

HOUSE BILL No. 4286

February 15, 2005, Introduced by Rep. Jones and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 319, 319b, 625, 625a, 625i, 625n, and 904d (MCL 257.319, 257.319b, 257.625, 257.625a, 257.625i, 257.625n, and 257.904d), section 319 as amended by 2004 PA 362, section 319b as amended by 2004 PA 495, section 625 as amended by 2004 PA 62, sections 625a, 625i, and 904d as amended by 2003 PA 61, and section 625n as amended by 1998 PA 349.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 319. (1) The secretary of state shall immediately suspend
2 a person's license as provided in this section upon receiving a
3 record of the person's conviction for a crime described in this
4 section, whether the conviction is under a law of this state, a

1 local ordinance substantially corresponding to a law of this state,
2 or a law of another state substantially corresponding to a law of
3 this state.

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

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

8 (b) A violation of section 413 of the Michigan penal code,
9 1931 PA 328, MCL 750.413.

10 (c) A violation of section 1 of former 1931 PA 214, MCL
11 752.191, or section 626c.

12 (d) A felony in which a motor vehicle was used. As used in
13 this section, "felony in which a motor vehicle was used" means a
14 felony during the commission of which the person convicted operated
15 a motor vehicle and while operating the vehicle presented real or
16 potential harm to persons or property and 1 or more of the
17 following circumstances existed:

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

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

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

21 (iv) The vehicle was necessary for the commission of the
22 felony.

23 (e) A violation of section 602a(2) or (3) of this act or
24 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL
25 750.479a.

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

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

3 (b) A violation of section 601b(2), section 601c(1), section
4 626, or section 653a(3).

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

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

10 (4) The secretary of state shall suspend the person's license
11 for 30 days for malicious destruction resulting from the operation
12 of a vehicle under section 382(1)(a) of the Michigan penal code,
13 1931 PA 328, MCL 750.382.

14 (5) For perjury or making a false certification to the
15 secretary of state under any law requiring the registration of a
16 motor vehicle or regulating the operation of a vehicle on a
17 highway, or for conduct prohibited under section 324(1) or a local
18 ordinance substantially corresponding to section 324(1), the
19 secretary shall suspend the person's license as follows:

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

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

24 (6) For a violation of section 414 of the Michigan penal code,
25 1931 PA 328, MCL 750.414, the secretary of state shall suspend the
26 person's license as follows:

27 (a) If the person has no prior conviction for that offense

1 within 7 years, for 90 days.

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

4 (7) For a violation of section 624a or 624b of this act or
5 section 703(1) of the Michigan liquor control code of 1998, 1998 PA
6 58, MCL 436.1703, the secretary of state shall suspend the person's
7 license as follows:

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

12 (b) If the person has 2 or more prior convictions for an
13 offense described in this subsection or section 33b(1) of former
14 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue
15 the person a restricted license after the first 60 days of
16 suspension.

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

19 (a) For 180 days for a violation of section ~~625(1)~~ **625(1)(A)**
20 **OR (B)** or (8) if the person has no prior convictions within 7
21 years. The secretary of state may issue the person a restricted
22 license during a specified portion of the suspension, except that
23 the secretary of state shall not issue a restricted license during
24 the first 30 days of suspension.

25 **(B) FOR 1 YEAR FOR A VIOLATION OF SECTION 625(1)(C) IF THE**
26 **PERSON HAS NO PRIOR CONVICTIONS WITHIN 7 YEARS. THE SECRETARY OF**
27 **STATE MAY ISSUE THE PERSON A RESTRICTED LICENSE DURING ALL OR A**

1 SPECIFIED PORTION OF THE SUSPENSION, EXCEPT THAT THE SECRETARY OF
2 STATE SHALL NOT ISSUE A RESTRICTED LICENSE DURING THE FIRST 90 DAYS
3 OF SUSPENSION.

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

14 (D) ~~—(e)—~~ For 30 days for a violation of section 625(6) if the
15 person has no prior convictions within 7 years. The secretary of
16 state may issue the person a restricted license during all or a
17 specified portion of the suspension.

18 (E) ~~—(d)—~~ For 90 days for a violation of section 625(6) if the
19 person has 1 or more prior convictions for that offense within 7
20 years.

21 (F) ~~—(e)—~~ For 180 days for a violation of section 625(7) if
22 the person has no prior convictions within 7 years. The secretary
23 of state may issue the person a restricted license after the first
24 90 days of suspension.

25 (G) ~~—(f)—~~ For 90 days for a violation of section 625m if the
26 person has no prior convictions within 7 years. The secretary of
27 state may issue the person a restricted license during all or a

1 specified portion of the suspension.

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

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

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

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

11 (11) For a violation or attempted violation of section 411a(2)
12 of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a
13 school, the secretary of state shall suspend the license of a
14 person 14 years of age or over but less than 21 years of age until
15 3 years after the date of the conviction or juvenile disposition
16 for the violation. The secretary of state may issue the person a
17 restricted license after the first 365 days of suspension.

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

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

25 (14) The secretary of state may waive a restriction,
26 suspension, or revocation of a person's license imposed under this
27 act if the person submits proof that a court in another state

1 revoked, suspended, or restricted his or her license for a period
2 equal to or greater than the period of a restriction, suspension,
3 or revocation prescribed under this act for the violation and that
4 the revocation, suspension, or restriction was served for the
5 violation, or may grant a restricted license.

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

10 (16) The secretary of state shall not issue a restricted
11 license to a person under subsection (8) that would permit the
12 person to operate a commercial motor vehicle.

13 (17) A restricted license issued under this section shall
14 permit the person to whom it is issued to take any driving skills
15 test required by the secretary of state and to drive under 1 or
16 more of the following circumstances:

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

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

19 (i) The person's residence.

20 (ii) The person's work location.

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

23 (iv) The court probation department.

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

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

27 (vii) A place of regularly occurring medical treatment for a

1 serious condition for the person or a member of the person's
2 household or immediate family.

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

7 (19) Subject to subsection (21), as used in subsection (8),
8 "prior conviction" means a conviction for any of the following,
9 whether under a law of this state, a local ordinance substantially
10 corresponding to a law of this state, or a law of another state
11 substantially corresponding to a law of this state:

12 (a) Except as provided in subsection (20), a violation or
13 attempted violation of any of the following:

14 (i) Section 625, except a violation of section 625(2), or a
15 violation of any prior enactment of section 625 in which the
16 defendant operated a vehicle while under the influence of
17 intoxicating or alcoholic liquor or a controlled substance, or a
18 combination of intoxicating or alcoholic liquor and a controlled
19 substance, or while visibly impaired, or with an unlawful bodily
20 alcohol content.

21 (ii) Section 625m.

22 (iii) Former section 625b.

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

26 (20) Except for purposes of the suspensions described in
27 subsection (8)(c) and (d), only 1 violation or attempted violation

1 of section 625(6), a local ordinance substantially corresponding to
2 section 625(6), or a law of another state substantially
3 corresponding to section 625(6) may be used as a prior conviction.

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

8 Sec. 319b. (1) The secretary of state shall immediately
9 suspend or revoke, as applicable, all vehicle group designations on
10 the operator's or chauffeur's license of a person upon receiving
11 notice of a conviction, bond forfeiture, or civil infraction
12 determination of the person, or notice that a court or
13 administrative tribunal has found the person responsible, for a
14 violation described in this subsection of a law of this state, a
15 local ordinance substantially corresponding to a law of this state
16 while the person was operating a commercial motor vehicle, or a law
17 of another state substantially corresponding to a law of this
18 state, or notice that the person has refused to submit to a
19 chemical test of his or her blood, breath, or urine for the purpose
20 of determining the amount of alcohol or presence of a controlled
21 substance or both in the person's blood, breath, or urine while the
22 person was operating a commercial motor vehicle as required by a
23 law or local ordinance of this or another state. The period of
24 suspension or revocation is as follows:

25 (a) Suspension for 60 days if the person is convicted of or
26 found responsible for 1 of the following while operating a
27 commercial motor vehicle:

1 (i) Two serious traffic violations arising from separate
2 incidents within 36 months.

