MICHIGAN VEHICLE CODE (EXCERPT)
Act 300 of 1949

DRIVING WHILE INTOXICATED, AND RECKLESS DRIVING

257.625 Operating motor vehicle while intoxicated; "operating while intoxicated" defined; operating motor vehicle when visibly impaired; penalties for causing death or serious impairment of a body function; operation of motor vehicle by person less than 21 years of age; "any bodily alcohol content" defined; requirements; controlled substance; costs; enhanced sentence; guilty plea or nolo contendere; establishment of prior conviction; special verdict; public record; burden of proving religious service or ceremony; ignition interlock device; definitions; prior conviction; violations arising out of same transaction.

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

(a) The person is under the influence of alcoholic liquor, a controlled substance, or other intoxicating substance or a combination of alcoholic liquor, a controlled substance, or other intoxicating substance.

(b) The person has an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning 5 years after the state treasurer publishes a certification under subsection (28), the person has an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(c) The person has an alcohol content of 0.17 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

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

(a) The person is under the influence of alcoholic liquor, a controlled substance, other intoxicating substance, or a combination of alcoholic liquor, a controlled substance, or other intoxicating substance.

(b) The person has an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning 5 years after the state treasurer publishes a certification under subsection (28), the person has an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

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

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

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

(a) Except as provided in subdivisions (b) and (c), the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not less than $2,500.00 or more than $10,000.00, or both. The judgment of sentence may impose the sanction permitted under section 625n. If the vehicle is not ordered to be forfeited under section 625n, the court shall order vehicle immobilization under section 904d in the judgment of sentence.

(b) If the violation occurs while the person has an alcohol content of 0.17 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, and within 7 years of a prior conviction, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not less than $2,500.00 or more than $10,000.00, or both. The judgment of sentence may impose the sanction permitted under section 625n. If the vehicle is not ordered to be forfeited under section 625n, the court shall order vehicle immobilization under section 904d in the judgment of sentence.

(c) If, at the time of the violation, the person is operating a motor vehicle in a manner proscribed under

section 653a and causes the death of a police officer, firefighter, or other emergency response personnel, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not less than $2,500.00 or more than $10,000.00, or both. This subdivision applies regardless of whether the person is charged with the violation of section 653a. The judgment of sentence may impose the sanction permitted under section 625n. If the vehicle is not ordered to be forfeited under section 625n, the court shall order vehicle immobilization under section 904d in the judgment of sentence.

(5) A person, whether licensed or not, who operates a motor vehicle in violation of subsection (1), (3), or (8) and by the operation of that motor vehicle causes a serious impairment of a body function of another person is guilty of a crime as follows:

(a) Except as provided in subdivision (b), the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not less than $1,000.00 or more than $5,000.00, or both. The judgment of sentence may impose the sanction permitted under section 625n. If the vehicle is not ordered to be forfeited under section 625n, the court shall order vehicle immobilization under section 904d in the judgment of sentence.

(b) If the violation occurs while the person has an alcohol content of 0.17 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, and within 7 years of a prior conviction, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not less than $1,000.00 or more than $5,000.00, or both. The judgment of sentence may impose the sanction permitted under section 625n. If the vehicle is not ordered to be forfeited under section 625n, the court shall order vehicle immobilization under section 904d in the judgment of sentence.

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

(a) An alcohol content of 0.02 grams or more but less than 0.08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning 5 years after the state treasurer publishes a certification under subsection (28), the person has an alcohol content of 0.02 grams or more but less than 0.10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

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

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

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

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

(A) Imprisonment for not more than 1 year.

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

(*ii*) If the violation occurs within 7 years of a prior conviction or after 2 or more prior convictions, regardless of the number of years that have elapsed since any prior conviction, a person who violates this subdivision is guilty of a felony and must be sentenced to pay a fine of not less than $500.00 or more than $5,000.00 and to either of the following:

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

(B) Probation with imprisonment in the county jail for not less than 30 days or more than 1 year and community service for not less than 60 days or more than 180 days. Not less than 48 hours of this imprisonment must be served consecutively.

(*iii*) A term of imprisonment imposed under subparagraph (*ii*)(A) or (B) must not be suspended unless the defendant agrees to participate in a specialty court program and successfully completes the program.

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

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

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

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

(C) Imprisonment for not more than 93 days.

(*ii*) If the violation occurs within 7 years of a prior conviction or after 2 or more prior convictions, regardless of the number of years that have elapsed since any prior conviction, a person who violates this subdivision must be sentenced to pay a fine of not less than $200.00 or more than $1,000.00 and to 1 or more of the following:

(A) Imprisonment for not less than 5 days or more than 1 year. This term of imprisonment must not be suspended unless the defendant agrees to participate in a specialty court program and successfully completes the program.

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

(c) In the judgment of sentence under subdivision (a)(*i*) or (b)(*i*), the court may, unless the vehicle is ordered to be forfeited under section 625n, order vehicle immobilization as provided in section 904d. In the judgment of sentence under subdivision (a)(*ii*) or (b)(*ii*), the court shall, unless the vehicle is ordered to be forfeited under section 625n, order vehicle immobilization as provided in section 904d.

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

(8) A person, whether licensed or not, shall not operate a vehicle on a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state if the person has in his or her body any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or of a controlled substance described in section 7214(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7214.

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

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

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

(*ii*) Imprisonment for not more than 93 days, or, if the person is convicted of violating subsection (1)(c), imprisonment for not more than 180 days.

(*iii*) A fine of not less than $100.00 or more than $500.00, or, if the person is guilty of violating subsection (1)(c), a fine of not less than $200.00 or more than $700.00.

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

(*i*) Imprisonment for not less than 5 days or more than 1 year.

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

(c) If the violation occurs after 2 or more prior convictions, regardless of the number of years that have elapsed since any prior conviction, the person is guilty of a felony and must be sentenced to pay a fine of not less than $500.00 or more than $5,000.00 and to either of the following:

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

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

(d) A term of imprisonment imposed under subdivision (b) or (c) must not be suspended unless the defendant agrees to participate in a specialty court program and successfully completes the program.

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

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

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

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

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

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

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

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

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

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

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

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

(*i*) Imprisonment for not less than 5 days or more than 1 year.

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

(c) If the violation occurs after 2 or more prior convictions, regardless of the number of years that have elapsed since any prior conviction, the person is guilty of a felony and must be sentenced to pay a fine of not less than $500.00 or more than $5,000.00 and either of the following:

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

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

(d) A term of imprisonment imposed under subdivision (b) or (c) must not be suspended unless the defendant agrees to participate in a specialty court program and successfully completes the program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) A copy of a judgment of conviction.

(b) An abstract of conviction.

(c) A transcript of a prior trial or a plea-taking or sentencing proceeding.

(d) A copy of a court register of actions.

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

(f) Information contained in a presentence report.

(g) An admission by the defendant.

(18) Except as otherwise provided in subsection (20), if a person is charged with operating a vehicle while under the influence of a controlled substance or other intoxicating substance or a combination of alcoholic

liquor, a controlled substance, or other intoxicating substance in violation of subsection (1) or a local ordinance substantially corresponding to subsection (1), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether the person was under the influence of a controlled substance or other intoxicating substance or a combination of alcoholic liquor, a controlled substance, or other intoxicating substance at the time of the violation.

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

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

(a) Whether the defendant was under the influence of a controlled substance or a combination of alcoholic liquor, a controlled substance, or other intoxicating substance at the time of the violation.

(b) Whether the defendant was visibly impaired due to his or her consumption of a controlled substance or a combination of alcoholic liquor, a controlled substance, or other intoxicating substance at the time of the violation.

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

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

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

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

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

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

(25) As used in this section:

(a) "Intoxicating substance" means any substance, preparation, or a combination of substances and preparations other than alcohol or a controlled substance, that is either of the following:

(*i*) Recognized as a drug in any of the following publications or their supplements:

(A) The official United States Pharmacopoeia.

(B) The official Homeopathic Pharmacopoeia of the United States.

(C) The official National Formulary.

(*ii*) A substance, other than food, taken into a person's body, including, but not limited to, vapors or fumes, that is used in a manner or for a purpose for which it was not intended, and that may result in a condition of intoxication.

(b) "Prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, a law of the United States substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state, subject to subsection (27):

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

(A) This section, except a violation of subsection (2), or a violation of any prior enactment of this section in which the defendant operated a vehicle while under the influence of intoxicating or alcoholic liquor or a controlled substance, or a combination of intoxicating or alcoholic liquor and a controlled substance, or while visibly impaired, or with an unlawful bodily alcohol content.

(B) Section 625m.

(C) Former section 625b.

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

(*iii*) Section 601d or 626(3) or (4).

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

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

(28) Not later than 30 days after this state no longer receives annual federal highway construction funding conditioned on compliance with a national blood alcohol limit, the state treasurer shall certify that fact. The state treasurer shall publish a certification under this subsection on the department of treasury's website.

History: 1949, Act 300, Eff. Sept. 23, 1949;—Am. 1951, Act 270, Eff. Sept. 28, 1951;—Am. 1954, Act 10, Eff. Aug. 13, 1954;—Am. 1956, Act 34, Eff. Aug. 11, 1956;—Am. 1958, Act 113, Eff. Sept. 13, 1958;—Am. 1976, Act 285, Eff. Apr. 1, 1977;—Am. 1978, Act 57, Imd. Eff. Mar. 10, 1978;—Am. 1978, Act 391, Eff. Jan. 15, 1979;—Am. 1980, Act 515, Eff. Apr. 1, 1981;—Am. 1982, Act 309, Eff. Mar. 30, 1983;—Am. 1987, Act 109, Eff. Mar. 30, 1988;—Am. 1991, Act 98, Eff. Jan. 1, 1992;—Am. 1993, Act 359, Eff. Sept. 1, 1994;—Am. 1994, Act 211, Eff. Nov. 1, 1994;—Am. 1994, Act 448, Eff. May 1, 1995;—Am. 1994, Act 449, Eff. May 1, 1995;—Am. 1996, Act 491, Eff. Apr. 1, 1997;—Am. 1998, Act 350, Eff. Oct. 1, 1999;—Am. 1999, Act 73, Eff. Oct. 1, 1999;—Am. 2000, Act 77, Eff. Oct. 1, 2000;—Am. 2000, Act 460, Eff. Mar. 28, 2001;—Am. 2003, Act 61, Eff. Sept. 30, 2003;—Am. 2004, Act 62, Eff. May 3, 2004;—Am. 2006, Act 564, Imd. Eff. Jan. 3, 2007;—Am. 2008, Act 341, Eff. Jan. 1, 2009;—Am. 2008, Act 462, Eff. Oct. 31, 2010;—Am. 2008, Act 463, Eff. Oct. 31, 2010;—Am. 2012, Act 543, Eff. Mar. 31, 2013;—Am. 2013, Act 23, Imd. Eff. May 9, 2013;—Am. 2014, Act 219, Eff. Sept. 24, 2014;—Am. 2017, Act 153, Eff. Feb. 6, 2018;—Am. 2020, Act 383, Eff. Mar. 24, 2021;—Am. 2021, Act 80, Eff. Nov. 21, 2021;—Am. 2021, Act 85, Imd. Eff. Sept. 24, 2021.

