

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 870

A bill to amend 1949 PA 300, entitled  
"Michigan vehicle code,"  
by amending sections 320a, 625, and 625c (MCL 257.320a, 257.625,  
and 257.625c), section 320a as amended by 1996 PA 493,  
section 625 as amended by 1996 PA 491, and section 625c as  
amended by 1994 PA 450.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 320a. (1) The secretary of state, within 10 days after  
2 the receipt of a properly prepared abstract from this or another  
3 state, shall record the date of conviction, civil infraction  
4 determination, or probate court disposition, and the number of  
5 points for each, based on the following formula, except as other-  
6 wise provided in this section and section 629c:

7       (a) Manslaughter, negligent homicide, or a felony  
8 resulting from the operation of a motor vehicle..... 6 points

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- 1 (b) A violation of section 625(1), (4), (5), OR  
2 (7) or a law or ordinance substantially corresponding  
3 to section 625(1), (4) (5), or (7)..... 6 points
- 4 ~~(c) A violation or attempted violation of section~~  
5 ~~625(4) or (5)..... 6 points~~
- 6 (C) ~~(d)~~ Failing to stop and disclose identity at  
7 the scene of an accident when required by law..... 6 points
- 8 (D) ~~(e)~~ Operating a motor vehicle in a reckless  
9 manner..... 6 points
- 10 (E) ~~(f)~~ Violation of any law or ordinance per-  
11 taining to speed by exceeding the lawful maximum by  
12 more than 15 miles per hour..... 4 points
- 13 (F) ~~(g)~~ Violation of section 625(3) or (6) or a  
14 law or ordinance substantially corresponding to section  
15 625(3) or (6)..... 4 points
- 16 (G) ~~(h)~~ Fleeing or eluding an officer..... 6 points
- 17 (H) ~~(i)~~ Violation of section 626a or a law or  
18 ordinance substantially corresponding to section 626a.. 4 points
- 19 (I) ~~(j)~~ Violation of any law or ordinance per-  
20 taining to speed by exceeding the lawful maximum by  
21 more than 10 but not more than 15 miles per hour or  
22 careless driving in violation of section 626b or a law  
23 or ordinance substantially corresponding to section  
24 626b..... 3 points
- 25 (J) ~~(k)~~ Violation of any law or ordinance per-  
26 taining to speed by exceeding the lawful maximum by 10  
27 miles per hour or less..... 2 points

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- 1       (K) ~~(I)~~ Disobeying a traffic signal or stop  
2 sign, or improper passing..... 3 points
- 3       (L) ~~(M)~~ Violation of section 624a, 624b, or a  
4 law or ordinance substantially corresponding to section  
5 624a or 624b..... 2 points
- 6       (M) ~~(N)~~ Until April 1, 2002, violation of sec-  
7 tion 310e(4) or (6) or a law or ordinance substantially  
8 corresponding to section 310e(4) or (6)..... 2 points
- 9       (N) ~~(O)~~ All other moving violations pertaining  
10 to the operation of motor vehicles reported under this  
11 section..... 2 points
- 12       (O) ~~(P)~~ A refusal by a person less than 21 years  
13 of age to submit to a preliminary breath test required  
14 by a peace officer under section 625a..... 2 points
- 15       (2) Points shall not be entered for a violation of  
16 section 310e(15), 311, 625m, 658, 717, 719, 719a, or 723.
- 17       (3) Points shall not be entered for bond forfeitures.
- 18       (4) Points shall not be entered for overweight loads or for  
19 defective equipment.
- 20       (5) If more than 1 conviction, civil infraction determina-  
21 tion, or probate court disposition results from the same inci-  
22 dent, points shall be entered only for the violation that  
23 receives the highest number of points under this section.
- 24       (6) If a person has accumulated 9 points as provided in this  
25 section, the secretary of state may call the person in for an  
26 interview as to the person's driving ability and record after due  
27 notice as to time and place of the interview. If the person

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1 fails to appear as provided in this subsection, the secretary of  
2 state shall add 3 points to the person's record.

3 (7) If a person violates a speed restriction established by  
4 an executive order issued during a state of energy emergency as  
5 provided by ~~Act No. 191 of the Public Acts of 1982, being sec-~~  
6 ~~tions 10.81 to 10.89 of the Michigan Compiled Laws~~ 1982 PA 191,  
7 MCL 10.81 TO 10.89, the secretary of state shall enter points for  
8 the violation pursuant to subsection (1).