3 (ii) A violation of section 667, 668, 669, or 669a.

4 (iii) A violation of motor carrier safety regulations 49 CFR
5 392.10 or 392.11, as adopted by section 1a of the motor carrier
6 safety act of 1963, 1963 PA 181, MCL 480.11a.

7 (iv) A violation of section 57 of the pupil transportation act,
8 1990 PA 187, MCL 257.1857.

9 (v) A violation of motor carrier safety regulations 49 CFR
10 392.10 or 392.11, as adopted by section 31 of the motor bus
11 transportation act, 1982 PA 432, MCL 474.131.

12 (vi) A violation of motor carrier safety regulations 49 CFR
13 392.10 or 392.11 while operating a commercial motor vehicle other
14 than a vehicle covered under subparagraph (iii), (iv), or (v).

15 (b) Suspension for 120 days if the person is convicted of or
16 found responsible for 1 of the following arising from separate
17 incidents within 36 months while operating a commercial motor
18 vehicle:

19 (i) Three serious traffic violations.

20 (ii) Any combination of 2 violations described in subdivision
21 (a)(ii).

22 (c) Suspension for 1 year if the person is convicted of or
23 found responsible for 1 of the following:

24 (i) A violation of section ~~625(1)~~ **625(1)(A) OR (B)**, (3), (4),
25 (5), (6), (7), or (8), section 625m, or former section 625(1) or
26 (2), or former section 625b, while operating a commercial motor
27 vehicle.

1 (ii) Leaving the scene of an accident involving a commercial
2 motor vehicle operated by the person.

3 (iii) A felony in which a commercial motor vehicle was used.

4 (iv) A refusal of a peace officer's request to submit to a
5 chemical test of his or her blood, breath, or urine to determine
6 the amount of alcohol or presence of a controlled substance or both
7 in his or her blood, breath, or urine while he or she was operating
8 a commercial motor vehicle as required by a law or local ordinance
9 of this state or another state.

10 (v) Operating a commercial motor vehicle in violation of a
11 suspension, revocation, denial, or cancellation that was imposed
12 for previous violations committed while operating a commercial
13 motor vehicle.

14 (vi) Causing a fatality through the negligent or criminal
15 operation of a commercial motor vehicle, including, but not limited
16 to, the crimes of motor vehicle manslaughter, motor vehicle
17 homicide, and negligent homicide.

18 (vii) A 6-point violation as provided in section 320a while
19 operating a commercial motor vehicle.

20 (viii) Any combination of 3 violations described in subdivision
21 (a)(ii) arising from separate incidents within 36 months while
22 operating a commercial motor vehicle.

23 (d) Suspension for 3 years if the person is convicted of or
24 found responsible for ~~an~~ **ANY OF THE FOLLOWING:**

25 (i) **AN** offense enumerated in subdivision (c)(i) to (vii) in which
26 a commercial motor vehicle was used if the vehicle was carrying
27 hazardous material required to have a placard pursuant to 49 CFR

1 parts 100 to 199.

2 **(ii) A VIOLATION OF SECTION 625(1)(C), WHILE OPERATING A**
3 **COMMERCIAL MOTOR VEHICLE.**

4 (e) Revocation for life, but with eligibility after not less
5 than 10 years and until the person is approved by the secretary of
6 state for the issuance of a vehicle group designation if the person
7 is convicted of or found responsible for 1 of the following:

8 (i) Any combination of 2 violations arising from 2 or more
9 separate incidents under section 625(1), (3), (4), (5), (6), (7),
10 or (8), section 625m, or former section 625(1) or (2), or former
11 section 625b, while driving a commercial motor vehicle.

12 (ii) Two violations of leaving the scene of an accident
13 involving a commercial motor vehicle operated by the licensee.

14 (iii) Two violations of a felony in which a commercial motor
15 vehicle was used.

16 (iv) Two refusals of a request of a police officer to submit to
17 a chemical test of his or her blood, breath, or urine for the
18 purpose of determining the amount of alcohol or presence of a
19 controlled substance or both in his or her blood while he or she
20 was operating a commercial motor vehicle in this state or another
21 state, which refusals occurred in separate incidents.

22 (v) Two violations of operating a commercial motor vehicle in
23 violation of a suspension, revocation, denial, or cancellation that
24 was imposed for previous violations committed while operating a
25 commercial motor vehicle.

26 (vi) Two violations of causing a fatality through the negligent
27 or criminal operation of a commercial motor vehicle, including, but

1 not limited to, the crimes of motor vehicle manslaughter, motor
2 vehicle homicide, and negligent homicide.

3 (vii) Two 6-point violations as provided in section 320a while
4 operating a commercial motor vehicle.

5 (viii) Two violations, in any combination, of the offenses
6 enumerated under subparagraph (i), (ii), (iii), (iv), or (v) arising
7 from 2 or more separate incidents.

8 (f) Revocation for life if a person is convicted of or found
9 responsible for any of the following:

10 (i) One violation of a felony in which a commercial motor
11 vehicle was used and that involved the manufacture, distribution,
12 or dispensing of a controlled substance or possession with intent
13 to manufacture, distribute, or dispense a controlled substance.

14 (ii) A conviction of any offense described in subdivision (c)
15 or (d) after having been approved for the issuance of a vehicle
16 group designation under subdivision (e).

17 (iii) A conviction of a violation of chapter LXXXIII-A of the
18 Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z.

19 (2) The secretary of state shall immediately revoke for life
20 the hazardous material indorsement (H vehicle indorsement) on the
21 operator's or chauffeur's license of a person with a vehicle group
22 designation upon receiving notice from the U.S. department of
23 transportation that the person poses a security risk warranting
24 denial under the uniting and strengthening America by providing
25 appropriate tools required to intercept and obstruct terrorism (USA
26 PATRIOT ACT) act of 2001, Public Law 107-56. ~~7-115 Stat. 272.~~

27 (3) The secretary of state shall immediately suspend all

1 vehicle group designations on the operator's or chauffeur's license
2 of a person upon receiving notice of a conviction, bond forfeiture,
3 or civil infraction determination of the person, or notice that a
4 court or administrative tribunal has found the person responsible,
5 for a violation of section 319d(4) or 319f, a local ordinance
6 substantially corresponding to section 319d(4) or 319f, or a law or
7 local ordinance of another state, the United States, Canada,
8 Mexico, or a local jurisdiction of either of these countries
9 substantially corresponding to section 319d(4) or 319f, while
10 operating a commercial motor vehicle. The period of suspension or
11 revocation is as follows:

12 (a) Suspension for 90 days if the person is convicted of or
13 found responsible for a violation of section 319d(4) or 319f while
14 operating a commercial motor vehicle.

15 (b) Suspension for 180 days if the person is convicted of or
16 found responsible for a violation of section 319d(4) or 319f while
17 operating a commercial motor vehicle that is either carrying
18 hazardous material required to have a placard pursuant to 49 CFR
19 parts 100 to 199 or designed to carry 16 or more passengers,
20 including the driver.

21 (c) Suspension for 1 year if the person is convicted of or
22 found responsible for 2 violations, in any combination, of section
23 319d(4) or 319f while operating a commercial motor vehicle arising
24 from 2 or more separate incidents during a 10-year period.