Compiler's note: Section 2 of Act 309 of 1982 provides: "All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or initiated before the effective date of this amendatory act, or initiated after the effective date of this amendatory act for an offense committed before that effective date."

Popular name: Heidi's Law

257.625a Arrest without warrant; circumstances; preliminary chemical breath analysis; provisions; operator ordered out-of-service; refusal of commercial motor vehicle operator to submit to chemical breath analysis as misdemeanor; penalty; provisions applicable to chemical tests and analysis; evidence; availability of test results; admissibility of refusal to submit to chemical test; definitions.

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

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

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

(2) A peace officer who has reasonable cause to believe that a person was operating a vehicle upon a public highway or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state and that the person by the consumption of alcoholic liquor, a controlled substance, or other intoxicating substance or a combination of them may have affected his or her ability to operate a vehicle, or reasonable cause to believe that a person was operating a commercial motor vehicle within the state while the person's blood, breath, or urine contained any measurable amount of alcohol, a controlled substance, or any other intoxicating substance or while the person had any detectable presence of alcoholic liquor, a controlled substance or any other intoxicating substance, or any combination of them, or reasonable cause to believe that a person who is less than 21 years of age was operating a vehicle upon a public highway or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state while the person had any bodily alcohol content as that term is defined in section 625(6), may require the person to submit to a preliminary chemical breath analysis. The following provisions apply to a preliminary chemical breath analysis administered under this subsection:

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

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

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

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

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

(c) A person who submits to a preliminary chemical breath analysis remains subject to the requirements of sections 625c, 625d, 625e, and 625f for purposes of chemical tests described in those sections.

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

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

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

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

(6) The following provisions apply to chemical tests and analysis of a person's blood, urine, or breath, other than a preliminary chemical breath analysis:

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

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

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

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

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

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

(*v*) Refusing a peace officer's request to take a test described in subparagraph (*i*) will result in the suspension of his or her operator's or chauffeur's license and vehicle group designation or operating privilege and in the addition of 6 points to his or her driver record.

(c) A sample or specimen of urine or breath must be taken and collected in a reasonable manner. Only a licensed physician, or an individual operating under the delegation of a licensed physician under section 16215 of the public health code, 1978 PA 368, MCL 333.16215, qualified to withdraw blood and acting in a medical environment, may withdraw blood at a peace officer's request to determine the amount of alcohol or presence of a controlled substance or other intoxicating substance in the person's blood, as provided in this subsection. Liability for a crime or civil damages predicated on the act of withdrawing or analyzing blood and related procedures does not attach to a licensed physician or individual operating under the delegation of a licensed physician who withdraws or analyzes blood or assists in the withdrawal or analysis in accordance

with this act unless the withdrawal or analysis is performed in a negligent manner.

(d) A chemical test described in this subsection must be administered at the request of a peace officer having reasonable grounds to believe the person has committed a crime described in section 625c(1). A person who takes a chemical test administered at a peace officer's request as provided in this section must be given a reasonable opportunity to have a person of his or her own choosing administer 1 of the chemical tests described in this subsection within a reasonable time after his or her detention. The test results are admissible and must be considered with other admissible evidence in determining the defendant's innocence or guilt. If the person charged is administered a chemical test by a person of his or her own choosing, the person charged is responsible for obtaining a chemical analysis of the test sample.

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

(f) If, after an accident, the driver of a vehicle involved in the accident is deceased, a sample of the decedent's blood must be withdrawn in a manner directed by the medical examiner to determine the amount of alcohol or the presence of a controlled substance or other intoxicating substance, or any combination of them, in the decedent's blood. The medical examiner shall give the results of the chemical analysis of the sample to the law enforcement agency investigating the accident and that agency shall forward the results to the department of state police.

(g) The department of state police shall promulgate uniform rules in compliance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the administration of chemical tests for the purposes of this section. An instrument used for a preliminary chemical breath analysis may be used for a chemical test described in this subsection if approved under rules promulgated by the department of state police.

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

(a) Whether the person was impaired by, or under the influence of, alcoholic liquor, a controlled substance or other intoxicating substance, or a combination of alcoholic liquor, a controlled substance, or other intoxicating substance.

(b) Whether the person had an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning 5 years after the state treasurer publishes a certification under section 625(28), the person had an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

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

(*i*) An alcohol content of 0.02 grams or more but less than 0.08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning 5 years after the state treasurer publishes a certification under section 625(28), the person had an alcohol content of 0.02 grams or more but less than 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

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

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

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

(10) As used in this section:

(a) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(b) "Intoxicating substance" means that term as defined in section 625.

History: Add. 1960, Act 148, Eff. Aug. 17, 1960;—Am. 1964, Act 104, Eff. Aug. 28, 1964;—Am. 1967, Act 253, Eff. Nov. 2, 1967;—Am. 1971, Act 154, Eff. Mar. 30, 1972;—Am. 1978, Act 572, Eff. Mar. 30, 1979;—Am. 1980, Act 515, Eff. Apr. 1, 1981;—Am. 1982, Act 310, Eff. Mar. 30, 1983;—Am. 1991, Act 95, Eff. Jan. 1, 1992;—Am. 1991, Act 100, Eff. Jan. 1, 1993;—Am. 1993, Act 229, Imd. Eff. Nov. 5, 1993;—Am. 1994, Act 211, Eff. Nov. 1, 1994;—Am. 1994, Act 450, Eff. May 1, 1995;—Am. 1996, Act 491, Eff. Apr. 1, 1997;—Am. 1998, Act 351, Eff. Oct. 1, 1999;—Am. 2003, Act 61, Eff. Sept. 30, 2003;—Am. 2013, Act 23, Imd. Eff. May 9, 2013;—Am. 2014, Act 315, Eff. Jan. 12, 2015;—Am. 2015, Act 11, Imd. Eff. Apr. 9, 2015;—Am. 2017, Act 153, Eff. Feb. 6, 2018;—Am. 2021, Act 80, Eff. Nov. 21, 2021;—Am. 2021, Act 85, Imd. Eff. Sept. 24, 2021.

Constitutionality: The provision in the implied consent act for the admission in a prosecution involving driving under the influence of intoxicating liquor or a controlled substance of the results of a chemical analysis of a blood sample drawn for the purpose of medical treatment from a driver of a vehicle involved in an accident, and the requirement in the act that the medical facility or person performing the analysis must release the results to a prosecuting attorney who requests the results for use in the prosecution are constitutionally valid. People v Perlos, 436 Mich 305; 462 NW2d 310 (1990).

Compiler's note: Section 2 of Act 310 of 1982 provides: "All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or initiated before the effective date of this amendatory act, or initiated after the effective date of this amendatory act for an offense committed before that effective date."

257.625b Arraignment of person arrested for misdemeanor violation; pretrial conference; advising accused of maximum penalty before acceptance of plea; screening, assessment, and rehabilitative services; assessment for medication-assisted treatment; action by secretary of state pending appeal.

Sec. 625b. (1) A person arrested for a misdemeanor violation of section 625(1), (3), (6), (7), or (8) or section 625m or a local ordinance substantially corresponding to section 625(1), (3), (6), or (8) or section 625m must be arraigned on the citation, complaint, or warrant not more than 14 days after the arrest for the violation or, if an arrest warrant is issued or reissued, not more than 14 days after the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanction for a failure to comply with this time limit. The time limit does not apply to a violation of section 625(1), (3), (7), or (8) or section 625m punishable as a felony or a violation of section 625(1), (3), (6), (7), or (8) or section 625m joined with a felony charge.

(2) The court shall schedule a pretrial conference between the prosecuting attorney, the defendant, and the defendant's attorney in each case in which the defendant is charged with a misdemeanor violation of section 625(1), (3), (6), (7), or (8) or section 625m or a local ordinance substantially corresponding to section 625(1), (3), (6), or (8) or section 625m. The pretrial conference must be held not more than 35 days after the person's arrest for the violation or, if an arrest warrant is issued or reissued, not more than 35 days after the issued or reissued arrest warrant is served, whichever is later. If the court has only 1 judge who sits in more than 1 location in that district, the pretrial conference must be held not more than 42 days after the person's arrest for the violation or, if an arrest warrant is issued or reissued, not more than 42 days after the date the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanction for a failure to comply with the applicable time limit. The 35- and 42-day time limits do not apply to a violation of section 625(1), (3), (7), or (8) or section 625m punishable as a felony or a violation of section 625(1), (3), (6), (7), or (8) or section 625m joined with a felony charge. The court shall order the defendant to attend the pretrial conference and may accept a plea by the defendant at the conclusion of the pretrial conference. The court may adjourn the pretrial conference upon the motion of a party for good cause shown. Not more than 1 adjournment shall be granted to a party, and the length of an adjournment must not exceed 14 days.