9 (8) The secretary of state shall enter 6 points upon the  
10 record of a person whose license is suspended or denied pursuant  
11 to section 625f. However, if a conviction, civil infraction  
12 determination, or probate court disposition results from the same  
13 incident, additional points for that offense shall not be  
14 entered.

15 (9) If a Michigan driver commits a violation in another  
16 state that would be a civil infraction if committed in Michigan,  
17 and a conviction results solely because of the failure of the  
18 Michigan driver to appear in that state to contest the violation,  
19 upon receipt of the abstract of conviction by the secretary of  
20 state, the violation shall be noted on the driver's record, but  
21 no points shall be assessed against his or her driver's license.

22 Sec. 625. (1) A person, whether licensed or not, shall not  
23 operate a vehicle upon a highway or other place open to the gen-  
24 eral public or generally accessible to motor vehicles, including  
25 an area designated for the parking of vehicles, within this state  
26 if either of the following applies:

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1 (a) The person is under the influence of intoxicating  
2 liquor, a controlled substance, or a combination of intoxicating  
3 liquor and a controlled substance.

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

7 (2) The owner of a vehicle or a person in charge or in con-  
8 trol of a vehicle shall not authorize or knowingly permit the  
9 vehicle to be operated upon a highway or other place open to the  
10 general public or generally accessible to motor vehicles, includ-  
11 ing an area designated for the parking of motor vehicles, within  
12 this state by a person who is under the influence of intoxicating  
13 liquor, a controlled substance, or a combination of intoxicating  
14 liquor and a controlled substance or who has an alcohol content  
15 of 0.10 grams or more per 100 milliliters of blood, per 210  
16 liters of breath, or per 67 milliliters of urine.

17 (3) A person, whether licensed or not, shall not operate a  
18 vehicle upon a highway or other place open to the general public  
19 or generally accessible to motor vehicles, including an area des-  
20 ignated for the parking of vehicles, within this state when, due  
21 to the consumption of ~~an~~ intoxicating liquor, a controlled sub-  
22 stance, or a combination of ~~an~~ intoxicating liquor and a con-  
23 trolled substance, the person's ability to operate the vehicle is  
24 visibly impaired. If a person is charged with violating subsec-  
25 tion (1), a finding of guilty under this subsection may be  
26 rendered.

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1 (4) A person, whether licensed or not, who operates a motor  
2 vehicle in violation of subsection (1) or (3) and by the  
3 operation of that motor vehicle causes the death of another  
4 person is guilty of a felony punishable by imprisonment for not  
5 more than 15 years or a fine of not less than \$2,500.00 or more  
6 than \$10,000.00, or both. The judgment of sentence may impose  
7 the sanction permitted under section 625n OR 904D. IF THE VIOLA-  
8 TION OCCURS WITHIN 7 YEARS OF A PRIOR CONVICTION OR WITHIN 10  
9 YEARS OF 2 OR MORE PRIOR CONVICTIONS, THE COURT SHALL, UNLESS THE  
10 VEHICLE IS ORDERED FORFEITED UNDER SECTION 625N, ORDER VEHICLE  
11 IMMOBILIZATION UNDER SECTION 904D IN THE JUDGMENT OF SENTENCE.

12 (5) A person, whether licensed or not, who operates a motor  
13 vehicle in violation of subsection (1) or (3) and by the opera-  
14 tion of that motor vehicle causes a serious impairment of a body  
15 function of another person is guilty of a felony punishable by  
16 imprisonment for not more than 5 years or a fine of not less than  
17 \$1,000.00 or more than \$5,000.00, or both. The judgment of sen-  
18 tence may impose the sanction permitted under section 625n OR  
19 904D. IF THE VIOLATION OCCURS WITHIN 7 YEARS OF A PRIOR CONVIC-  
20 TION OR WITHIN 10 YEARS OF 2 OR MORE PRIOR CONVICTIONS, THE COURT  
21 SHALL, UNLESS THE VEHICLE IS ORDERED FORFEITED UNDER SECTION  
22 625N, ORDER VEHICLE IMMOBILIZATION UNDER SECTION 904D IN THE  
23 JUDGMENT OF SENTENCE. As used in this subsection, "serious  
24 impairment of a body function" includes, but is not limited to, 1  
25 or more of the following:

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

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1 (b) Loss of a hand, foot, finger, or thumb or use of a hand,  
2 foot, finger, or thumb.