25 (d) Suspension for 3 years if the person is convicted of or
26 found responsible for 3 or more violations, in any combination, of
27 section 319d(4) or 319f while operating a commercial motor vehicle

1 arising from 3 or more separate incidents during a 10-year period.

2 (e) Suspension for 3 years if the person is convicted of or
3 found responsible for 2 or more violations, in any combination, of
4 section 319d(4) or 319f while operating a commercial motor vehicle
5 carrying hazardous material required to have a placard pursuant to
6 49 CFR parts 100 to 199, or designed to carry 16 or more
7 passengers, including the driver, arising from 2 or more separate
8 incidents during a 10-year period.

9 (4) As used in this section:

10 (a) "Felony in which a commercial motor vehicle was used"
11 means a felony during the commission of which the person convicted
12 operated a commercial motor vehicle and while the person was
13 operating the vehicle 1 or more of the following circumstances
14 existed:

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

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

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

18 (iv) The vehicle was necessary for the commission of the
19 felony.

20 (b) "Serious traffic violation" means any of the following:

21 (i) A traffic violation that occurs in connection with an
22 accident in which a person died.

23 (ii) Careless driving.

24 (iii) Excessive speeding as defined in regulations promulgated
25 under 49 USC 31301 to 31317.

26 (iv) Improper lane use.

27 (v) Following too closely.

1 (vi) Driving a commercial motor vehicle without obtaining any
2 vehicle group designation on the person's license.

3 (vii) Driving a commercial motor vehicle without an operator's
4 or chauffeur's license in possession. However, a person who, not
5 later than the date by which the person must appear in court or pay
6 any fine for a violation, provides proof to the court that the
7 person held a valid vehicle group designation and indorsement on
8 the date the citation was issued, is not guilty of this offense.

9 (viii) Driving a commercial motor vehicle while in possession of
10 an operator's or chauffeur's license that has a vehicle group
11 designation but does not have the appropriate vehicle group
12 designation or indorsement required for the specific vehicle group
13 being operated or the passengers or type of cargo being
14 transported.

15 (ix) Any other serious traffic violation as defined in 49 CFR
16 383.5 or as prescribed under this act.

17 (5) For the purpose of this section only, a bond forfeiture or
18 a determination by a court of original jurisdiction or an
19 authorized administrative tribunal that a person has violated the
20 law is considered a conviction.

21 (6) The secretary of state shall suspend or revoke a vehicle
22 group designation under subsection (1) notwithstanding a
23 suspension, restriction, revocation, or denial of an operator's or
24 chauffeur's license or vehicle group designation under another
25 section of this act or a court order issued under another section
26 of this act or a local ordinance substantially corresponding to
27 another section of this act.

1 (7) Effective October 1, 2005, a conviction, bond forfeiture,
2 or civil infraction determination, or notice that a court or
3 administrative tribunal has found a person responsible for a
4 violation described in this subsection while the person was
5 operating a noncommercial motor vehicle counts against the person
6 who holds a license to operate a commercial motor vehicle the same
7 as if the person had been operating a commercial motor vehicle at
8 the time of the violation. For the purpose of this subsection, a
9 noncommercial motor vehicle does not include a recreational vehicle
10 used off-road. This subsection applies to the following state law
11 violations and to a local ordinance substantially corresponding to
12 any of those violations or a law of another state or out-of-state
13 jurisdiction substantially corresponding to any of those
14 violations:

15 (a) Operating a vehicle in violation of section 625.

16 (b) Suspension for a refusal to submit to a chemical test of
17 his or her blood, breath, or urine for the purpose of determining
18 the amount of alcohol or the presence of a controlled substance or
19 both in the person's blood, breath, or urine as required by a law
20 or local ordinance of this or another state.

21 (c) Leaving the scene of an accident.

22 (d) Using a vehicle to commit a felony.

23 (8) When determining the applicability of conditions listed in
24 this section, the secretary of state shall only consider violations
25 that occurred after January 1, 1990.

26 (9) When determining the applicability of conditions listed in
27 subsection (1)(a) or (b), the secretary of state shall only count

1 from incident date to incident date.

2 Sec. 625. (1) A person, whether licensed or not, shall not
3 operate a vehicle upon a highway or other place open to the general
4 public or generally accessible to motor vehicles, including an area
5 designated for the parking of vehicles, within this state if the
6 person is operating while intoxicated. As used in this section,
7 "operating while intoxicated" means either of the following
8 applies:

9 (a) The person is under the influence of alcoholic liquor, a
10 controlled substance, or a combination of alcoholic liquor and a
11 controlled substance.

12 (b) The person has an alcohol content of 0.08 grams or more
13 per 100 milliliters of blood, per 210 liters of breath, or per 67
14 milliliters of urine, or, beginning October 1, 2013, the person has
15 an alcohol content of 0.10 grams or more **BUT LESS THAN 0.20 GRAMS**
16 per 100 milliliters of blood, per 210 liters of breath, or per 67
17 milliliters of urine.

18 **(C) THE PERSON HAS AN ALCOHOL CONTENT OF 0.20 GRAMS OR MORE**
19 **PER 100 MILLILITERS OF BLOOD, PER 210 LITERS OF BREATH, OR PER 67**
20 **MILLILITERS OF URINE.**

21 (2) The owner of a vehicle or a person in charge or in control
22 of a vehicle shall not authorize or knowingly permit the vehicle to
23 be operated upon a highway or other place open to the general
24 public or generally accessible to motor vehicles, including an area
25 designated for the parking of motor vehicles, within this state by
26 a person if any of the following apply:

27 (a) The person is under the influence of alcoholic liquor, a

1 controlled substance, or a combination of alcoholic liquor and a
2 controlled substance.

3 (b) The person has an alcohol content of 0.08 grams or more
4 per 100 milliliters of blood, per 210 liters of breath, or per 67
5 milliliters of urine or, beginning October 1, 2013, the person has
6 an alcohol content of 0.10 grams or more per 100 milliliters of
7 blood, per 210 liters of breath, or per 67 milliliters of urine.

8 (c) The person's ability to operate the motor vehicle is
9 visibly impaired due to the consumption of alcoholic liquor, a
10 controlled substance, or a combination of alcoholic liquor and a
11 controlled substance.

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

21 (4) A person, whether licensed or not, who operates a motor
22 vehicle in violation of subsection (1), (3), or (8) and by the
23 operation of that motor vehicle causes the death of another person
24 is guilty of a crime as follows:

25 (a) Except as provided in subdivision (b), the person is
26 guilty of a felony punishable by imprisonment for not more than 15
27 years or a fine of not less than \$2,500.00 or more than \$10,000.00,

1 or both. The judgment of sentence may impose the sanction permitted
2 under section 625n. If the vehicle is not ordered forfeited under
3 section 625n, the court shall order vehicle immobilization under
4 section 904d in the judgment of sentence.

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

17 (5) A person, whether licensed or not, who operates a motor
18 vehicle in violation of subsection (1), (3), or (8) and by the
19 operation of that motor vehicle causes a serious impairment of a
20 body function of another person is guilty of a felony punishable by
21 imprisonment for not more than 5 years or a fine of not less than
22 \$1,000.00 or more than \$5,000.00, or both. The judgment of sentence
23 may impose the sanction permitted under section 625n. If the
24 vehicle is not ordered forfeited under section 625n, the court
25 shall order vehicle immobilization under section 904d in the
26 judgment of sentence.