(3) Except for delay attributable to the unavailability of the defendant, a witness, or material evidence or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, the court shall finally adjudicate, by a plea of guilty or nolo contendere, entry of a verdict, or other final disposition, a case in which the defendant is charged with a misdemeanor violation of section 625(1), (3), (6), (7), or (8) or section 625m or a local ordinance substantially corresponding to section 625(1), (3), (6), or (8) or section 625m, within 77 days after the person is arrested for the violation or, if an arrest warrant is issued or reissued, not more than 77 days after the date the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanction for a failure to comply with this time limit. The 77-day time limit does not apply to a violation of section 625(1), (3), (7), or (8) or section 625m punishable as a felony or a violation of section 625(1), (3), (6), (7), or (8) or section 625m joined with a felony charge.

(4) Before accepting a plea of guilty or nolo contendere under section 625 or a local ordinance substantially corresponding to section 625(1), (2), (3), (6), or (8), the court shall advise the accused of the

maximum possible term of imprisonment and the maximum possible fine that may be imposed for the violation and shall advise the defendant that the maximum possible license sanctions that may be imposed will be based upon the master driving record maintained by the secretary of state under section 204a.

(5) Before imposing sentence for a violation of section 625(1), (3), (4), (5), (6), (7), or (8) or a local ordinance substantially corresponding to section 625(1), (3), (6), or (8), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. Except as otherwise provided in this subsection, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs as part of the sentence. If the person was convicted under section 625(1)(c) or has 1 or more prior convictions, the court shall order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs as part of the sentence, including, but not limited to, an alcohol treatment program or a self-help program for a period of not less than 1 year. The treatment plan must be devised from an assessment performed by an appropriately licensed alcohol assessor and approved by the court. If the person has 2 or more prior convictions, the court shall order the person to undergo an assessment that uses a standardized evidence-based instrument performed by a provider or other licensed or certified substance use disorder professional to determine whether he or she has a diagnosis for alcohol dependence and would likely benefit from a United States Food and Drug Administration approved medication-assisted treatment that is indicated for the treatment of alcohol dependence, as specified in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association. A person may request an independent assessment that uses a standardized evidence-based instrument and that is performed by a provider or other licensed or certified substance use disorder professional to determine whether he or she has a diagnosis for alcohol dependence and would likely benefit from a United States Food and Drug Administration approved medication-assisted treatment that is indicated for the treatment of alcohol dependence, as specified in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association. A court shall grant a request for an independent assessment and shall consider the results of the independent assessment along with the assessment required under this subsection when determining if the court will refer the person to a rehabilitative program that offers 1 or more forms of United States Food and Drug Administration-approved medications for the treatment of alcohol dependence. Only a provider may recommend that a person take medication-assisted treatment. A person always maintains the right to refuse ingestion or injection of medication. Only a provider may determine the type, dosage, and duration of the medication-assisted treatment. If the person refuses to take the medication-assisted treatment, the court shall not hold that person in contempt. As used in this subsection, "provider" means an individual with prescribing authority under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, who regularly communicates with the treatment team during the defendant's recovery and who has training or experience that demonstrates the provider's ability to treat and manage patients with alcohol dependency. If no other identified funding source is available, the person shall pay for the costs of the screening, assessment, or assessments, as applicable, and rehabilitative services ordered under this subsection. This subsection does not require the person to successfully complete an ordered rehabilitative program before driving a vehicle with an ignition interlock device on a restricted license. As used in this subsection, "other licensed or certified substance use disorder professional" means an individual or organization licensed or credentialed in this state to treat substance use disorders, including individuals certified by the Michigan certification board for addiction professionals and individuals who have training in providing assessments for alcohol dependency.

(6) If the judgment and sentence are appealed to circuit court, the court may ex parte order the secretary of state to stay the suspension, revocation, or restricted license issued by the secretary of state pending the outcome of the appeal.

History: Add. 1966, Act 243, Eff. Mar. 10, 1967;—Am. 1976, Act 285, Eff. Apr. 1, 1977;—Am. 1980, Act 515, Eff. Apr. 1, 1981;—Am. 1982, Act 309, Eff. Mar. 30, 1983;—Am. 1987, Act 109, Eff. Mar. 30, 1988;—Am. 1991, Act 93, Eff. Jan. 1, 1992;—Am. 1991, Act 100, Eff. Jan. 1, 1993;—Am. 1993, Act 359, Eff. Sept. 1, 1994;—Am. 1994, Act 211, Eff. Nov. 1, 1994;—Am. 1994, Act 450, Eff. May 1, 1995;—Am. 1998, Act 357, Eff. Oct. 1, 1999;—Am. 2004, Act 62, Eff. May 3, 2004;—Am. 2008, Act 462, Eff. Oct. 31, 2010;—Am. 2018, Act 657, Eff. Mar. 28, 2019.

Compiler's note: Section 2 of Act 309 of 1982 provides: “All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or initiated before the effective date of this amendatory act, or initiated after the effective date of this amendatory act for an offense committed before that effective date.”

257.625c Consent to chemical tests; persons not considered to have given consent to withdrawal of blood; administration of tests; definitions.

Sec. 625c. (1) A person who operates a vehicle upon a public highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state is considered to have given consent to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or other intoxicating substance, or any combination of them, in his or her blood or urine or the amount of alcohol in his or her breath in all of the following circumstances:

(a) If the person is arrested for a violation of section 625(1), (3), (4), (5), (6), (7), or (8), section 625a(5), or section 625m or a local ordinance substantially corresponding to section 625(1), (3), (6), or (8), section 625a(5), or section 625m.

(b) If the person is arrested for a violation of section 601d, section 626(3) or (4), or manslaughter, or murder resulting from the operation of a motor vehicle, and the peace officer had reasonable grounds to believe the person was operating the vehicle in violation of section 625.

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

(3) The tests shall be administered as provided in section 625a(6).

(4) As used in this section:

(a) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(b) "Intoxicating substance" means that term as defined in section 625.

History: Add. 1967, Act 253, Eff. Nov. 2, 1967;—Am. 1980, Act 515, Eff. Apr. 1, 1981;—Am. 1982, Act 310, Eff. Mar. 30, 1983;—Am. 1991, Act 95, Eff. Jan. 1, 1992;—Am. 1991, Act 100, Eff. Jan. 1, 1993;—Am. 1994, Act 211, Eff. Nov. 1, 1994;—Am. 1994, Act 450, Eff. May 1, 1995;—Am. 1998, Act 350, Eff. Oct. 1, 1999;—Am. 2003, Act 61, Eff. Sept. 30, 2003;—Am. 2008, Act 463, Eff. Oct. 31, 2010;—Am. 2014, Act 315, Eff. Jan. 12, 2015.

Compiler's note: Section 2 of Act 310 of 1982 provides: “All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or initiated before the effective date of this amendatory act, or initiated after the effective date of this amendatory act for an offense committed before that effective date.”

257.625d Refusal to submit to chemical test; court order; report to secretary of state; form.

Sec. 625d. (1) If a person refuses the request of a peace officer to submit to a chemical test offered under section 625a(6), a test shall not be given without a court order, but the officer may seek to obtain the court order.

(2) A written report shall immediately be forwarded to the secretary of state by the peace officer. The report shall state that the officer had reasonable grounds to believe that the person had committed a crime described in section 625c(1), and that the person had refused to submit to the test upon the request of the peace officer and had been advised of the consequences of the refusal. The form of the report shall be prescribed and furnished by the secretary of state.

History: Add. 1967, Act 253, Eff. Nov. 2, 1967;—Am. 1968, Act 335, Eff. Nov. 15, 1968;—Am. 1980, Act 515, Eff. Apr. 1, 1981;—Am. 1982, Act 310, Eff. Mar. 30, 1983;—Am. 1991, Act 95, Eff. Jan. 1, 1992;—Am. 1994, Act 211, Eff. Nov. 1, 1994;—Am. 2014, Act 315, Eff. Jan. 12, 2015.

Compiler's note: Section 2 of Act 310 of 1982 provides: “All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or initiated before the effective date of this amendatory act, or initiated after the effective date of this amendatory act for an offense committed before that effective date.”

257.625e Refusal to submit to chemical test pursuant to MCL 257.625d; request for hearing; notice.

Sec. 625e. (1) If a person refuses to submit to a chemical test pursuant to section 625d, the peace officer shall immediately notify the person in writing that within 14 days of the date of the notice the person may request a hearing as provided in section 625f. The form of the notice shall be prescribed and furnished by the secretary of state.

(2) The notice shall specifically state that failure to request a hearing within 14 days will result in the suspension of the person's license or permit to drive. The notice shall also state that there is not a requirement that the person retain counsel for the hearing, though counsel would be permitted to represent the person at the hearing.

History: Add. 1967, Act 253, Eff. Nov. 2, 1967;—Am. 1968, Act 335, Eff. Nov. 15, 1968;—Am. 1976, Act 9, Imd. Eff. Feb. 13, 1976;—Am. 1982, Act 310, Eff. Mar. 30, 1983;—Am. 1991, Act 104, Eff. Jan. 1, 1992.

Compiler's note: Section 2 of Act 310 of 1982 provides: “All proceedings pending and all rights and liabilities existing, acquired, or

incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or initiated before the effective date of this amendatory act, or initiated after the effective date of this amendatory act for an offense committed before that effective date."

257.625f Effect of failure to request hearing; hearing procedure; notice; authority of hearing officer; scope of hearing; finding; record; licensing sanctions; judicial review; notice to motor vehicle administrator of another state.

Sec. 625f. (1) If a person who refuses to submit to a chemical test pursuant to section 625d does not request a hearing within 14 days after the date of notice pursuant to section 625e, the secretary of state shall impose the following license sanctions:

(a) If the person was operating a vehicle other than a commercial motor vehicle, suspend or deny the person's operator's or chauffeur's license or permit to drive, or nonresident operating privilege, for 1 year or, for a second or subsequent refusal within 7 years, for 2 years. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall not issue the person a license or permit for 1 year or, for a second or subsequent refusal within 7 years, for 2 years.

(b) If the person was operating a commercial motor vehicle, for the first refusal, suspend all vehicle group designations on the person's operator's or chauffeur's license or permit or nonresident privilege to operate a commercial motor vehicle or, if the person is a resident without a license or permit to operate a commercial motor vehicle in the state, not issue the person an operator's or chauffeur's license with vehicle group designations, for 1 year.

