the enhancement described in
27 subsection (11)(b), only 1 violation or attempted violation of

1 subsection (6), a local ordinance substantially corresponding to
2 subsection (6), or a law of another state substantially
3 corresponding to subsection (6) may be used as a prior
4 conviction.

5 (25) If 2 or more convictions described in subsection (23)
6 are convictions for violations arising out of the same
7 transaction, only 1 conviction shall be used to determine whether
8 the person has a prior conviction.

9 **(26) The periods of time specified in this section for**
10 **determining prior convictions do not include any periods of time**
11 **during which the person was incarcerated for committing a crime,**
12 **or was serving a term of probation or parole.**

13 Sec. 625m. (1) A person, whether licensed or not, who has
14 an alcohol content of 0.04 grams or more but not more than 0.07
15 grams per 100 milliliters of blood, per 210 liters of breath, or
16 per 67 milliliters of urine shall not operate a commercial motor
17 vehicle within this state.

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

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

25 (b) The person is found in the driver's seat of a commercial
26 motor vehicle parked or stopped on a highway or street within
27 this state if any part of the vehicle intrudes into the roadway

1 and the peace officer has reasonable cause to believe the person
2 was operating the vehicle in violation of this section or a local
3 ordinance substantially corresponding to this section.

4 (3) Except as otherwise provided in subsections (4) and (5),
5 a person who is convicted of a violation of this section or a
6 local ordinance substantially corresponding to this section is
7 guilty of a misdemeanor punishable by imprisonment for not more
8 than 93 days or a fine of not more than \$300.00, or both,
9 together with costs of the prosecution.

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

14 (5) A person who violates this section or a local ordinance
15 substantially corresponding to this section within 10 years of 2
16 or more prior convictions is guilty of a felony and shall be
17 sentenced to pay a fine of not less than \$500.00 or more than
18 \$5,000.00 and to either of the following:

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

21 (b) Probation with imprisonment in the county jail for not
22 less than 30 days or more than 1 year and community service for
23 not less than 60 days or more than 180 days. Not less than 48
24 hours of the imprisonment imposed under this subdivision shall be
25 served consecutively.

26 (6) A term of imprisonment imposed under subsection (4) or
27 (5) shall not be suspended.

1 (7) Subject to subsection (9), as used in this section,
2 "prior conviction" means a conviction for any of the following,
3 whether under a law of this state, a local ordinance
4 substantially corresponding to a law of this state, or a law of
5 another state substantially corresponding to a law of this
6 state:

7 (a) Except as provided in subsection (8), a violation or
8 attempted violation of this section, section 625(1), (3), (4),
9 (5), (6), or (7), former section 625(1) or (2), or former section
10 625b.

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

14 (c) A violation of section 653a(4).

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

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

24 **(10) The periods of time specified in subsections (4) and (5)**
25 **for determining prior convictions do not include any periods of**
26 **time during which the person was incarcerated for committing a**
27 **crime, or was serving a term of probation or parole.**