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

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

5 (e) Serious visible disfigurement.

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

7 (g) Measurable brain damage or mental impairment.

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

9 (i) Subdural hemorrhage or subdural hematoma.

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

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

20 (b) Any presence of alcohol within a person's body resulting  
21 from the consumption of intoxicating liquor, other than consump-  
22 tion of intoxicating liquor as a part of a generally recognized  
23 religious service or ceremony.

24 (7) A PERSON WHO OPERATES A VEHICLE IN VIOLATION OF SUBSEC-  
25 TION (1), (3), (4), (5), OR (6) WHILE ANOTHER PERSON WHO IS LESS  
26 THAN 16 YEARS OF AGE IS OCCUPYING THE VEHICLE IS GUILTY OF A  
27 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR

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1 OR A FINE OF NOT MORE THAN \$1,000.00, OR BOTH. THE JUDGMENT OF  
2 SENTENCE MAY IMPOSE THE SANCTION PERMITTED UNDER SECTION 625N.  
3 IF THE VIOLATION OCCURS WITHIN 7 YEARS OF A PRIOR CONVICTION OR  
4 WITHIN 10 YEARS OF 2 OR MORE PRIOR CONVICTIONS, THE COURT SHALL,  
5 UNLESS THE VEHICLE IS ORDERED FORFEITED UNDER SECTION 625N, ORDER  
6 VEHICLE IMMOBILIZATION UNDER SECTION 904D IN THE JUDGMENT OF  
7 SENTENCE. THIS SECTION DOES NOT PROHIBIT A PERSON FROM BEING  
8 CHARGED WITH, CONVICTED OF, OR PUNISHED FOR A VIOLATION OF SUB-  
9 SECTION (1), (3), (4), (5), OR (6) THAT IS COMMITTED BY THE  
10 PERSON WHILE VIOLATING THIS SUBSECTION. HOWEVER, POINTS SHALL  
11 NOT BE ASSESSED UNDER SECTION 320A FOR BOTH A VIOLATION OF SUB-  
12 SECTION (1), (3), (4), (5), OR (6) AND A VIOLATION OF THIS SUB-  
13 SECTION FOR CONDUCT ARISING OUT OF THE SAME TRANSACTION.

14 (8) ~~(7)~~ If a person is convicted of violating subsection  
15 (1), all of the following apply:

16 (a) Except as otherwise provided in subdivisions (b) and  
17 ~~(d)~~ (C), the person is guilty of a misdemeanor punishable by 1  
18 or more of the following:

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

20 (ii) Imprisonment for not more than ~~90~~ 93 days.

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

22 (b) If the violation occurs within 7 years of a prior con-  
23 viction, the person shall be sentenced to pay a fine of not less  
24 than \$200.00 or more than \$1,000.00 and ~~either~~ 1 OR MORE of the  
25 following:

26 ~~(i) Community service for not less than 10 days or more~~  
27 ~~than 90 days and may be imprisoned for not more than 1 year.~~



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1 (i) ~~(ii)~~ Imprisonment for not less than ~~48 consecutive~~  
2 ~~hours~~ 5 DAYS or more than 1 year. ~~and may be sentenced to~~  
3 ~~community~~ NOT LESS THAN 48 HOURS OF THE TERM OF IMPRISONMENT  
4 IMPOSED UNDER THIS SUBPARAGRAPH SHALL BE SERVED CONSECUTIVELY.

5 (ii) COMMUNITY service for not LESS THAN 30 DAYS OR more  
6 than 90 days.

7 ~~(c) A term of imprisonment imposed under subdivision~~  
8 ~~(b)(ii) shall not be suspended.~~

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

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

15 (ii) Probation with imprisonment in the county jail for not  
16 less than 30 days or more than 1 year AND COMMUNITY SERVICE FOR  
17 NOT LESS THAN 60 DAYS OR MORE THAN 180 DAYS. Not less than 48  
18 hours of the imprisonment imposed under this subparagraph shall  
19 be served consecutively.