(c) If the person was operating a commercial motor vehicle, for a second or subsequent refusal that occurred in a separate incident from and within 10 years of a prior refusal, revoke all vehicle group designations on the person's operator's or chauffeur's license or permit or nonresident privilege to operate a commercial motor vehicle or, if the person is a resident without a license or permit to operate a commercial motor vehicle in the state, not issue the person an operator's or chauffeur's license with vehicle group designations, for not less than 10 years and until the person is approved for the issuance of a vehicle group designation.

(d) If the person was operating a commercial motor vehicle and was arrested for an offense enumerated in section 625c other than a violation of section 625a(5) or 625m, impose the license sanction described in subdivision (a) and the license sanction described in subdivision (b) or (c), as applicable.

(2) If a hearing is requested, the secretary of state shall hold the hearing in the same manner and under the same conditions as provided in section 322. Not less than 5 days' notice of the hearing shall be mailed to the person requesting the hearing, to the peace officer who filed the report under section 625d, and if the prosecuting attorney requests receipt of the notice, to the prosecuting attorney of the county where the arrest was made. The hearing officer may administer oaths, issue subpoenas for the attendance of necessary witnesses, and grant a reasonable request for an adjournment. Not more than 1 adjournment shall be granted to a party and the length of an adjournment shall not exceed 14 days. A hearing under this subsection shall be scheduled to be held within 45 days after the date of arrest for the violation. The hearing officer shall not impose any sanction for a failure to comply with these time limits.

(3) Except for delay attributable to the unavailability of the defendant, a witness, or material evidence, or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, a hearing shall be finally adjudicated within 77 days after the date of arrest. The hearing officer shall not impose any sanction for a failure to comply with this time limit.

(4) The hearing shall cover only the following issues:

(a) Whether the peace officer had reasonable grounds to believe that the person had committed a crime described in section 625c(1).

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

(c) If the person refused to submit to the test upon the request of the officer, whether the refusal was reasonable.

(d) Whether the person was advised of the rights under section 625a(6).

(5) A person shall not order a hearing officer to make a particular finding on any issue enumerated in subsection (4)(a) to (d).

(6) The hearing officer shall make a record of a hearing held pursuant to this section. The record shall be prepared and transcribed in accordance with section 86 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.286. Upon notification of the filing of a petition for judicial review pursuant to section 323 and not less than 10 days before the matter is set for review, the hearing officer shall transmit to the court in which the petition was filed the original or a certified copy of the official record of the proceedings. Proceedings at which evidence was presented need not be transcribed and transmitted if the sole reason for review is to

determine whether the court will order the issuance of a restricted license. The parties to the proceedings for judicial review may stipulate that the record be shortened. A party unreasonably refusing to stipulate to a shortened record may be taxed by the court in which the petition is filed for the additional costs. The court may permit subsequent corrections to the record.

(7) If the person who requested a hearing does not prevail, the secretary of state shall impose the following license sanctions after the hearing:

(a) If the person was operating a vehicle other than a commercial motor vehicle, suspend or deny issuance of a license or driving permit or a nonresident operating privilege of the person for 1 year or, for a second or subsequent refusal within 7 years, for 2 years. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall not issue the person a license or permit for 1 year or, for a second or subsequent refusal within 7 years, for 2 years. The person may file a petition in the circuit court of the county in which the arrest was made to review the suspension or denial as provided in section 323.

(b) If the person was operating a commercial motor vehicle, impose the sanction prescribed under subsection (1)(b) or (1)(c), as applicable. The person may file a petition in the circuit court of the county in which the arrest was made to review the suspension or denial as provided in section 323.

(c) If the person was operating a commercial motor vehicle and was arrested for an offense enumerated in section 625c other than a violation of section 625a(5) or 625m, impose the license sanctions described in subdivisions (a) and (b).

(8) If the person who requested the hearing prevails, the peace officer who filed the report under section 625d may, with the consent of the prosecuting attorney, file a petition in the circuit court of the county in which the arrest was made to review the determination of the hearing officer as provided in section 323.

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

History: Add. 1967, Act 253, Eff. Nov. 2, 1967;—Am. 1968, Act 335, Eff. Nov. 15, 1968;—Am. 1976, Act 9, Imd. Eff. Feb. 13, 1976;—Am. 1980, Act 515, Eff. Apr. 1, 1981;—Am. 1982, Act 310, Eff. Mar. 30, 1983;—Am. 1991, Act 95, Eff. Jan. 1, 1992;—Am. 1991, Act 100, Eff. Jan. 1, 1993;—Am. 1994, Act 450, Eff. May 1, 1995;—Am. 2003, Act 61, Eff. Sept. 30, 2003.

Compiler's note: Section 2 of Act 310 of 1982 provides: "All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or initiated before the effective date of this amendatory act, or initiated after the effective date of this amendatory act for an offense committed before that effective date."

257.625g Duties of peace officer if person refuses chemical test or if test reveals unlawful alcohol content or presence of controlled substance or other intoxicating substance; test results; duration of temporary license or permit; definitions.

Sec. 625g. (1) If a person refuses a chemical test offered under section 625a(6), the peace officer who requested the person to submit to the chemical test shall comply with subdivisions (a) and (b). If a person submits to the chemical test or a chemical test is performed under a court order and the test reveals an unlawful alcohol content, or the presence of a controlled substance or other intoxicating substance, or any combination of them, the peace officer who requested the person to submit to the test shall do all of the following, other than subdivision (b)(*i*):

(a) On behalf of the secretary of state, immediately confiscate the person's license or permit to operate a motor vehicle and, if the person is otherwise eligible for a license or permit, issue a temporary license or permit to the person. The temporary license or permit must be on a form provided by the secretary of state.

(b) Except as provided in subsection (2), immediately do all of the following:

(*i*) Forward a copy of the written report of the person's refusal to submit to a chemical test required under section 625d to the secretary of state.

(*ii*) Notify the secretary of state by means of the law enforcement information network that a temporary license or permit was issued to the person.

(*iii*) Destroy the person's driver license or permit.

(2) If a person submits to a chemical test offered under section 625a(6) that requires an analysis of blood or urine and a report of the results of that chemical test is not immediately available, the peace officer who requested the person to submit to the test shall comply with subsection (1)(a) and (b)(*ii*) and indicate in the notice under subsection (1)(b)(*ii*) that a subsequent chemical test is pending. If the report reveals an unlawful alcohol content, or the presence of a controlled substance or other intoxicating substance, or any combination of them, the peace officer who requested the person to submit to the test shall immediately comply with subsection (1)(b)(*iii*). If the report does not reveal an unlawful alcohol content, or the presence of a controlled

substance or other intoxicating substance, or any combination of them, the peace officer who requested the person to submit to the test shall immediately notify the person of the test results and immediately return the person's license or permit by first-class mail to the address provided at the time of arrest.

(3) A temporary license or permit issued under this section is valid for 1 of the following time periods:

(a) If the case is not prosecuted, for the earlier of 90 days after issuance or until the person's license or permit is suspended under section 625f. The prosecuting attorney shall notify the secretary of state if a case referred to the prosecuting attorney is not prosecuted. The arresting law enforcement agency shall notify the secretary of state if a case is not referred to the prosecuting attorney for prosecution.

(b) If the case is prosecuted, until the criminal charges against the person are dismissed, the person is acquitted of those charges, or the person's license or permit is suspended, restricted, or revoked.

(4) As used in this section:

(a) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(b) "Intoxicating substance" means that term as defined in section 625.

(c) "Unlawful alcohol content" means any of the following, as applicable:

(*i*) If the person tested is less than 21 years of age, 0.02 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(*ii*) If the person tested was operating a commercial motor vehicle within this state, 0.04 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(*iii*) If the person tested is not a person described in subparagraph (*i*) or (*ii*), 0.08 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning 5 years after the state treasurer publishes a certification under section 625(28), 0.10 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

History: Add. 1967, Act 253, Eff. Nov. 2, 1967;—Am. 1980, Act 515, Eff. Apr. 1, 1981;—Am. 1991, Act 95, Eff. Jan. 1, 1992;—Am. 1994, Act 450, Eff. May 1, 1995;—Am. 1999, Act 73, Eff. Oct. 1, 1999;—Am. 2003, Act 61, Eff. Sept. 30, 2003;—Am. 2013, Act 23, Imd. Eff. May 9, 2013;—Am. 2014, Act 315, Eff. Jan. 12, 2015;—Am. 2017, Act 153, Eff. Feb. 6, 2018;—Am. 2021, Act 80, Eff. Nov. 21, 2021;—Am. 2021, Act 85, Imd. Eff. Sept. 24, 2021.

Administrative rules: R 325.2651 et seq. of the Michigan Administrative Code.

257.625h Drunk driving prevention equipment and training fund; drunk driving caseflow assistance fund.

Sec. 625h. (1) The drunk driving prevention equipment and training fund is created as a separate fund in the state treasury. Money in the fund shall be expended only as provided in subsection (2). The state treasurer shall credit to the fund all money received for that purpose under section 320e, and as otherwise provided by law. The state treasurer shall invest money in the fund in the same manner as surplus funds are invested under section 143 of 1855 PA 105, MCL 21.143. Earnings from the fund shall be credited to the fund. Money in the fund at the end of the fiscal year shall remain in the fund, and shall not revert to the general fund.

(2) The department of state police shall administer the fund. Money in the fund shall be used only to administer the fund, to purchase and maintain breath alcohol testing equipment, and to provide training to law enforcement personnel of this state in the use of that breath alcohol testing equipment.

(3) The department of treasury shall, before November 1 of each year, notify the department of state police of the balance in the fund at the close of the preceding fiscal year.

(4) The department of state police shall promulgate rules to implement subsection (2).

(5) The drunk driving caseflow assistance fund is created as a separate fund in the state treasury. The purpose of the fund is to promote the timely disposition of cases in which the defendant is charged with a violation of any of the following or a local ordinance substantially corresponding to any of the following:

(a) Section 625 or 625m.

(b) Section 80176, 81134, 81135, or 82127 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, 324.81134, 324.81135, and 324.82127.

(6) Money in the fund shall be expended only as provided in subsection (8).