27 (6) A person who is less than 21 years of age, whether

1 licensed or not, shall not operate a vehicle upon a highway or
2 other place open to the general public or generally accessible to
3 motor vehicles, including an area designated for the parking of
4 vehicles, within this state if the person has any bodily alcohol
5 content. As used in this subsection, "any bodily alcohol content"
6 means either of the following:

7 (a) An alcohol content of 0.02 grams or more but less than
8 0.08 grams per 100 milliliters of blood, per 210 liters of breath,
9 or per 67 milliliters of urine, or, beginning October 1, 2013, the
10 person has an alcohol content of 0.02 grams or more but less than
11 0.10 grams per 100 milliliters of blood, per 210 liters of breath,
12 or per 67 milliliters of urine.

13 (b) Any presence of alcohol within a person's body resulting
14 from the consumption of alcoholic liquor, other than consumption of
15 alcoholic liquor as a part of a generally recognized religious
16 service or ceremony.

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

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

24 (i) Except as provided in subparagraph (ii), a person who
25 violates this subdivision is guilty of a misdemeanor and shall be
26 sentenced to pay a fine of not less than \$200.00 or more than
27 \$1,000.00 and to 1 or more of the following:

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

4 (B) Community service for not less than 30 days or more than
5 90 days.

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

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

13 (B) Probation with imprisonment in the county jail for not
14 less than 30 days or more than 1 year and community service for not
15 less than 60 days or more than 180 days. Not less than 48 hours of
16 this imprisonment shall be served consecutively. This term of
17 imprisonment shall not be suspended.

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

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

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

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

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

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

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

9 (B) Community service for not less than 30 days or more than
10 90 days.

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

18 (d) This subsection does not prohibit a person from being
19 charged with, convicted of, or punished for a violation of
20 subsection (4) or (5) that is committed by the person while
21 violating this subsection. However, points shall not be assessed
22 under section 320a for both a violation of subsection (4) or (5)
23 and a violation of this subsection for conduct arising out of the
24 same transaction.

25 (8) A person, whether licensed or not, shall not operate a
26 vehicle upon a highway or other place open to the general public or
27 generally accessible to motor vehicles, including an area

1 designated for the parking of vehicles, within this state if the
2 person has in his or her body any amount of a controlled substance
3 listed in schedule 1 under section 7212 of the public health code,
4 1978 PA 368, MCL 333.7212, or a rule promulgated under that
5 section, or of a controlled substance described in section
6 7214(a)(iv) of the public health code, 1978 PA 368, MCL 333.7214.

7 (9) If a person is convicted of violating subsection ~~(1)~~
8 **(1)(A) OR (B)** or (8), all of the following apply:

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

12 (i) Community service for not more than 360 hours.

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

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

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

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

21 (ii) Community service for not less than 30 days or more than
22 90 days.

23 (c) If the violation occurs within 10 years of 2 or more prior
24 convictions, the person is guilty of a felony and shall be
25 sentenced to pay a fine of not less than \$500.00 or more than
26 \$5,000.00 and to either of the following:

27 (i) Imprisonment under the jurisdiction of the department of

1 corrections for not less than 1 year or more than 5 years.

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

7 (D) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISIONS (E) AND (F),
8 A PERSON WHO VIOLATES SUBSECTION (1)(C) IS GUILTY OF A MISDEMEANOR
9 PUNISHABLE BY 1 OR MORE OF THE FOLLOWING:

10 (i) COMMUNITY SERVICE FOR NOT MORE THAN 90 DAYS.

11 (ii) IMPRISONMENT FOR NOT MORE THAN 180 DAYS.

12 (iii) A FINE OF NOT LESS THAN \$200.00 OR MORE THAN \$1,000.00.

13 (E) IF THE VIOLATION OCCURS WITHIN 7 YEARS OF A PRIOR
14 CONVICTION, THE PERSON IS GUILTY OF A FELONY AND SHALL BE SENTENCED
15 TO PAY A FINE OF NOT LESS THAN \$400.00 OR MORE THAN \$2,000.00 AND 1
16 OR MORE OF THE FOLLOWING:

17 (i) IMPRISONMENT FOR NOT LESS THAN 2 YEARS OR MORE THAN 7
18 YEARS.

19 (ii) COMMUNITY SERVICE FOR NOT LESS THAN 60 DAYS OR MORE THAN
20 180 DAYS.

21 (F) IF THE VIOLATION OCCURS WITHIN 10 YEARS OF 2 OR MORE PRIOR
22 CONVICTIONS, THE PERSON IS GUILTY OF A FELONY AND SHALL BE
23 SENTENCED TO PAY A FINE OF NOT LESS THAN \$1,000.00 OR MORE THAN
24 \$10,000.00 AND TO IMPRISONMENT UNDER THE JURISDICTION OF THE
25 DEPARTMENT OF CORRECTIONS FOR NOT LESS THAN 2 YEARS OR MORE THAN 10
26 YEARS.

27 (G) ~~-(d)-~~ A term of imprisonment imposed under subdivision ~~(b)~~

1 (B)(i), (C), (E), or ~~(e)~~ (F) shall not be suspended.

2 (H) ~~(e)~~ In the judgment of sentence under subdivision (a) OR
3 (D), the court may order vehicle immobilization as provided in
4 section 904d. In the judgment of sentence under subdivision (b), ~~or~~
5 (c), (E), OR (F), the court shall, unless the vehicle is ordered
6 forfeited under section 625n, order vehicle immobilization as
7 provided in section 904d.

8 (I) ~~(f)~~ In the judgment of sentence under subdivision (b),
9 ~~or~~ (c), (D), (E), OR (F), the court may impose the sanction
10 permitted under section 625n.

11 (10) A person who is convicted of violating subsection (2) is
12 guilty of a crime as follows:

13 (a) Except as provided in subdivisions (b) and (c), a
14 misdemeanor punishable by imprisonment for not more than 93 days or
15 a fine of not less than \$100.00 or more than \$500.00, or both.

16 (b) If the person operating the motor vehicle violated
17 subsection (4), a felony punishable by imprisonment for not more
18 than 5 years or a fine of not less than \$1,500.00 or more than
19 \$10,000.00, or both.

20 (c) If the person operating the motor vehicle violated
21 subsection (5), a felony punishable by imprisonment for not more
22 than 2 years or a fine of not less than \$1,000.00 or more than
23 \$5,000.00, or both.

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

26 (a) Except as otherwise provided in subdivisions (b) and (c),
27 the person is guilty of a misdemeanor punishable by 1 or more of

1 the following:

2 (i) Community service for not more than 360 hours.

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

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

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

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

12 (ii) Community service for not less than 30 days or more than
13 90 days.

14 (c) If the violation occurs within 10 years of 2 or more prior
15 convictions, the person is guilty of a felony and shall be
16 sentenced to pay a fine of not less than \$500.00 or more than
17 \$5,000.00 and either of the following:

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

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

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

27 (e) In the judgment of sentence under subdivision (a), the

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

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

7 (12) If a person is convicted of violating subsection (6), all
8 of the following apply:

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

12 (i) Community service for not more than 360 hours.

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

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

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

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

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

20 (13) In addition to imposing the sanctions prescribed under
21 this section, the court may order the person to pay the costs of
22 the prosecution under the code of criminal procedure, 1927 PA 175,
23 MCL 760.1 to 777.69.

24 (14) A person sentenced to perform community service under
25 this section shall not receive compensation and shall reimburse the
26 state or appropriate local unit of government for the cost of
27 supervision incurred by the state or local unit of government as a

1 result of the person's activities in that service.

2 (15) If the prosecuting attorney intends to seek an enhanced
3 sentence under this section or a sanction under section 625n based
4 upon the defendant having 1 or more prior convictions, the
5 prosecuting attorney shall include on the complaint and
6 information, or an amended complaint and information, filed in
7 district court, circuit court, municipal court, or family division
8 of circuit court, a statement listing the defendant's prior
9 convictions.