20 (D) ~~(e) The~~ A term of imprisonment imposed under subdivi-  
21 sion ~~(d)~~ (B)(ii) OR (C) shall not be suspended.

22 (E) IN THE JUDGMENT OF SENTENCE UNDER SUBDIVISION (A), THE  
23 COURT MAY ORDER VEHICLE IMMOBILIZATION AS PROVIDED IN  
24 SECTION 904D. IN THE JUDGMENT OF SENTENCE UNDER SUBDIVISION (B)  
25 OR (C), THE COURT SHALL, UNLESS THE VEHICLE IS ORDERED FORFEITED  
26 UNDER SECTION 625N, ORDER VEHICLE IMMOBILIZATION AS PROVIDED IN  
27 SECTION 904D.

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1 (f) ~~The~~ IN THE judgment of sentence under ~~this~~  
2 ~~subsection~~ SUBDIVISION (B) OR (C), THE COURT may impose the  
3 sanction permitted under section 625n.

4 ~~(g) As used in this subsection, "prior conviction" means a~~  
5 ~~conviction for a violation or attempted violation of subsection~~  
6 ~~(1), (4), or (5) or former section 625(1) or (2), a local ordi-~~  
7 ~~nance substantially corresponding to subsection (1) or former~~  
8 ~~section 625(1) or (2), or a law of another state substantially~~  
9 ~~corresponding to subsection (1), (4), or (5) or former section~~  
10 ~~625(1) or (2).~~

11 (9) ~~(8)~~ A person who is convicted of violating subsection  
12 (2) is guilty of a CRIME AS FOLLOWS:

13 (A) EXCEPT AS PROVIDED IN SUBDIVISIONS (B) AND (C), A misde-  
14 meanor punishable by imprisonment for not more than ~~90~~ 93 days  
15 or a fine of not less than \$100.00 or more than \$500.00, or  
16 both.

17 (B) IF THE PERSON OPERATING THE MOTOR VEHICLE VIOLATED SUB-  
18 SECTION (4), A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE  
19 THAN 5 YEARS OR A FINE OF NOT LESS THAN \$1,500.00 OR MORE THAN  
20 \$10,000.00, OR BOTH.

21 (C) IF THE PERSON OPERATING THE MOTOR VEHICLE VIOLATED SUB-  
22 SECTION (5), A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE  
23 THAN 2 YEARS OR A FINE OF NOT LESS THAN \$1,000.00 OR MORE THAN  
24 \$5,000.00, OR BOTH.

25 (10) ~~(9)~~ If a person is convicted of violating subsection  
26 (3), all of the following apply:

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

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

5 (ii) Imprisonment for not more than ~~90~~ 93 days.

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

7 (b) If the violation occurs within 7 years of 1 prior con-  
8 viction, the person shall be sentenced to pay a fine of not less  
9 than \$200.00 or more than \$1,000.00, and ~~either~~ 1 OR MORE of  
10 the following:

11 ~~(i) Community service for not less than 10 days or more~~  
12 ~~than 90 days and may be sentenced to imprisonment for not more~~  
13 ~~than 1 year.~~

14 (i) ~~(ii)~~ Imprisonment for not LESS THAN 5 DAYS OR more  
15 than 1 year. ~~and may be sentenced to community~~ NOT LESS THAN 48  
16 HOURS OF THE TERM OF IMPRISONMENT IMPOSED UNDER THIS SUBPARAGRAPH  
17 SHALL BE SERVED CONSECUTIVELY.

18 (ii) COMMUNITY service for not LESS THAN 30 DAYS OR more  
19 than 90 days.

20 (c) If the violation occurs within 10 years of 2 or more  
21 prior convictions, the person IS GUILTY OF A FELONY AND shall be  
22 sentenced to pay a fine of not less than ~~-\$200.00-~~ \$500.00 or  
23 more than ~~-\$1,000.00,~~ \$5,000.00 and either of the following:

24 (i) ~~Community service for not less than 10 days or more~~  
25 ~~than 90 days and may be sentenced to imprisonment~~ IMPRISONMENT  
26 UNDER THE JURISDICTION OF THE DEPARTMENT OF CORRECTIONS for not  
27 ~~more~~ LESS than 1 year OR MORE THAN 5 YEARS.