(7) The state treasurer shall credit the drunk driving caseflow assistance fund with deposits of proceeds from the collection of revenue from license reinstatement fees as provided for in section 320e, and all income from investment credited to the fund by the state treasurer. The state treasurer may invest money contained in the drunk driving caseflow assistance fund in any manner authorized by law for the investment of state money. However, an investment shall not interfere with any apportionment, allocation, or payment of money as required by this section. The state treasurer shall credit to the fund all income earned as a result of an investment. Money in the fund at the end of the fiscal year shall remain in the fund and shall not revert to the general fund.

(8) The state court administrator, at the direction of the supreme court and upon confirmation of the amount by the state treasurer, shall distribute from the drunk driving caseflow assistance fund the total amount available in a fiscal year to each district of the district court and each municipal court as provided in this section. The state court administrator, after reimbursement of costs as provided in this subsection, shall distribute the balance of the drunk driving caseflow assistance fund annually to each district of the district court and each municipal court in an amount determined by multiplying the amount available for distribution by a fraction, the numerator of which is the number of cases in which the defendant was charged with a violation enumerated in subsection (5) in the prior calendar year in that district of the district court or that municipal court as certified by the state court administrator and the denominator of which is the total number of cases in all districts of the district court and all municipal courts in which the defendant was charged with a violation enumerated in subsection (5) in the calendar year. The state court administrative office shall be reimbursed annually from the drunk driving caseflow assistance fund for all reasonable costs associated with the administration of this section, including judicial and staff training, on-site management assistance, and software development and conversion.

History: Add. 1982, Act 310, Eff. Mar. 30, 1983;—Am. 1991, Act 98, Eff. Oct. 1, 1991;—Am. 1994, Act 450, Eff. May 1, 1995;—Am. 1996, Act 59, Imd. Eff. Feb. 26, 1996;—Am. 1999, Act 73, Eff. Oct. 1, 1999.

Compiler's note: Section 2 of Act 310 of 1982 provides: "All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or initiated before the effective date of this amendatory act, or initiated after the effective date of this amendatory act for an offense committed before that effective date."

Another Sec. 6a, as added by Act 104 of 1991, was originally compiled at MCL 257.625h[1] to distinguish it from this Sec. 6a, as added by Act 310 of 1983. Former MCL 257.625h[1], which pertained to preliminary chemical breath analysis, was repealed by Act 104 of 1991, Eff. Jan. 1, 1992.

257.625i Michigan annual drunk driving audit; preparation; contents; report; evaluation of 1998 legislation.

Sec. 625i. (1) The department of state police shall prepare an annual report that shall be designated the Michigan annual drunk driving audit. The secretary of state, circuit court, district court, family division of circuit court, municipal courts, and local units of government in this state shall cooperate with the department of state police to provide information necessary for the preparation of the report. A copy of the report prepared under this subsection shall be submitted to the governor, the secretary of the senate, the clerk of the house of representatives, and the secretary of state on July 1 of each year. The report shall contain for each county in the state all of the following information applicable to the immediately preceding calendar year:

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

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

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

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

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

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

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

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

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

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

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

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

(a) The number of dismissals granted.

(b) The number of convictions entered.
(c) The number of acquittals entered.
(d) The average length of imprisonment imposed.
(e) The average length of community service imposed in lieu of imprisonment.
(f) The average fine imposed.
(g) The number of vehicles ordered immobilized under section 904d.
(h) The number of vehicles ordered forfeited under section 625n.

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

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

History: Add. 1982, Act 310, Eff. Mar. 30, 1983;—Am. 1991, Act 99, Eff. Jan. 1, 1992;—Am. 1994, Act 211, Eff. Nov. 1, 1994;—Am. 1996, Act 493, Eff. Apr. 1, 1997;—Am. 1998, Act 354, Eff. Oct. 1, 1999;—Am. 2003, Act 61, Eff. Sept. 30, 2003.

Compiler's note: Section 2 of Act 310 of 1982 provides: "All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or initiated before the effective date of this amendatory act, or initiated after the effective date of this amendatory act for an offense committed before that effective date."

257.625j Repealed. 1991, Act 98, Eff. Jan. 1, 1992.

Compiler's note: The repealed section pertained to the Michigan drunk driving task force.

257.625k Ignition interlock device manufacturer; certification; approval; requirements; rules; cost; notice to department by certifying laboratory; list of manufacturers; BAIID manufacturer; approval of BAIID service center; inspections; prohibited conduct by individual; installation requirements; installer qualifications and requirements; approval; renewal.

Sec. 625k. (1) An ignition interlock device (BAIID) manufacturer seeking certification of a device in this state shall do all of the following:

(a) Complete an application to the department for certification of the BAIID.

(b) Submit a report from a department-approved or National Highway Traffic Safety Administration-approved laboratory certifying that the BAIID meets or exceeds the model specifications for BAIIDs, 78 FR 26849 – 26867 (May 8, 2013), or any subsequent version. Subject to subsection (5), the department shall provide a list of all manufacturers of approved certified devices to each person who is approved to be issued a restricted license that permits the person to drive a vehicle only if equipped with a BAIID. The department shall rotate the order of the providers with each list provided under this subsection. Any model of an ignition interlock device certified by a department-approved laboratory as complying with the model specifications for breath alcohol ignition interlock devices (BAIIDs), 57 FR 11772-11787 (April 7, 1992), that was installed in a vehicle before the effective date of the amendatory act that added this subdivision may be used in this state for the 24 months after the effective date of the amendatory act that added this subdivision.

(c) Ensure that a BAIID is capable of recording a digital image of the individual providing the sample, and record the time and date the sample was provided on or logically associated with the digital image. A BAIID presented to the department for certification may include additional technological features, including, but not limited to, the ability to remotely report information collected by the device.

(d) Agree to ensure proper record keeping in a format approved by the department and provide testimony relating to any aspect of the installation, service, repair, use, removal, or interpretation of any report or information recorded in the data storage system of a device or performance of any other duties required by this act at no cost on behalf of the state or any political subdivision of the state.

(2) The secretary of state shall promulgate rules to implement this section in compliance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) The manufacturer of an ignition interlock device shall bear the cost of that device's certification.

(4) A laboratory that certifies an ignition interlock device as provided in this section shall immediately notify the department of that certification.

(5) The department shall not include the manufacturer of a certified ignition interlock device on the list of manufacturers published under subsection (1) unless the manufacturer complies with all of the following:

(a) The manufacturer has filed copies of all of the following with the department:

(*i*) A bond executed as provided in section 625o or a letter of credit.

(*ii*) Proof of liability insurance issued by an insurance company authorized to do business in this state specifying all of the following:

(A) That the policy is current and shall remain valid during the duration of device approval.

(B) The name and model number of the device model covered by the policy.

(C) That the policy has a minimum coverage of $1,000,000.00 per occurrence and $3,000,000.00 in the aggregate.

(D) That the policy will indemnify the department and any other person injured as a result of any defects in manufacture, materials, design, calibration, installation, or operation of the device.

(*iii*) An affidavit that the ignition interlock device meets or exceeds all of the following conditions:

(A) Meets the definition in section 20d.

(B) Is set to periodically take samples while the vehicle is in operation. After the vehicle is in operation, the device requires a first retest sample within 5 to 15 minutes of the operator starting the vehicle. The device prompts second and subsequent retests within 15 to 45 minutes of the first retest. The operator of the vehicle is afforded not more than 5 minutes to provide a passing retest sample for each retest prompted by the device. The device accepts multiple attempts to provide a retest sample without initiating a lockout. If the device detects an alcohol content of 0.025 grams or more per 210 liters of breath in the person who offers a breath sample or if a breath sample is not given within the allotted time the device does all of the following:

(I) Emits a visible or audible warning signal.

(II) Renders the vehicle inoperable as soon as the vehicle is no longer being operated, requiring the operator to provide a breath sample containing a breath alcohol level of less than 0.025 grams per 210 liters of breath before the vehicle may be restarted.

(III) Disables the free restart as defined by the National Highway Traffic Safety Administration standards.

(IV) Activates a violation reset. The device initiates an audible or visual cue that warns the driver that the device will enter a permanent lockout in 5 days.

(b) Agrees to have service locations within 50 miles of any location within this state. A manufacturer may request a waiver of this requirement from the secretary of state if the manufacturer is unable to secure an installation facility within 50 miles of any location in this state. Subject to review, the secretary of state may determine whether the manufacturer's waiver request shall be approved. The secretary of state shall only approve a waiver of the 50-mile requirement and designate a location not meeting the 50-mile requirement as a service center if the service center employs a BAIID certified installer who shall perform any installation or service to a BAIID at that location. If the secretary of state approves a waiver of the 50-mile requirement, that waiver applies only to the approved location. A manufacturer shall make a separate request for a waiver of the 50-mile requirement for any additional installation facility not meeting the 50-mile requirement.

(c) Agrees to provide an ignition interlock device without cost to a person whose gross income for the immediately preceding tax year based on his or her state income tax return was less than 150% of the official poverty line for that same tax year established in the poverty guidelines issued by the secretary of health and human services under 42 USC 9902. A person in whose vehicle an ignition interlock device is installed without cost under this subdivision shall pay a maintenance fee to the installer of not more than $2.00 per day.

(d) Agrees to comply with the reporting requirements of the secretary of state.

(e) Agrees to periodically monitor installed ignition interlock devices and if monitoring indicates that the device has been circumvented, tampered with, or that a person with a breath alcohol level of 0.025 or more grams per 210 liters of breath has attempted to operate the motor vehicle, or both, to communicate all of the relevant information concerning these facts to the secretary of state, and to the court if appropriate.

(6) A manufacturer that has made a filing under subsection (5) shall immediately notify the department if the device no longer meets the requirements of subsection (5).

(7) Upon the request of the department, the BAIID manufacturer shall, at no cost to this state, provide the department with not less than 2 BAIIDs for each model that is certified under this section for demonstration and training purposes by the department.

(8) Upon the request of the department, the BAIID manufacturer shall, at no cost to this state, install 1 of each device that is certified under this section in a vehicle provided by the department. Any service performed under this subsection, including, but not limited to, installation, maintenance, calibration, or removal, shall be completed at no cost to this state.