10 (16) If a person is charged with a violation of subsection
11 (1), (3), (4), (5), (7), or (8) or section 625m, the court shall
12 not permit the defendant to enter a plea of guilty or nolo
13 contendere to a charge of violating subsection (6) in exchange for
14 dismissal of the original charge. This subsection does not prohibit
15 the court from dismissing the charge upon the prosecuting
16 attorney's motion.

17 (17) A prior conviction shall be established at sentencing by
18 1 or more of the following:

19 (a) An abstract of conviction.

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

21 (c) An admission by the defendant.

22 (18) Except as otherwise provided in subsection (20), if a
23 person is charged with operating a vehicle while under the
24 influence of a controlled substance or a combination of alcoholic
25 liquor and a controlled substance in violation of subsection (1) or
26 a local ordinance substantially corresponding to subsection (1),
27 the court shall require the jury to return a special verdict in the

1 form of a written finding or, if the court convicts the person
2 without a jury or accepts a plea of guilty or nolo contendere, the
3 court shall make a finding as to whether the person was under the
4 influence of a controlled substance or a combination of alcoholic
5 liquor and a controlled substance at the time of the violation.

6 (19) Except as otherwise provided in subsection (20), if a
7 person is charged with operating a vehicle while his or her ability
8 to operate the vehicle was visibly impaired due to his or her
9 consumption of a controlled substance or a combination of alcoholic
10 liquor and a controlled substance in violation of subsection (3) or
11 a local ordinance substantially corresponding to subsection (3),
12 the court shall require the jury to return a special verdict in the
13 form of a written finding or, if the court convicts the person
14 without a jury or accepts a plea of guilty or nolo contendere, the
15 court shall make a finding as to whether, due to the consumption of
16 a controlled substance or a combination of alcoholic liquor and a
17 controlled substance, the person's ability to operate a motor
18 vehicle was visibly impaired at the time of the violation.

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

22 (a) Whether the defendant was under the influence of a
23 controlled substance or a combination of alcoholic liquor and a
24 controlled substance at the time of the violation.

25 (b) Whether the defendant was visibly impaired due to his or
26 her consumption of a controlled substance or a combination of
27 alcoholic liquor and a controlled substance at the time of the

1 violation.

2 (21) If a jury or court finds under subsection (18), (19), or
3 (20) that the defendant operated a motor vehicle under the
4 influence of or while impaired due to the consumption of a
5 controlled substance or a combination of a controlled substance and
6 an alcoholic liquor, the court shall do both of the following:

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

8 (b) On a form or forms prescribed by the state court
9 administrator, forward to the department of state police a record
10 that specifies the penalties imposed by the court, including any
11 term of imprisonment, and any sanction imposed under section 625n
12 or 904d.

13 (22) Except as otherwise provided by law, a record described
14 in subsection (21)(b) is a public record and the department of
15 state police shall retain the information contained on that record
16 for not less than 7 years.

17 (23) In a prosecution for a violation of subsection (6), the
18 defendant bears the burden of proving that the consumption of
19 alcoholic liquor was a part of a generally recognized religious
20 service or ceremony by a preponderance of the evidence.

21 (24) The court may order as a condition of probation that a
22 person convicted of violating subsection (1) or (8), or a local
23 ordinance substantially corresponding to subsection (1) or (8),
24 shall not operate a motor vehicle unless that vehicle is equipped
25 with an ignition interlock device approved, certified, and
26 installed as required under sections 625k and 625l.

27 (25) Subject to subsection (27), as used in this section,

1 "prior conviction" means a conviction for any of the following,
2 whether under a law of this state, a local ordinance substantially
3 corresponding to a law of this state, or a law of another state
4 substantially corresponding to a law of this state:

5 (a) Except as provided in subsection (26), a violation or
6 attempted violation of any of the following:

7 (i) This section, except a violation of section 625(2), or a
8 violation of any prior enactment of this section in which the
9 defendant operated a vehicle while under the influence of
10 intoxicating or alcoholic liquor or a controlled substance, or a
11 combination of intoxicating or alcoholic liquor and a controlled
12 substance, or while visibly impaired, or with an unlawful bodily
13 alcohol content.

14 (ii) Section 625m.

15 (iii) Former section 625b.

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

19 (26) Except for purposes of the enhancement described in
20 subsection (12)(b), only 1 violation or attempted violation of
21 subsection (6), a local ordinance substantially corresponding to
22 subsection (6), or a law of another state substantially
23 corresponding to subsection (6) may be used as a prior conviction.

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

1 Sec. 625a. (1) A peace officer may arrest a person without a
2 warrant under either of the following circumstances:

3 (a) The peace officer has reasonable cause to believe the
4 person was, at the time of an accident in this state, the operator
5 of a vehicle involved in the accident and was operating the vehicle
6 in violation of section 625 or a local ordinance substantially
7 corresponding to section 625.

8 (b) The person is found in the driver's seat of a vehicle
9 parked or stopped on a highway or street within this state if any
10 part of the vehicle intrudes into the roadway and the peace officer
11 has reasonable cause to believe the person was operating the
12 vehicle in violation of section 625 or a local ordinance
13 substantially corresponding to section 625.

14 (2) A peace officer who has reasonable cause to believe that a
15 person was operating a vehicle upon a public highway or other place
16 open to the public or generally accessible to motor vehicles,
17 including an area designated for the parking of vehicles, within
18 this state and that the person by the consumption of alcoholic
19 liquor may have affected his or her ability to operate a vehicle,
20 or reasonable cause to believe that a person was operating a
21 commercial motor vehicle within the state while the person's blood,
22 breath, or urine contained any measurable amount of alcohol or
23 while the person had any detectable presence of alcoholic liquor,
24 or reasonable cause to believe that a person who is less than 21
25 years of age was operating a vehicle upon a public highway or other
26 place open to the public or generally accessible to motor vehicles,
27 including an area designated for the parking of vehicles, within

1 this state while the person had any bodily alcohol content as that
2 term is defined in section 625(6), may require the person to submit
3 to a preliminary chemical breath analysis. The following provisions
4 apply with respect to a preliminary chemical breath analysis
5 administered under this subsection:

6 (a) A peace officer may arrest a person based in whole or in
7 part upon the results of a preliminary chemical breath analysis.

8 (b) The results of a preliminary chemical breath analysis are
9 admissible in a criminal prosecution for a crime enumerated in
10 section 625c(1) or in an administrative hearing for 1 or more of
11 the following purposes:

12 (i) To assist the court or hearing officer in determining a
13 challenge to the validity of an arrest. This subparagraph does not
14 limit the introduction of other competent evidence offered to
15 establish the validity of an arrest.

16 (ii) As evidence of the defendant's breath alcohol content, if
17 offered by the defendant to rebut testimony elicited on cross-
18 examination of a defense witness that the defendant's breath
19 alcohol content was higher at the time of the charged offense than
20 when a chemical test was administered under subsection (6).

21 (iii) As evidence of the defendant's breath alcohol content, if
22 offered by the prosecution to rebut testimony elicited on cross-
23 examination of a prosecution witness that the defendant's breath
24 alcohol content was lower at the time of the charged offense than
25 when a chemical test was administered under subsection (6).

26 (c) A person who submits to a preliminary chemical breath
27 analysis remains subject to the requirements of sections 625c,

1 625d, 625e, and 625f for purposes of chemical tests described in
2 those sections.

3 (d) Except as provided in subsection (5), a person who refuses
4 to submit to a preliminary chemical breath analysis upon a lawful
5 request by a peace officer is responsible for a civil infraction.