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1       (ii) ~~Imprisonment~~ PROBATION WITH IMPRISONMENT IN THE  
2 COUNTY JAIL for not LESS THAN 30 DAYS OR more than 1 year and  
3 ~~may be sentenced to community service for not more than 90 days~~  
4 COMMUNITY SERVICE FOR NOT LESS THAN 60 DAYS OR MORE THAN 180  
5 DAYS. NOT LESS THAN 48 HOURS OF THE IMPRISONMENT IMPOSED UNDER  
6 THIS SUBPARAGRAPH SHALL BE SERVED CONSECUTIVELY.

7       (D) A TERM OF IMPRISONMENT IMPOSED UNDER SUBDIVISION (B) OR  
8 (C) SHALL NOT BE SUSPENDED.

9       (E) IN THE JUDGMENT OF SENTENCE UNDER SUBDIVISION (A), THE  
10 COURT MAY ORDER VEHICLE IMMOBILIZATION AS PROVIDED IN  
11 SECTION 904D. IN THE JUDGMENT OF SENTENCE UNDER SUBDIVISION (B)  
12 OR (C), THE COURT SHALL, UNLESS THE VEHICLE IS ORDERED FORFEITED  
13 UNDER SECTION 625N, ORDER VEHICLE IMMOBILIZATION AS PROVIDED IN  
14 SECTION 904D.

15       (F) ~~(d) The~~ IN THE judgment of sentence under subdivision  
16 (b) or (c), THE COURT may impose the sanction permitted under  
17 section 625n.

18       ~~(e) As used in this subsection, "prior conviction" means a~~  
19 ~~conviction for a violation or attempted violation of subsection~~  
20 ~~(1), (3), (4), or (5), former section 625(1) or (2), or former~~  
21 ~~section 625b, a local ordinance substantially corresponding to~~  
22 ~~subsection (1) or (3), former section 625(1) or (2), or former~~  
23 ~~section 625b, or a law of another state substantially correspond-~~  
24 ~~ing to subsection (1), (3), (4), or (5), former section 625(1) or~~  
25 ~~(2), or former section 625b.~~

26       (11) ~~(10)~~ If a person is convicted of violating  
27 subsection (6), all of the following apply:

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

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

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

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

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

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

11 (iii) IMPRISONMENT FOR NOT MORE THAN 93 DAYS.

12 ~~(c) As used in this subsection, "prior conviction" means a~~  
13 ~~conviction for a violation or attempted violation of subsection~~  
14 ~~(1), (3), (4), (5), or (6), former section 625(1) or (2), or~~  
15 ~~former section 625b, a local ordinance substantially correspond-~~  
16 ~~ing to subsection (1), (3), or (6), former section 625(1) or (2),~~  
17 ~~or former section 625b, or a law of another state substantially~~  
18 ~~corresponding to subsection (1), (3), (4), (5), or (6), former~~  
19 ~~section 625(1) or (2), or former section 625b.~~

20 (12) ~~(11)~~ In addition to imposing the sanctions prescribed  
21 under ~~subsection (4), (5), (7), (9), or (10)~~ THIS SECTION, the  
22 court may order the person to pay the costs of the prosecution  
23 under the code of criminal procedure, ~~Act No. 175 of the Public~~  
24 ~~Acts of 1927, being sections 760.1 to 776.22 of the Michigan~~  
25 ~~Compiled Laws~~ 1927 PA 175, MCL 760.1 TO 776.22.

26 ~~(12) The court shall impose licensing sanctions pursuant to~~  
27 ~~section 625b.~~

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

6 (14) If the prosecuting attorney intends to seek an enhanced  
7 sentence under ~~subsection (7)(b) or (d), subsection (9)(b) or~~  
8 ~~(c), or subsection (10)(b)~~ THIS SECTION OR A SANCTION UNDER SEC-  
9 TION 625N OR 904D based upon the defendant having 1 or more prior  
10 convictions, the prosecuting attorney shall include on the com-  
11 plaint and information, or an amended complaint and information,  
12 filed in district court, circuit court, ~~recorder's court,~~  
13 municipal court, or ~~probate~~ FAMILY DIVISION OF CIRCUIT court, a  
14 statement listing the defendant's prior convictions.