(9) Upon the request of the department, for each BAIID model approved by the department, the BAIID manufacturer shall provide a total of not less than 10 hours of training to department employees at no cost to this state. This training shall be held at the times and locations within the state designated by the department. The training shall be designed to familiarize department employees with the installation, operation, service, repair, and removal of the BAIIDs and include the training and instructions that a BAIID installer will give to

customers. The BAIID manufacturer shall also provide the department, upon request, with the following information:

(a) A detailed description of the device, including complete instructions for installation, operation, service, repair, and removal of the BAIID.

(b) Complete technical specifications, including detailed explanations and definitions of all data log entries.

(10) A BAIID manufacturer shall notify the department not less than 15 days before implementation of any modification, upgrade, or alteration to any hardware, software, or firmware of a device certified for use in this state. The notification shall include both of the following:

(a) A description and explanation of the modification, upgrade, or alteration and proof satisfactory to the department that these modifications, upgrades, or alterations do not adversely affect the ability of the device to satisfy the requirements of this section and section 625*l*.

(b) A comprehensive plan of action for the phasing out of the use of the current device. This plan of action must be approved by the department prior to the implementation of the plan of action.

(11) Any equipment in the possession of the department that was retained for certification of the device shall be modified, upgraded, or altered simultaneously with the implementation of a plan of action under subsection (10). The department, in its discretion, may retain a BAIID device regardless of whether the device is no longer the current version or model of that device.

(12) Material modifications to a certified BAIID device may require recertification under this section as determined by the department.

(13) A BAIID manufacturer shall apply to the department annually for recertification of BAIID devices it manufactures.

(14) The department is responsible for approving BAIID service centers for operation in this state. The department shall not approve a BAIID service center unless all of the following conditions are satisfied:

(a) Only service centers that are BAIID manufacturer and vendor approved shall install, service, or remove BAIIDs approved for use in this state.

(b) Except as provided in subdivision (d), beginning July 1, 2016, a BAIID shall only be installed, serviced, or removed in a motor vehicle repair facility. As used in this subdivision, "motor vehicle repair facility" means that term as defined in section 2 of the motor vehicle service and repair act, 1974 PA 300, MCL 257.1302.

(c) A service center shall be located in a fixed facility within this state.

(d) A business that installs, services, or removes a BAIID, including a BAIID manufacturer's corporate office located in this state, that is installing, repairing, or removing BAIID devices on the effective date of the amendatory act that amended this section may install, service, and remove BAIIDs in this state without being certified as a motor vehicle repair facility under the motor vehicle service and repair act, 1974 PA 300, MCL 257.1302 to 257.1340, if the business employs a certified BAIID installer to perform any installation, service, or removal of a BAIID.

(e) Each service center shall have not less than 1 individual who is a mechanic and who possesses a specialty certification in BAIID service under section 10(1)(j) of the motor vehicle service and repair act, 1974 PA 300, MCL 257.1310, and holds a BAIID certification under this section to work as a BAIID installer.

(f) Each service center shall maintain and make available for inspection records that prove that each certified BAIID installer working at the service center has been properly trained by the BAIID manufacturer to service the BAIID for which the center is a vendor.

(g) Each service center shall provide a designated waiting area for customers that is separate from the area in which BAIIDs are installed or serviced.

(h) Only certified BAIID installers and representatives of the BAIID manufacturer or the department shall be allowed to observe the installation or removal of a BAIID.

(i) Adequate security measures shall be taken to ensure that unauthorized personnel are not allowed access to proprietary materials of BAIID manufacturers or files of customers.

(j) BAIID manufacturer service centers shall install, maintain, service, and remove all BAIIDs handled by that service center and perform any other services determined necessary by the department for using those BAIIDs in this state.

(k) The BAIID manufacturer shall inform the department of a change in its service center's business address 15 days prior to the date of any relocation.

(*l*) BAIIDs approved for use in this state shall only be serviced by service centers located within this state, unless the customer is unable to return to this state for service because of a significant personal hardship.

(m) If a BAIID is serviced by a service center outside of this state, the BAIID service provider shall ensure

that all of the following requirements are met:

(*i*) The BAIID operates using the same firmware that is used for devices in this state.

(*ii*) The data recorded by the BAIID remain intact on the device for later retrieval by a service center in this state or the data are transferred to a BAIID manufacturer database for review.

(n) Service centers shall make the addresses of their locations available to the department.

(o) BAIIDs for use in this state shall be installed and shall be removed only in a service center approved by the department for installing that device under this subsection.

(p) Each application for approval shall be for a single service center. A separate service center application is required for each additional service center.

(q) Before issuance of approval, the department may require an on-site evaluation to ensure compliance with the requirements of this section and section 625*l*.

(r) The department's approval of a service center shall be for a period of 1 year. The renewal process shall be the same as the initial service center approval process under this section.

(15) The department may conduct inspections of a manufacturer or a BAIID service center to ensure compliance with this act and rules promulgated to implement this act. The manufacturer shall pay for the actual costs to the department in conducting an inspection under this subsection.

(16) An individual shall not install, service, or remove a BAIID in this state without being certified by the department under this section.

(17) All BAIID installations shall be done in a workmanlike manner by a BAIID certified installer at an approved service center and shall be in accordance with the standards set forth in this section and with the requirements of the manufacturer. All BAIIDs installed shall be in working order and shall perform in accordance with the standards set forth in this act. All connections shall be covered with a tamper seal.

(18) Upon completion of the installation of a BAIID required under this act, the approved BAIID certified installer shall provide the customer with installation verification in the form and format designated by the department.

(19) A manufacturer shall ensure that BAIID certified installers meet the following requirements:

(a) Possess the appropriate certification from the department under this section.

(b) Possess and maintain all necessary training and skills required to install, examine, troubleshoot, and verify the proper operation of BAIIDs.

(c) Possess the tools, test equipment, and manuals needed to install, inspect, download, calibrate, repair, maintain, service, and remove BAIID devices.

(d) Provide all persons who will use the vehicle with written and hands-on training regarding the operation of a vehicle equipped with the BAIID and ensure that each of those persons demonstrates a properly delivered alveolar breath sample and an understanding of how the abort test feature works.

(20) An individual who has been convicted of an alcohol-related driving offense or any offense classified as a felony in this state or elsewhere within 5 years before the date of filing an application for approval as a BAIID certified installer is not eligible for approval as a BAIID certified installer under this act.

(21) The following requirements apply to a BAIID certified installer under this act:

(a) Be not less than 18 years of age.

(b) Possess a valid driver license.

(c) Be a motor vehicle mechanic as defined in section 2 of the motor vehicle service and repair act, 1974 PA 300, MCL 257.1302, and possess a specialty certification in BAIID service under section 10(1)(j) of the motor vehicle service and repair act, 1974 PA 300, 257.1310.

(d) Be certified as a BAIID installer under this section.

(22) To be certified as a BAIID installer under this section, the individual shall meet all of the following requirements:

(a) Possess a specialty certification in BAIID installation under section 10(1)(j) of the motor vehicle service and repair act, 1974 PA 300, MCL 257.1310.

(b) Properly complete and file a BAIID installer application form with the department.

(c) Beginning 180 days after the effective date of the amendatory act that added this subdivision, be a mechanic who is certified as a mechanic with a specialty certification in BAIID service under section (10)(1)(j) of the motor vehicle service and repair act, 1974 PA 300, MCL 257.1310, and hold a BAIID certification under this section.

(d) Submit a criminal history report certified by the department of state police within the immediately preceding 30 days.

(e) Meet the requirements of the department for certification under this act.

(23) Each application for approval shall be for a single BAIID installer. A separate BAIID installer application is required for each additional BAIID installer.

(24) The department's approval of a BAIID installer is for 1 year. The renewal process shall be the same as the initial BAIID installer approval process under this section.

History: Add. 1987, Act 109, Eff. Mar. 30, 1988;—Am. 1994, Act 450, Eff. May 1, 1995;—Am. 1998, Act 340, Eff. Oct. 1, 1999;—Am. 2003, Act 61, Eff. Sept. 30, 2003;—Am. 2008, Act 461, Eff. Oct. 31, 2010;—Am. 2016, Act 32, Eff. June 6, 2016.

Administrative rules: R 257.1001 et seq. of the Michigan Administrative Code.

Compiler's note: Enacting section 1 of Act 32 of 2016 provides:
"Enacting section 1. R 257.1005 and R 257.1006 of the Michigan Administrative Code are rescinded."

257.625*l* Ignition interlock device; warning label; prohibited conduct; violation as misdemeanor; penalty; impoundment of motor vehicle.

Sec. 625*l*. (1) The manufacturer of an ignition interlock device shall design a warning label, and the person who has an ignition interlock device shall promptly affix that label to each ignition interlock device upon installation. The label shall contain a warning that any person tampering with, circumventing, or otherwise misusing the device is guilty of a misdemeanor punishable as provided by law.

(2) A person who is only permitted to operate a motor vehicle equipped with an ignition interlock device shall not operate a motor vehicle on which an ignition interlock device is not properly installed.

(3) A person who has an ignition interlock device installed and whose driving privilege is restricted shall not request, solicit, or allow any other person to blow into an ignition interlock device or to start a vehicle equipped with the device for the purpose of providing the person whose driving privilege is restricted with an operable vehicle.

(4) A person shall not blow into an ignition interlock device or start a motor vehicle equipped with the device for the purpose of providing an operable vehicle to a person who has an interlock device installed and whose driving privilege is restricted.

(5) A person shall not tamper with or circumvent the operation of an ignition interlock device.

(6) A person who violates subsection (2), (3), (4), or (5) is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $5,000.00, or both.

(7) If a law enforcement officer detains the operator of a motor vehicle for violating a law of this state or a local ordinance and the operator is a person required to only operate a motor vehicle with an ignition interlock device properly installed, but no ignition interlock device is properly installed on the motor vehicle, the law enforcement officer shall impound the motor vehicle. If a motor vehicle impounded under this subsection is individually or jointly owned by the operator, the law enforcement officer shall do all of the following:

(a) Immediately confiscate the motor vehicle registration plate and destroy it.

