

**SUBSTITUTE FOR
HOUSE BILL NO. 4093**

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 625, 625a, 625g, and 625m (MCL 257.625,
257.625a, 257.625g, and 257.625m), section 625 as amended by 2012
PA 543, sections 625a and 625g as amended by 2003 PA 61, and
section 625m as amended by 2008 PA 463.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

1 controlled substance, or other intoxicating substance or a
2 combination of alcoholic liquor, a controlled substance, or other
3 intoxicating substance.

4 (b) The person has an alcohol content of 0.08 grams or more
5 per 100 milliliters of blood, per 210 liters of breath, or per 67
6 milliliters of urine, or, beginning October 1, ~~2013~~, **2018**, the
7 person has an alcohol content of 0.10 grams or more per 100
8 milliliters of blood, per 210 liters of breath, or per 67
9 milliliters of urine.

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

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

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

23 (b) The person has an alcohol content of 0.08 grams or more
24 per 100 milliliters of blood, per 210 liters of breath, or per 67
25 milliliters of urine or, beginning October 1, ~~2013~~, **2018**, the
26 person has an alcohol content of 0.10 grams or more per 100
27 milliliters of blood, per 210 liters of breath, or per 67

1 milliliters of urine.

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

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

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

21 (a) Except as provided in subdivision (b), the person is
22 guilty of a felony punishable by imprisonment for not more than 15
23 years or a fine of not less than \$2,500.00 or more than \$10,000.00,
24 or both. The judgment of sentence may impose the sanction permitted
25 under section 625n. If the vehicle is not ordered forfeited under
26 section 625n, the court shall order vehicle immobilization under
27 section 904d in the judgment of sentence.

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

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

23 (6) A person who is less than 21 years of age, whether
24 licensed or not, shall not operate a vehicle upon a highway or
25 other place open to the general public or generally accessible to
26 motor vehicles, including an area designated for the parking of
27 vehicles, within this state if the person has any bodily alcohol

1 content. As used in this subsection, "any bodily alcohol content"
2 means either of the following:

3 (a) An alcohol content of 0.02 grams or more but less than
4 0.08 grams per 100 milliliters of blood, per 210 liters of breath,
5 or per 67 milliliters of urine, or, beginning October 1, ~~2013,~~
6 **2018**, the person has an alcohol content of 0.02 grams or more but
7 less than 0.10 grams per 100 milliliters of blood, per 210 liters
8 of breath, or per 67 milliliters of urine.

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

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

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

20 (i) Except as provided in subparagraph (ii), a person who
21 violates this subdivision is guilty of a misdemeanor and shall be
22 sentenced to pay a fine of not less than \$200.00 or more than
23 \$1,000.00 and to 1 or more of the following:

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

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

1 90 days.

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

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

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

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

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

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

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

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

25 (ii) If the violation occurs within 7 years of a prior
26 conviction or after 2 or more prior convictions, regardless of the
27 number of years that have elapsed since any prior conviction, a

1 person who violates this subdivision shall be sentenced to pay a
2 fine of not less than \$200.00 or more than \$1,000.00 and to 1 or
3 more of the following:

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

7 (B) Community service for not less than 30 days or more than
8 90 days.

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

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

23 (8) A person, whether licensed or not, shall not operate a
24 vehicle upon a highway or other place open to the general public or
25 generally accessible to motor vehicles, including an area
26 designated for the parking of vehicles, within this state if the
27 person has in his or her body any amount of a controlled substance

1 listed in schedule 1 under section 7212 of the public health code,
2 1978 PA 368, MCL 333.7212, or a rule promulgated under that
3 section, or of a controlled substance described in section
4 7214(a)(iv) of the public health code, 1978 PA 368, MCL 333.7214.

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

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

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

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

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

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

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

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

25 (c) If the violation occurs after 2 or more prior convictions,
26 regardless of the number of years that have elapsed since any prior
27 conviction, the person is guilty of a felony and shall be sentenced

1 to pay a fine of not less than \$500.00 or more than \$5,000.00 and
2 to either of the following:

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

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

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

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

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

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

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

24 (b) If the person operating the motor vehicle violated
25 subsection (4), a felony punishable by imprisonment for not more
26 than 5 years or a fine of not less than \$1,500.00 or more than
27 \$10,000.00, or both.

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (d) 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 section 904d.
11 In the judgment of sentence under subdivision (b) or (c), the court
12 shall, unless the vehicle is ordered forfeited under section 625n,
13 order vehicle immobilization as provided in section 904d.