15 (15) If a person is charged with a violation of subsection  
16 (1), ~~or~~ (3), (4), (5), OR (7) OR SECTION 625M, the court shall  
17 not permit the defendant to enter a plea of guilty or nolo con-  
18 tendere to a charge of violating subsection (6) in exchange for  
19 dismissal of the original charge. This subsection does not pro-  
20 hibit the court from dismissing the charge upon the prosecuting  
21 attorney's motion.

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

24 (a) An abstract of conviction.

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

26 (c) An admission by the defendant.

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1       ~~(17) A person who is convicted of an attempted violation of~~  
2 ~~subsection (1), (3), (4), (5), or (6) or a local ordinance~~  
3 ~~substantially corresponding to subsection (1), (3), or (6) shall~~  
4 ~~be punished as if the offense had been completed.~~

5       ~~(18) When assessing points and taking licensing action under~~  
6 ~~this act, the secretary of state and the court shall treat a con-~~  
7 ~~viction of an attempted violation of subsection (1), (3), (4),~~  
8 ~~(5), or (6) or a local ordinance substantially corresponding to~~  
9 ~~subsection (1), (3), or (6) or a law of another state substan-~~  
10 ~~tially corresponding to subsection (1), (3), (4), (5), or (6) the~~  
11 ~~same as if the offense had been completed.~~

12       (17) ~~(19)~~ Except as otherwise provided in subsection  
13 ~~(21)~~ (19), if a person is charged with operating a vehicle  
14 while under the influence of a controlled substance or a combina-  
15 tion of intoxicating liquor and a controlled substance in viola-  
16 tion of subsection (1) or a local ordinance substantially corre-  
17 sponding to subsection (1), the court shall require the jury to  
18 return a special verdict in the form of a written finding or, if  
19 the court convicts the person without a jury or accepts a plea of  
20 guilty or nolo contendere, the court shall make a finding as to  
21 whether the person was under the influence of a controlled sub-  
22 stance or a combination of intoxicating liquor and a controlled  
23 substance at the time of the violation.

24       (18) ~~(20)~~ Except as otherwise provided in subsection  
25 ~~(21)~~ (19), if a person is charged with operating a vehicle  
26 while his or her ability to operate the vehicle was visibly  
27 impaired due to his or her consumption of a controlled substance

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

11 (19) ~~(21)~~ A special verdict described in subsections (17)  
12 AND (18) ~~and (20)~~ is not required if a jury is instructed to  
13 make a finding solely as to either of the following:

14 (a) Whether the defendant was under the influence of a con-  
15 trolled substance or a combination of intoxicating liquor and a  
16 controlled substance at the time of the violation.

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

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



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

2 (b) On a form or forms prescribed by the state court  
3 administrator, forward to the department of state police a record  
4 that specifies the penalties imposed by the court, including any  
5 term of imprisonment, ~~any licensing sanction imposed under~~  
6 ~~section 625b,~~ and any sanction imposed under section 625n OR  
7 904D.

8 (21) ~~(23)~~ Except as otherwise provided by law, a record  
9 described in subsection ~~(22)(b)~~ (20)(B) is a public record and  
10 the department of state police shall retain the information con-  
11 tained on that record for not less than 7 years.

12 (22) ~~(24)~~ In a prosecution for a violation of subsection  
13 (6), the defendant bears the burden of proving that the consump-  
14 tion of intoxicating liquor was a part of a generally recognized  
15 religious service or ceremony by a preponderance of the  
16 evidence.

17 (23) SUBJECT TO SUBSECTION (25), AS USED IN THIS SECTION,  
18 "PRIOR CONVICTION" MEANS A CONVICTION FOR ANY OF THE FOLLOWING,  
19 WHETHER UNDER A LAW OF THIS STATE, A LOCAL ORDINANCE SUBSTAN-  
20 TIALY CORRESPONDING TO A LAW OF THIS STATE, OR A LAW OF ANOTHER  
21 STATE SUBSTANTIALLY CORRESPONDING TO A LAW OF THIS STATE:

22 (A) EXCEPT AS PROVIDED IN SUBSECTION (24), A VIOLATION OR  
23 ATTEMPTED VIOLATION OF SUBSECTION (1), (3), (4), (5), (6), OR  
24 (7), SECTION 625M, FORMER SECTION 625(1) OR (2), OR FORMER SEC-  
25 TION 625B.