(b) Issue a temporary registration plate for the vehicle in the same manner prescribed by the secretary of state for temporary registration plates issued under section 226a or 226b.

(c) Place the temporary registration plate issued under subdivision (b) on the motor vehicle in the manner prescribed by the secretary of state.

(d) Notify the secretary of state through the law enforcement information network in a form prescribed by the secretary of state that the registration plate was destroyed and a temporary registration plate was issued to the motor vehicle.

(8) A temporary registration plate issued under this section is valid until the charges for violating subsection (2) are dismissed, the person pleads guilty or no contest to the charge, or the person is found guilty of or is acquitted of the charge.

(9) If the motor vehicle impounded under this section is not owned individually or jointly by the operator, the law enforcement officer shall impound the motor vehicle by contacting a local towing agency. The motor vehicle shall only be returned to the registered owner.

(10) The owner of a motor vehicle impounded under this section is liable for the expenses incurred in the removal and storage of the motor vehicle whether or not it is returned to him or her. The motor vehicle shall be returned to the owner only if the owner pays the expenses of removal and storage. If redemption is not made or the vehicle is not returned as described under this subsection, it shall be considered an abandoned vehicle and disposed of under section 252a.

History: Add. 1987, Act 109, Eff. Mar. 30, 1988;—Am. 1994, Act 450, Eff. May 1, 1995;—Am. 1998, Act 340, Eff. Oct. 1, 1999;—Am. 2003, Act 61, Eff. Sept. 30, 2003;—Am. 2008, Act 461, Eff. Oct. 31, 2010;—Am. 2016, Act 32, Eff. June 6, 2016.

Compiler's note: Enacting section 1 of Act 32 of 2016 provides:
"Enacting section 1. R 257.1005 and R 257.1006 of the Michigan Administrative Code are rescinded."

257.625m Operation of commercial motor vehicle by person with certain alcohol content; arrest without warrant; violation as misdemeanor or felony; sentence; suspension of term prohibited; prior conviction.

Sec. 625m. (1) A person, whether licensed or not, who has an alcohol content of 0.04 grams or more but less than 0.08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning 5 years after the state treasurer publishes a certification under section 625(28), an alcohol content of 0.04 grams or more but less than 0.10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, shall not operate a commercial motor vehicle within this state.

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

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

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

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

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

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

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

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

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

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

(a) Except as provided in subsection (8), a violation or attempted violation of any of the following:

(*i*) This section.

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

(*iii*) Former section 625b.

(*iv*) Section 601d or section 626(3) or (4).

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

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

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

History: Add. 1991, Act 94, Eff. Jan. 1, 1993;—Am. 1994, Act 450, Eff. May 1, 1995;—Am. 1996, Act 491, Eff. Apr. 1, 1997;—Am. 1998, Act 347, Eff. Oct. 1, 1999;—Am. 2000, Act 460, Eff. Mar. 28, 2001;—Am. 2003, Act 61, Eff. Sept. 30, 2003;—Am. 2008, Act 463, Eff. Oct. 31, 2010;—Am. 2013, Act 23, Imd. Eff. May 9, 2013;—Am. 2017, Act 153, Eff. Feb. 6, 2018;—Am. 2021, Act 80, Eff. Nov. 21, 2021;—Am. 2021, Act 85, Imd. Eff. Sept. 24, 2021.

257.625n Forfeiture of vehicle or return to lessor.

Sec. 625n. (1) Except as otherwise provided in this section and section 304 and in addition to any other penalty provided for in this act, the judgment of sentence for a conviction for a violation of section 625(1) described in section 625(9)(b) or (c), a violation of section 625(3) described in section 625(11)(b) or (c), a violation of section 625(4), (5), or (7), or a violation of section 904(4) or (5), or, beginning October 31, 2010, a violation of section 626(3) or (4), may require 1 of the following with regard to the vehicle used in the

offense if the defendant owns the vehicle in whole or in part or leases the vehicle:

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

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

(2) The vehicle may be seized under a seizure order issued by the court having jurisdiction upon a showing of probable cause that the vehicle is subject to forfeiture or return to the lessor.

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

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

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

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

(7) If a vehicle is forfeited under this section, the unit of government that seized the vehicle shall sell the vehicle pursuant to the procedures under section 252g(1) and dispose of the proceeds in the following order of priority:

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

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

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

(d) Pay any outstanding accrued towing and storage fees.

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

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

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

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

(8) The court may order the defendant to pay to a co-lessee any liability determined under subsection (6). The order may be enforced in the same manner as a civil judgment.

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

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

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

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

History: Add. 1996, Act 491, Eff. Apr. 1, 1997;—Am. 1998, Act 349, Eff. Oct. 1, 1999;—Am. 2008, Act 463, Eff. Oct. 31, 2010;—Am. 2008, Act 539, Imd. Eff. Jan. 13, 2009;—Am. 2010, Act 155, Eff. Jan. 1, 2011.

257.625o Ignition interlock device; sale, lease, or installation in vehicle; surety bond.

Sec. 625o. (1) A person shall not sell, lease, or install in a vehicle in this state an ignition interlock device unless the manufacturer of the device has obtained an executed bond described in subsection (2) or a renewal certificate for that bond.

(2) The bond required under subsection (1) shall be in the amount of $50,000.00 with a surety approved by the department and shall be conditioned to indemnify or reimburse a person who has an ignition interlock device installed on his or her vehicle for monetary loss caused by the manufacturer's fraud, cheating, misrepresentation, or defaulting on a contractual obligation, whether the fraud, cheating, misrepresentation, or defaulting was done by the manufacturer or by an employee or agent of the manufacturer.

(3) The surety on the bond described in subsection (2) is required to make indemnification or reimbursement for a monetary loss only after final judgment has been entered in a court of record against the manufacturer or an employee or agent of the manufacturer. The surety on the bond may cancel the bond upon 30 days' written notice to the department and is not liable for a loss arising from an event that occurs after the effective date of the cancellation.

History: Add. 1998, Act 340, Eff. Oct. 1, 1999.

257.625p Operation of commercial quadricycle by person with certain alcohol content; prohibition; violation as misdemeanor; penalty.

Sec. 625p. (1) A person, whether licensed or not, who has an alcohol content of greater than 0.00 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine shall not operate a commercial quadricycle within this state.

(2) A person who is convicted of a violation of this section or a local ordinance substantially corresponding to this section is guilty of a misdemeanor punishable by 1 of the following:

(a) If the person has an alcohol content of at least 0.04 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, imprisonment for not more than 93 days or a fine of not more than $300.00, or both, together with costs of the prosecution.

(b) If the person has an alcohol content of greater than 0.00 grams, but less than 0.04 grams, per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, a fine of not more than $300.00, together with costs of the prosecution.

History: Add. 2015, Act 126, Imd. Eff. July 15, 2015.

257.625q Compliance with MCL 257.625k; investigation and determination by secretary of state; decertification of installer; notice to manufacturer; violation; penalty; suspension or revocation of manufacturer certification; removal from list of approved certified BAIIDs; summary suspension or revocation; hearing; rules.

Sec. 625q. (1) The secretary of state may investigate a BAIID installer's compliance with section 625k and shall suspend, revoke, or deny an individual's certification as a BAIID installer under section 625k if the secretary of state determines that 1 or more of the following apply:

(a) The BAIID installer violated section 625k or a rule promulgated under section 625k.

(b) The BAIID installer committed a fraudulent act in connection with the installation, monitoring, servicing, or removal of a BAIID.

(c) The BAIID installer performed improper, careless, or negligent inspection, installation, monitoring, servicing, or removal of the BAIID.

(d) The BAIID installer made a false statement of a material fact regarding his or her actions in inspecting, installing, monitoring, servicing, or removing a BAIID.

(2) The department shall notify a manufacturer within 14 days of the date the department decertifies an installer that one of the manufacturer's installers has been decertified.

(3) A person who knowingly provides false information to the department under section 625k(4) or (5) is guilty of a felony punishable by imprisonment for not less than 5 years or more than 10 years or a fine of not less than $5,000.00 or more than $10,000.00, or both, together with costs of the prosecution.

(4) A person who negligently provides false information to the department under section 625k(4) or (5) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both, together with costs of the prosecution.

(5) A person who knowingly fails to comply with section 625k(6) is guilty of a felony punishable by imprisonment for not less than 5 years or more than 10 years or a fine of not less than $5,000.00 or more than $10,000.00, or both, together with the costs of prosecution.

(6) A person who negligently fails to comply with section 625k(6) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both, together with the costs of prosecution.

(7) The department may suspend or revoke the certification of a manufacturer and its device from the list of approved certified BAIIDs for any of the following reasons:

(a) The manufacturer, the manufacturer's BAIIDs, or the manufacturer's installer or service provider no longer complies with the requirements of section 625k or 625*l* or the relevant rules promulgated under section 625k or 625*l*.

(b) The manufacturer or the installer and service provider authorized to install and service the manufacturer's BAIIDs have failed to submit reports required under section 625k or the relevant rules promulgated under section 625k in a timely manner in the form prescribed by the department.

(8) Before removing a manufacturer from the list of manufacturers of approved certified BAIIDs under section 625k, the administrator shall give the manufacturer written notice of the reasons for the removal.

(9) The notice issued under subsection (8) shall also indicate that suspension or revocation will occur 30 days after the date of the notice unless the manufacturer establishes, to the satisfaction of the administrator, that both of the following apply:

(a) The conditions set forth in subsection (7)(a) and (b) no longer exist.

(b) The manufacturer, the manufacturer's BAIIDs, or the manufacturer's installer or service provider, as applicable, is complying with the requirements of section 625k or 625*l* and the relevant rules promulgated under section 625k or 625*l*.

(10) The administrator may order a summary suspension or revocation of the certification of a manufacturer and its device from the list of approved certified BAIIDs under section 625k for the following reasons:

(a) Repeated failure to submit reports in a timely manner.

(b) Repeated failure to report violations as required by the applicable administrative rules.

(c) Repeated submission of inaccurate violation reports or annual reports to the department.

(d) The manufacturer, installer, or service provider has provided an individual with a bypass code.