6 (3) A peace officer shall use the results of a preliminary
7 chemical breath analysis conducted pursuant to this section to
8 determine whether to order a person out-of-service under section
9 319d. A peace officer shall order out-of-service as required under
10 section 319d a person who was operating a commercial motor vehicle
11 and who refuses to submit to a preliminary chemical breath analysis
12 as provided in this section. This section does not limit use of
13 other competent evidence by the peace officer to determine whether
14 to order a person out-of-service under section 319d.

15 (4) A person who was operating a commercial motor vehicle and
16 who is requested to submit to a preliminary chemical breath
17 analysis under this section shall be advised that refusing a peace
18 officer's request to take a test described in this section is a
19 misdemeanor punishable by imprisonment for not more than 93 days or
20 a fine of not more than \$100.00, or both, and will result in the
21 issuance of a 24-hour out-of-service order.

22 (5) A person who was operating a commercial motor vehicle and
23 who refuses to submit to a preliminary chemical breath analysis
24 upon a peace officer's lawful request is guilty of a misdemeanor
25 punishable by imprisonment for not more than 93 days or a fine of
26 not more than \$100.00, or both.

27 (6) The following provisions apply with respect to chemical

1 tests and analysis of a person's blood, urine, or breath, other
2 than preliminary chemical breath analysis:

3 (a) The amount of alcohol or presence of a controlled
4 substance or both in a driver's blood or urine or the amount of
5 alcohol in a person's breath at the time alleged as shown by
6 chemical analysis of the person's blood, urine, or breath is
7 admissible into evidence in any civil or criminal proceeding and is
8 presumed to be the same as at the time the person operated the
9 vehicle.

10 (b) A person arrested for a crime described in section 625c(1)
11 shall be advised of all of the following:

12 (i) If he or she takes a chemical test of his or her blood,
13 urine, or breath administered at the request of a peace officer, he
14 or she has the right to demand that a person of his or her own
15 choosing administer 1 of the chemical tests.

16 (ii) The results of the test are admissible in a judicial
17 proceeding as provided under this act and will be considered with
18 other admissible evidence in determining the defendant's innocence
19 or guilt.

20 (iii) He or she is responsible for obtaining a chemical analysis
21 of a test sample obtained at his or her own request.

22 (iv) If he or she refuses the request of a peace officer to
23 take a test described in subparagraph (i), a test shall not be given
24 without a court order, but the peace officer may seek to obtain a
25 court order.

26 (v) Refusing a peace officer's request to take a test
27 described in subparagraph (i) will result in the suspension of his

1 or her operator's or chauffeur's license and vehicle group
2 designation or operating privilege and in the addition of 6 points
3 to his or her driver record.

4 (c) A sample or specimen of urine or breath shall be taken and
5 collected in a reasonable manner. Only a licensed physician, or an
6 individual operating under the delegation of a licensed physician
7 under section 16215 of the public health code, 1978 PA 368, MCL
8 333.16215, qualified to withdraw blood and acting in a medical
9 environment, may withdraw blood at a peace officer's request to
10 determine the amount of alcohol or presence of a controlled
11 substance or both in the person's blood, as provided in this
12 subsection. Liability for a crime or civil damages predicated on
13 the act of withdrawing or analyzing blood and related procedures
14 does not attach to a licensed physician or individual operating
15 under the delegation of a licensed physician who withdraws or
16 analyzes blood or assists in the withdrawal or analysis in
17 accordance with this act unless the withdrawal or analysis is
18 performed in a negligent manner.

19 (d) A chemical test described in this subsection shall be
20 administered at the request of a peace officer having reasonable
21 grounds to believe the person has committed a crime described in
22 section 625c(1). A person who takes a chemical test administered at
23 a peace officer's request as provided in this section shall be
24 given a reasonable opportunity to have a person of his or her own
25 choosing administer 1 of the chemical tests described in this
26 subsection within a reasonable time after his or her detention. The
27 test results are admissible and shall be considered with other

1 admissible evidence in determining the defendant's innocence or
2 guilt. If the person charged is administered a chemical test by a
3 person of his or her own choosing, the person charged is
4 responsible for obtaining a chemical analysis of the test sample.

5 (e) If, after an accident, the driver of a vehicle involved in
6 the accident is transported to a medical facility and a sample of
7 the driver's blood is withdrawn at that time for medical treatment,
8 the results of a chemical analysis of that sample are admissible in
9 any civil or criminal proceeding to show the amount of alcohol or
10 presence of a controlled substance or both in the person's blood at
11 the time alleged, regardless of whether the person had been offered
12 or had refused a chemical test. The medical facility or person
13 performing the chemical analysis shall disclose the results of the
14 analysis to a prosecuting attorney who requests the results for use
15 in a criminal prosecution as provided in this subdivision. A
16 medical facility or person disclosing information in compliance
17 with this subsection is not civilly or criminally liable for making
18 the disclosure.

19 (f) If, after an accident, the driver of a vehicle involved in
20 the accident is deceased, a sample of the decedent's blood shall be
21 withdrawn in a manner directed by the medical examiner to determine
22 the amount of alcohol or the presence of a controlled substance, or
23 both, in the decedent's blood. The medical examiner shall give the
24 results of the chemical analysis of the sample to the law
25 enforcement agency investigating the accident and that agency shall
26 forward the results to the department of state police.

27 (g) The department of state police shall promulgate uniform

1 rules in compliance with the administrative procedures act of 1969,
2 1969 PA 306, MCL 24.201 to 24.328, for the administration of
3 chemical tests for the purposes of this section. An instrument used
4 for a preliminary chemical breath analysis may be used for a
5 chemical test described in this subsection if approved under rules
6 promulgated by the department of state police.

7 (7) The provisions of subsection (6) relating to chemical
8 testing do not limit the introduction of any other admissible
9 evidence bearing upon any of the following questions:

10 (a) Whether the person was impaired by, or under the influence
11 of, alcoholic liquor, a controlled substance, or a combination of
12 alcoholic liquor and a controlled substance.

13 (b) Whether the person had an alcohol content of 0.08 grams or
14 more per 100 milliliters of blood, per 210 liters of breath, or per
15 67 milliliters of urine or, beginning October 1, 2013, the person
16 had an alcohol content of 0.10 grams or more per 100 milliliters of
17 blood, per 210 liters of breath, or per 67 milliliters of urine.

18 (c) If the person is less than 21 years of age, whether the
19 person had any bodily alcohol content within his or her body. As
20 used in this subdivision, "any bodily alcohol content" means ~~either~~
21 ~~of the following:~~

22 ~~—— (i) An alcohol content of 0.02 grams or more but less than 0.08~~
23 ~~grams per 100 milliliters of blood, per 210 liters of breath, or~~
24 ~~per 67 milliliters of urine or, beginning October 1, 2013, the~~
25 ~~person had an alcohol content of 0.02 grams or more but less than~~
26 ~~0.10 grams or more per 100 milliliters of blood, per 210 liters of~~
27 ~~breath, or per 67 milliliters of urine.~~

1 ~~—— (ii) Any presence of alcohol within a person's body resulting~~
2 ~~from the consumption of alcoholic liquor, other than the~~
3 ~~consumption of alcoholic liquor as a part of a generally recognized~~
4 ~~religious service or ceremony. THAT TERM AS DEFINED IN SECTION~~
5 ~~625(6).~~

6 (8) If a chemical test described in subsection (6) is
7 administered, the test results shall be made available to the
8 person charged or the person's attorney upon written request to the
9 prosecution, with a copy of the request filed with the court. The
10 prosecution shall furnish the results at least 2 days before the
11 day of the trial. The prosecution shall offer the test results as
12 evidence in that trial. Failure to fully comply with the request
13 bars the admission of the results into evidence by the prosecution.