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1 (B) NEGLIGENT HOMICIDE, MANSLAUGHTER, OR MURDER RESULTING  
2 FROM THE OPERATION OF A VEHICLE OR AN ATTEMPT TO COMMIT ANY OF  
3 THOSE CRIMES.

4 (24) EXCEPT FOR PURPOSES OF THE ENHANCEMENT DESCRIBED IN  
5 SUBSECTION (11)(B), ONLY 1 VIOLATION OR ATTEMPTED VIOLATION OF  
6 SUBSECTION (6), A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO  
7 SUBSECTION (6), OR A LAW OF ANOTHER STATE SUBSTANTIALLY CORRE-  
8 SPONDING TO SUBSECTION (6) MAY BE USED AS A PRIOR CONVICTION.

9 (25) IF 2 OR MORE CONVICTIONS DESCRIBED IN SUBSECTION (23)  
10 ARE CONVICTIONS FOR VIOLATIONS ARISING OUT OF THE SAME TRANSAC-  
11 TION, ONLY 1 CONVICTION SHALL BE USED TO DETERMINE WHETHER THE  
12 PERSON HAS A PRIOR CONVICTION.

13 Sec. 625c. (1) A person who operates a vehicle upon a  
14 public highway or other place open to the general public or gen-  
15 erally accessible to motor vehicles, including an area designated  
16 for the parking of vehicles, within this state is considered to  
17 have given consent to chemical tests of his or her blood, breath,  
18 or urine for the purpose of determining the amount of alcohol or  
19 presence of a controlled substance or both in his or her blood or  
20 urine or the amount of alcohol in his or her breath in all of the  
21 following circumstances:

22 (a) If the person is arrested for a violation of section  
23 625(1), (3), (4), (5), ~~or~~ (6), OR (7), section 625a(5), or sec-  
24 tion 625m ~~—~~ or a local ordinance substantially corresponding to  
25 section 625(1), (3), or (6), section 625a(5), or section 625m.

26 (b) If the person is arrested for felonious driving,  
27 negligent homicide, manslaughter, or murder resulting from the

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1 operation of a motor vehicle, and the peace officer had  
2 reasonable grounds to believe the person was operating the vehi-  
3 cle while impaired by or under the influence of intoxicating  
4 liquor or a controlled substance or a combination of intoxicating  
5 liquor and a controlled substance, or while having an alcohol  
6 content of 0.10 grams or more per 100 milliliters of blood, per  
7 210 liters of breath, or per 67 milliliters of urine, or if the  
8 person is less than 21 years of age while having any bodily alco-  
9 hol content. As used in this subdivision, "any bodily alcohol  
10 content" means either of the following:

11       (i) An alcohol content of not less than 0.02 grams or more  
12 than 0.07 grams per 100 milliliters of blood, per 210 liters of  
13 breath, or per 67 milliliters of urine.

14       (ii) Any presence of alcohol within a person's body result-  
15 ing from the consumption of intoxicating liquor, other than con-  
16 sumption of intoxicating liquor as part of a generally recognized  
17 religious service or ceremony.

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

22       (3) The tests shall be administered as provided in section  
23 625a(6).

24       Enacting section 1. This amendatory act takes effect  
25 October 1, 1999.

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1 Enacting section 2. This amendatory act does not take  
2 effect unless all of the following bills of the 89th Legislature  
3 are enacted into law:

- 4 (a) Senate Bill No. 268.
- 5 (b) Senate Bill No. 269.
- 6 (c) Senate Bill No. 625.
- 7 (d) Senate Bill No. 627.
- 8 (e) Senate Bill No. 869.
- 9 (f) Senate Bill No. 953.
- 10 (g) House Bill No. 4210.
- 11 (h) House Bill No. 4576.
- 12 (i) House Bill No. 4959.
- 13 (j) House Bill No. 4960.
- 14 (k) House Bill No. 4961.
- 15 (l) House Bill No. 5122.
- 16 (m) House Bill No. 5123.
- 17 (n) House Bill No. 5951.
- 18 (o) House Bill No. 5952.
- 19 (p) House Bill No. 5953.
- 20 (q) House Bill No. 5954.
- 21 (r) House Bill No. 5955.
- 22 (s) House Bill No. 5956.