(e) The manufacturer, installer, or service provider has shown or instructed an individual how to tamper with or circumvent a BAIID.

(f) The manufacturer, installer, or service provider has provided a sample to start a vehicle for an individual, in an attempt to circumvent a BAIID.

(g) The manufacturer, installer, or service provider has allowed an individual other than the individual specified in section 625k(14)(h) to observe the installation or removal of a BAIID.

(h) The BAIID no longer meets the National Highway Safety Traffic Administration's standards or no longer meets the requirements of section 625k or 625*l*.

(11) The manufacturer to whom a summary order is directed shall immediately comply with that order but, upon application to the department, shall be afforded a hearing by the department within 30 days after the date of the application. On the basis of a hearing under this subsection, the order shall be continued, modified, or held in abeyance not later than 30 days after the hearing is held.

(12) The secretary of state may promulgate rules to implement this section in compliance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: Add. 2016, Act 32, Eff. June 6, 2016.

Compiler's note: Enacting section 1 of Act 32 of 2016 provides:
"Enacting section 1. R 257.1005 and R 257.1006 of the Michigan Administrative Code are rescinded."

257.625r Authority of peace officer certified as drug recognition expert to require person to submit to preliminary oral fluid analysis; arrest; admissibility of results; refusal; ordering person out of service.

Sec. 625r. (1) A peace officer who is certified as a drug recognition expert as that term is defined in section 625t in a county participating in the roadside drug testing pilot program under section 625t who has reasonable cause to believe that a person was operating a vehicle upon a highway or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state and that the person by the consumption of a controlled substance, may have affected his or her ability to operate a vehicle, or reasonable cause to believe that a person had in his or her body any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or of a controlled substance described in section 7214(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7214, may require the person to submit to a preliminary oral fluid analysis administered under this subsection.

(2) A peace officer who is certified as a drug recognition expert as that term is defined in section 625t in a county participating in the roadside drug testing pilot program under section 625t may arrest a person in whole or in part upon the results of a preliminary oral fluid analysis.

(3) The results of a preliminary oral fluid analysis are admissible in a criminal prosecution for a crime enumerated in section 625c(1) or in an administrative hearing for 1 or more of the following purposes:

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

(b) As evidence of the presence or nonpresence of a controlled substance in the defendant's oral fluid if offered by the defendant to rebut testimony elicited on cross-examination of a defense witness that a preliminary oral fluid analysis of the defendant's oral fluid showed the presence of a controlled substance that was not found to be present when a chemical test of the defendant's blood or urine was administered under section 625a.

(c) As evidence of the presence or nonpresence of a controlled substance in the defendant's oral fluid if offered by the prosecution to rebut testimony elicited on cross-examination of a prosecution witness that a preliminary oral fluid analysis of the defendant's oral fluid showed no presence of a controlled substance that was found to be present when a chemical test of the defendant's blood or urine was administered under section 625a.

(4) A person who submits to a preliminary oral fluid analysis remains subject to the requirements of sections 625a, 625c, 625d, 625e, and 625f for purposes of chemical tests described in those sections.

(5) A person who refuses to submit to a preliminary oral fluid analysis upon a lawful request by a peace officer is responsible for a civil infraction.

(6) A peace officer who is certified as a drug recognition expert as that term is defined in section 625t in a county participating in the roadside drug testing pilot program under section 625t shall use the results of a preliminary oral fluid analysis conducted under this section to determine whether to order a person out of service under section 319d.

(7) A peace officer who is certified as a drug recognition expert as that term is defined in section 625t in a county participating in the roadside drug testing pilot program under section 625t shall order out of service as required under section 319d a person who was operating a commercial motor vehicle and who refuses to submit to a preliminary oral fluid analysis as provided in this section. This subsection does not limit use of other competent evidence by the peace officer to determine whether to order a person out of service under section 319d.

(8) A person who operates a commercial motor vehicle and who is requested to submit to a preliminary oral fluid analysis under this section by a peace officer who is certified as a drug recognition expert as that term is defined in section 625t in a county participating in the pilot program under section 625t shall be advised that refusing the request is a civil infraction and will result in the issuance of a 24-hour out-of-service order.

(9) A person who operates a commercial motor vehicle and who refuses to submit to a preliminary oral fluid analysis upon the request of a peace officer who is certified as a drug recognition expert as that term is defined in section 625t in a county participating in the pilot program under section 625t is responsible for a civil infraction.

History: Add. 2016, Act 242, Eff. Sept. 22, 2016.

257.625s Testimony of person qualified in administration of standardized field sobriety tests.

Sec. 625s. A person who is qualified by knowledge, skill, experience, training, or education, in the administration of standardized field sobriety tests, including the horizontal gaze nystagmus (HGN) test, shall be allowed to testify subject to showing of a proper foundation of qualifications. This section does not preclude the admissibility of a nonstandardized field sobriety test if it complies with the Michigan rules of evidence.

History: Add. 2016, Act 242, Eff. Sept. 22, 2016.

257.625t Roadside drug testing pilot program.

Sec. 625t. (1) The department of state police may establish a pilot program in this state for roadside drug testing to determine whether an individual is operating a vehicle while under the influence of a controlled substance in violation of section 625.

(2) A pilot program established under this section shall be for a period of 1 calendar year. The funding of a pilot program established under this section is subject to appropriation.

(3) The department of state police shall develop a written policy for the implementation of the pilot program and the administration of roadside drug testing.

(4) The department of state police may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement a pilot program established under this section.

(5) Not more than 90 days after the conclusion of a pilot program established under this section, the department of state police shall submit a report to the legislative committees of the senate and house of representatives with primary responsibility for judicial and criminal justice issues. The report shall cover both of the following:

(a) The different types of law enforcement agencies in the pilot program participant counties that engaged in roadside drug testing.

(b) Relevant statistical data, including, but not limited to, the following:

(*i*) The number of traffic stops resulting in an arrest for operating under the influence of a controlled substance in violation of section 625 as a result of roadside drug testing by a certified drug recognition expert.

(*ii*) The number and type of convictions resulting from an arrest made based on the result of a roadside drug test by a certified drug recognition expert.

(6) As used in this section:

(a) "Certified drug recognition expert" means a law enforcement officer trained to recognize impairment in a driver under the influence of a controlled substance rather than, or in addition to, alcohol.

(b) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

History: Add. 2016, Act 243, Eff. Sept. 22, 2016;—Am. 2020, Act 87, Imd. Eff. June 11, 2020.

Compiler's note: Enacting section 1 of Act 243 of 2016 provides:
"Enacting section 1. This amendatory act shall be known and may be cited as the "Barbara J. and Thomas J. Swift Law"."

257.626 Reckless driving on highway, frozen public lake, or parking place; violation as misdemeanor; penalty.

Sec. 626. (1) A person who violates this section is guilty of reckless driving punishable as provided in this section.

(2) Except as otherwise provided in this section, a person who operates a vehicle upon a highway or a frozen public lake, stream, or pond or other place open to the general public, including, but not limited to, an area designated for the parking of motor vehicles, in willful or wanton disregard for the safety of persons or property is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(3) Beginning October 31, 2010, a person who operates a vehicle in violation of subsection (2) and by the operation of that vehicle causes serious impairment of a body function to another person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not less than $1,000.00 or more than $5,000.00, or both. The judgment of sentence may impose the sanction permitted under section 625n. If the vehicle is not ordered forfeited under section 625n, the court shall order vehicle immobilization under section 904d in the judgment of sentence.

(4) Beginning October 31, 2010, a person who operates a vehicle in violation of subsection (2) and by the operation of that vehicle causes the death of another person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not less than $2,500.00 or more than $10,000.00, or both. The judgment of sentence may impose the sanction permitted under section 625n. If the vehicle is not ordered forfeited under section 625n, the court shall order vehicle immobilization under section 904d in the judgment of sentence.

(5) In a prosecution under subsection (4), the jury shall not be instructed regarding the crime of moving violation causing death.

History: 1949, Act 300, Eff. Sept. 23, 1949;—Am. 1953, Act 3, Eff. Oct. 2, 1953;—Am. 1957, Act 178, Eff. Sept. 27, 1957;—Am. 1965, Act 262, Eff. Mar. 31, 1966;—Am. 2004, Act 331, Eff. Nov. 1, 2004;—Am. 2008, Act 463, Eff. Oct. 31, 2010;—Am. 2010, Act 155, Eff. Jan. 1, 2011.

257.626a Drag races; prohibition on public highways; definition; prima facie evidence; applicability within Silver Lake State Park; "drag race" defined.

Sec. 626a. (1) A person shall not do either of the following:

(a) Operate a vehicle upon a highway, or any other place open to the general public, including an area designated for the parking of motor vehicles, in a speed or acceleration contest or drag race or to make a speed record.

(b) Assist in a violation of subdivision (a).

(2) The operation of 2 or more vehicles either at speeds in excess of the prima facie lawfully established speed or rapidly accelerating from a common starting point to a speed in excess of the prima facie lawful speed is prima facie evidence of a drag race.

(3) Subsections (1) and (2) do not apply within the Silver Lake State Park scramble area.

(4) As used in this section, "drag race" means the operation of 2 or more vehicles from a point side by side at accelerating speeds in a competitive attempt to out-distance each other over a common selected course or where timing is involved or where timing devices are used in competitive accelerations of speeds by participating vehicles.

History: Add. 1964, Act 206, Eff. Aug. 28, 1964;—Am. 1966, Act 159, Eff. Mar. 10, 1967;—Am. 2021, Act 75, Imd. Eff. July 29, 2021.

257.626b Careless or negligent operation of vehicle as civil infraction.

Sec. 626b. A person who operates a vehicle upon a highway or a frozen public lake, stream, or pond or other place open to the general public including an area designated for the parking of vehicles in a careless or negligent manner likely to endanger any person or property, but without wantonness or recklessness, is responsible for a civil infraction.

History: Add. 1965, Act 262, Eff. Mar. 31, 1966;—Am. 1978, Act 510, Eff. Aug. 1, 1979.

257.626c Repealed. 2008, Act 463, Eff. Oct. 31, 2010.

Compiler's note: The repealed section pertained to operation of vehicle resulting in serious impairment of body function as felony.