14 (9) A person's refusal to submit to a chemical test as
15 provided in subsection (6) is admissible in a criminal prosecution
16 for a crime described in section 625c(1) only to show that a test
17 was offered to the defendant, but not as evidence in determining
18 the defendant's innocence or guilt. The jury shall be instructed
19 accordingly.

20 Sec. 625i. (1) The department of state police shall prepare an
21 annual report that shall be designated the Michigan annual drunk
22 driving audit. The secretary of state, circuit court, district
23 court, family division of circuit court, municipal courts, and
24 local units of government in this state shall cooperate with the
25 department of state police to provide information necessary for the
26 preparation of the report. A copy of the report prepared under this
27 subsection shall be submitted to the governor, the secretary of the

1 senate, the clerk of the house of representatives, and the
2 secretary of state on July 1 of each year. The report shall contain
3 for each county in the state all of the following information
4 applicable to the immediately preceding calendar year:

5 (a) The number of alcohol related motor vehicle crashes
6 resulting in bodily injury, including a breakdown of the number of
7 those injuries occurring per capita of population and per road mile
8 in the county.

9 (b) The number of alcohol related motor vehicle crashes
10 resulting in death, including the breakdown described in
11 subdivision (a).

12 (c) The number of alcohol related motor vehicle crashes, other
13 than those enumerated in subdivisions (a) and (b), including the
14 breakdown described in subdivision (a).

15 (d) The number of arrests made for violations of section
16 625(1) or local ordinances substantially corresponding to section
17 625(1).

18 (e) The number of arrests made for violations of section
19 625(3) or local ordinances substantially corresponding to section
20 625(3).

21 (f) The number of arrests made for violations of section
22 625(6) or local ordinances substantially corresponding to section
23 625(6).

24 (g) The number of arrests made for violations of section
25 625(4) or (5).

26 (h) The number of arrests made for violations of section
27 625(7).

1 (i) The number of arrests made for violations of section
2 625(8).

3 (j) The number of operator's or chauffeur's licenses suspended
4 pursuant to section 625f.

5 (k) The number of arrests made for violations of section 625m
6 or local ordinances substantially corresponding to section 625m.

7 (2) The secretary of state shall compile a report of
8 dispositions of charges for violations of section 625(1), (3), (4),
9 (5), (6), (7), or (8) or section 625m or section 33b(1) or (2) of
10 former 1933 (Ex Sess) PA 8, section 703(1) or (2) of the Michigan
11 liquor control code of 1998, 1998 PA 58, MCL 436.1703, or local
12 ordinances substantially corresponding to section 625(1), (3), (6),
13 or (8) or section 625m or section 33b(1) or (2) of former 1933 (Ex
14 Sess) PA 8, or section 703(1) or (2) of the Michigan liquor control
15 code of 1998, 1998 PA 58, MCL 436.1703, by each judge for inclusion
16 in the annual report. The report compiled by the secretary of state
17 shall include information regarding all of the following:

18 (a) The number of dismissals granted.

19 (b) The number of convictions entered.

20 (c) The number of acquittals entered.

21 (d) The average length of imprisonment imposed.

22 (e) The average length of community service imposed in lieu of
23 imprisonment.

24 (f) The average fine imposed.

25 (g) The number of vehicles ordered immobilized under section
26 904d.

27 (h) The number of vehicles ordered forfeited under section

1 625n.

2 (3) The secretary of state shall include in the compilation
3 under subsection (2) the number of licenses suspended, revoked, or
4 restricted for those violations.

5 ~~——(4) The department of state police shall enter into a contract~~
6 ~~with the university of Michigan transportation research institute,~~
7 ~~under which the university of Michigan transportation research~~
8 ~~institute shall evaluate the effect and impact of the 1998~~
9 ~~legislation addressing drunk and impaired driving in this state and~~
10 ~~report its findings to the governor and the legislature not later~~
11 ~~than October 1, 2002.~~

12 Sec. 625n. (1) Except as otherwise provided in this section
13 and in addition to any other penalty provided for in this act, the
14 judgment of sentence for a conviction for a violation of section
15 625(1) described in section ~~625(8)(b) or~~ **625(9)(B), (c), (D), (E),**
16 **OR (F),** a violation of section 625(3) described in section
17 625(10)(b) or (c), a violation of section 625(4), (5), or (7), or a
18 violation of section 904(4) or (5) may require 1 of the following
19 with regard to the vehicle used in the offense if the defendant
20 owns the vehicle in whole or in part or leases the vehicle:

21 (a) Forfeiture of the vehicle if the defendant owns the
22 vehicle in whole or in part.

23 (b) Return of the vehicle to the lessor if the defendant
24 leases the vehicle.

25 (2) The vehicle may be seized pursuant to an order of seizure
26 issued by the court having jurisdiction upon a showing of probable
27 cause that the vehicle is subject to forfeiture or return to the

1 lessor.

2 (3) The forfeiture of a vehicle is subject to the interest of
3 the holder of a security interest who did not have prior knowledge
4 of or consent to the violation.

5 (4) Within 14 days after the defendant's conviction for a
6 violation described in subsection (1), the prosecuting attorney may
7 file a petition with the court for the forfeiture of the vehicle or
8 to have the court order return of a leased vehicle to the lessor.
9 The prosecuting attorney shall give notice by first-class mail or
10 other process to the defendant and his or her attorney, to all
11 owners of the vehicle, and to any person holding a security
12 interest in the vehicle that the court may require forfeiture or
13 return of the vehicle.

14 (5) If a vehicle is seized before disposition of the criminal
15 proceedings, a defendant who is an owner or lessee of the vehicle
16 may move the court having jurisdiction over the proceedings to
17 require the seizing agency to file a lien against the vehicle and
18 to return the vehicle to the owner or lessee pending disposition of
19 the criminal proceedings. The court shall hear the motion within 7
20 days after the motion is filed. If the defendant establishes at the
21 hearing that he or she holds the legal title to the vehicle or that
22 he or she has a leasehold interest and that it is necessary for him
23 or her or a member of his or her family to use the vehicle pending
24 the outcome of the forfeiture action, the court may order the
25 seizing agency to return the vehicle to the owner or lessee. If the
26 court orders the return of the vehicle to the owner or lessee, the
27 court shall order the defendant to post a bond in an amount equal

1 to the retail value of the vehicle, and shall also order the
2 seizing agency to file a lien against the vehicle.

3 (6) Within 14 days after notice by the prosecuting attorney is
4 given under subsection (4), the defendant, an owner, lessee, or
5 holder of a security interest may file a claim of interest in the
6 vehicle with the court. Within 21 days after the expiration of the
7 period for filing claims, but before or at sentencing, the court
8 shall hold a hearing to determine the legitimacy of any claim, the
9 extent of any co-owner's equity interest, the liability of the
10 defendant to any co-lessee, and whether to order the vehicle
11 forfeited or returned to the lessor. In considering whether to
12 order forfeiture, the court shall review the defendant's driving
13 record to determine whether the defendant has multiple convictions
14 under section 625 or a local ordinance substantially corresponding
15 to section 625, or multiple suspensions, restrictions, or denials
16 under section 904, or both. If the defendant has multiple
17 convictions under section 625 or multiple suspensions,
18 restrictions, or denials under section 904, or both, that factor
19 shall weigh heavily in favor of forfeiture.

20 (7) If a vehicle is forfeited under this section, the unit of
21 government that seized the vehicle shall sell the vehicle and
22 dispose of the proceeds in the following order of priority:

23 (a) Pay any outstanding security interest of a secured party
24 who did not have prior knowledge of or consent to the commission of
25 the violation.

26 (b) Pay the equity interest of a co-owner who did not have
27 prior knowledge of or consent to the commission of the violation.

1 (c) Satisfy any order of restitution entered in the
2 prosecution for the violation.

3 (d) Pay the claim of each person who shows that he or she is a
4 victim of the violation to the extent that the claim is not covered
5 by an order of restitution.

6 (e) Pay any outstanding lien against the property that has
7 been imposed by a governmental unit.

8 (f) Pay the proper expenses of the proceedings for forfeiture
9 and sale, including, but not limited to, expenses incurred during
10 the seizure process and expenses for maintaining custody of the
11 property, advertising, and court costs.

12 (g) The balance remaining after the payment of items (a)
13 through (f) shall be distributed by the court having jurisdiction
14 over the forfeiture proceedings to the unit or units of government
15 substantially involved in effecting the forfeiture. Seventy-five
16 percent of the money received by a unit of government under this
17 subdivision shall be used to enhance enforcement of the criminal
18 laws and 25% of the money shall be used to implement the crime
19 victim's rights act, 1985 PA 87, MCL 780.751 to 780.834. A unit of
20 government receiving money under this subdivision shall report
21 annually to the department of management and budget the amount of
22 money received under this subdivision that was used to enhance
23 enforcement of the criminal laws and the amount that was used to
24 implement the crime victim's rights act, 1985 PA 87, MCL 780.751 to
25 780.834.

26 (8) The court may order the defendant to pay to a co-lessee
27 any liability determined under subsection (6). The order may be

1 enforced in the same manner as a civil judgment.

2 (9) The return of a vehicle to the lessor under this section
3 does not affect or impair the lessor's rights or the defendant's
4 obligations under the lease.

5 (10) A person who knowingly conceals, sells, gives away, or
6 otherwise transfers or disposes of a vehicle with the intent to
7 avoid forfeiture or return of the vehicle to the lessor under this
8 section is guilty of a misdemeanor punishable by imprisonment for
9 not more than 1 year or a fine of not more than \$1,000.00, or both.

10 (11) The failure of the court or prosecutor to comply with any
11 time limit specified in this section does not preclude the court
12 from ordering forfeiture of a vehicle or its return to a lessor,
13 unless the court finds that the owner or claimant suffered
14 substantial prejudice as a result of that failure.

15 (12) The forfeiture provisions of this section do not preclude
16 the prosecuting attorney from pursuing a forfeiture proceeding
17 under any other law of this state or a local ordinance
18 substantially corresponding to this section.

19 Sec. 904d. (1) Vehicle immobilization applies as follows:

20 (a) For a conviction under section ~~625(1)~~ **625(1)(A) OR (B)**,
21 (3), (7), or (8) or a local ordinance substantially corresponding
22 to section 625(1) or (3) with no prior convictions, the court may
23 order vehicle immobilization for not more than 180 days.

24 (b) For a conviction under section 625(4) or (5) with no prior
25 convictions, the court shall order vehicle immobilization for not
26 more than 180 days.

27 (c) For a conviction under section ~~625(1)~~ **625(1)(C), OR FOR A**

1 **CONVICTION UNDER SECTION 625(1)(A) OR (B)**, (3), (4), (5), (7), or
2 (8) within 7 years after a prior conviction, the court shall order
3 vehicle immobilization for not less than 90 days or more than 180
4 days.

5 (d) For a **SECOND OR SUBSEQUENT CONVICTION UNDER SECTION**
6 **625(1)(C), OR FOR A** conviction under section ~~625(1)~~ **625(1)(A) OR**
7 **(B)**, (3), (4), (5), (7), or (8) within 10 years after 2 or more
8 prior convictions, the court shall order vehicle immobilization for
9 not less than 1 year or more than 3 years.

10 (2) For a conviction or civil infraction determination
11 resulting from a violation that occurred during a period of
12 suspension, revocation, or denial, the following apply:

13 (a) Except as provided in subdivision (b), for 1 prior
14 suspension, revocation, or denial under section 904(10), (11), or
15 (12) or former section 904(2) or (4) within the past 7 years, the
16 court may order vehicle immobilization for not more than 180 days.

17 (b) Except as provided in subdivisions (c) and (d), if the
18 person is convicted under section 904(4) or (5), the court shall
19 order vehicle immobilization for not more than 180 days.

20 (c) For any combination of 2 or 3 prior suspensions,
21 revocations, or denials under section 904(10), (11), or (12) or
22 former section 904(2) or (4) within the past 7 years, the court
23 shall order vehicle immobilization for not less than 90 days or
24 more than 180 days.

25 (d) For any combination of 4 or more prior suspensions,
26 revocations, or denials under section 904(10), (11), or (12) or
27 former section 904(2) or (4) within the past 7 years, the court

1 shall order vehicle immobilization for not less than 1 year or more
2 than 3 years.

3 (3) The defendant shall provide to the court the vehicle
4 identification number and registration plate number of the vehicle
5 involved in the violation.

6 (4) The court may order vehicle immobilization under this
7 section under either of the following circumstances:

8 (a) The defendant is the owner, co-owner, lessee, or co-lessee
9 of the vehicle operated during the violation.

10 (b) The owner, co-owner, lessee, or co-lessee knowingly
11 permitted the vehicle to be operated in violation of section 625(2)
12 or section 904(2) regardless of whether a conviction resulted.

13 (5) An order required to be issued under this section shall
14 not be suspended.

15 (6) If a defendant is ordered imprisoned for the violation for
16 which immobilization is ordered, the period of immobilization shall
17 begin at the end of the period of imprisonment.

18 (7) This section does not apply to any of the following:

19 (a) A suspension, revocation, or denial based on a violation
20 of the support and parenting time enforcement act, 1982 PA 295, MCL
21 552.601 to 552.650.

22 (b) A vehicle that is registered in another state or that is a
23 rental vehicle.

24 (c) A vehicle owned by the federal government, this state, or
25 a local unit of government of this state.

26 (d) A vehicle not subject to registration under section 216.

27 (e) Any of the following:

1 (i) A violation of chapter II.

2 (ii) A violation of chapter V.

3 (iii) A violation for failure to change address.

4 (iv) A parking violation.

5 (v) A bad check violation.

6 (vi) An equipment violation.

7 (vii) A pedestrian, passenger, or bicycle violation, other than
8 a violation of section 703(1) or (2) of the Michigan liquor control
9 code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance
10 substantially corresponding to section 703(1) or (2) of the
11 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or
12 section 624a or 624b or a local ordinance substantially
13 corresponding to section 624a or 624b.

14 (viii) A violation of a local ordinance substantially
15 corresponding to a violation described in subparagraphs (i) to (vii).

16 (8) As used in this section:

17 (a) Subject to subsections (9) and (10), "prior conviction"
18 means a conviction for any of the following, whether under a law of
19 this state, a local ordinance substantially corresponding to a law
20 of this state, or a law of another state substantially
21 corresponding to a law of this state:

22 (i) Except as otherwise provided in subsection (10), a
23 violation or attempted violation of any of the following:

24 (A) Section 625, except a violation of section 625(2), or a
25 violation of any prior enactment of section 625 in which the
26 defendant operated a vehicle while under the influence of
27 intoxicating or alcoholic liquor or a controlled substance, or a

1 combination of intoxicating or alcoholic liquor and a controlled
2 substance, or while visibly impaired, or with an unlawful bodily
3 alcohol content.

4 (B) Section 625m.

5 (C) Former section 625b.

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

9 (b) "Vehicle immobilization" means requiring the motor vehicle
10 involved in the violation immobilized in a manner provided in
11 section 904e.

12 (9) If 2 or more convictions described in subsection (8)(a)
13 are convictions for violations arising out of the same incident,
14 only 1 conviction shall be used to determine whether the person has
15 a prior conviction.

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