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

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

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

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

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

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

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

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

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

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

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

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

19 (16) If a person is charged with a violation of subsection
20 (1), (3), (4), (5), (7), or (8) or section 625m, the court shall
21 not permit the defendant to enter a plea of guilty or nolo
22 contendere to a charge of violating subsection (6) in exchange for
23 dismissal of the original charge. This subsection does not prohibit
24 the court from dismissing the charge upon the prosecuting
25 attorney's motion.

26 (17) A prior conviction shall be established at sentencing by
27 1 or more of the following:

1 (a) A copy of a judgment of conviction.

2 (b) An abstract of conviction.

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

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

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

7 (f) Information contained in a presentence report.

8 (g) An admission by the defendant.

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

22 (19) Except as otherwise provided in subsection (20), if a
23 person is charged with operating a vehicle while his or her ability
24 to operate the vehicle was visibly impaired due to his or her
25 consumption of a controlled substance or other intoxicating
26 substance or a combination of alcoholic liquor, a controlled
27 substance, or other intoxicating substance in violation of

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

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

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

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

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

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

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

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

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

20 (25) As used in this section:

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

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

26 (A) The official United States pharmacopoeia.

27 (B) The official homeopathic pharmacopoeia of the United

1 States.

2 (C) The official national formulary.

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

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

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

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

22 (B) Section 625m.

23 (C) Former section 625b.

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

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

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

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

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

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

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

23 (2) A peace officer who has reasonable cause to believe that a
24 person was operating a vehicle upon a public highway or other place
25 open to the public or generally accessible to motor vehicles,
26 including an area designated for the parking of vehicles, within
27 this state and that the person by the consumption of alcoholic

1 liquor may have affected his or her ability to operate a vehicle,
2 or reasonable cause to believe that a person was operating a
3 commercial motor vehicle within the state while the person's blood,
4 breath, or urine contained any measurable amount of alcohol or
5 while the person had any detectable presence of alcoholic liquor,
6 or reasonable cause to believe that a person who is less than 21
7 years of age was operating a vehicle upon a public highway or other
8 place open to the public or generally accessible to motor vehicles,
9 including an area designated for the parking of vehicles, within
10 this state while the person had any bodily alcohol content as that
11 term is defined in section 625(6), may require the person to submit
12 to a preliminary chemical breath analysis. The following provisions
13 apply with respect to a preliminary chemical breath analysis
14 administered under this subsection:

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

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

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

25 (ii) As evidence of the defendant's breath alcohol content, if
26 offered by the defendant to rebut testimony elicited on cross-
27 examination of a defense witness that the defendant's breath

1 alcohol content was higher at the time of the charged offense than
2 when a chemical test was administered under subsection (6).

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

8 (c) A person who submits to a preliminary chemical breath
9 analysis remains subject to the requirements of sections 625c,
10 625d, 625e, and 625f for purposes of chemical tests described in
11 those sections.

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

15 (3) A peace officer shall use the results of a preliminary
16 chemical breath analysis conducted pursuant to this section to
17 determine whether to order a person out-of-service under section
18 319d. A peace officer shall order out-of-service as required under
19 section 319d a person who was operating a commercial motor vehicle
20 and who refuses to submit to a preliminary chemical breath analysis
21 as provided in this section. This section does not limit use of
22 other competent evidence by the peace officer to determine whether
23 to order a person out-of-service under section 319d.

24 (4) A person who was operating a commercial motor vehicle and
25 who is requested to submit to a preliminary chemical breath
26 analysis under this section shall be advised that refusing a peace
27 officer's request to take a test described in this section is a

1 misdemeanor punishable by imprisonment for not more than 93 days or
2 a fine of not more than \$100.00, or both, and will result in the
3 issuance of a 24-hour out-of-service order.

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

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

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

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

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

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

1 or guilt.

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

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

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

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

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

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

1 (f) If, after an accident, the driver of a vehicle involved in
2 the accident is deceased, a sample of the decedent's blood shall be
3 withdrawn in a manner directed by the medical examiner to determine
4 the amount of alcohol or the presence of a controlled substance, or
5 both, in the decedent's blood. The medical examiner shall give the
6 results of the chemical analysis of the sample to the law
7 enforcement agency investigating the accident and that agency shall
8 forward the results to the department of state police.

9 (g) The department of state police shall promulgate uniform
10 rules in compliance with the administrative procedures act of 1969,
11 1969 PA 306, MCL 24.201 to 24.328, for the administration of
12 chemical tests for the purposes of this section. An instrument used
13 for a preliminary chemical breath analysis may be used for a
14 chemical test described in this subsection if approved under rules
15 promulgated by the department of state police.

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

19 (a) Whether the person was impaired by, or under the influence
20 of, alcoholic liquor, a controlled substance, or a combination of
21 alcoholic liquor and a controlled substance.

22 (b) Whether the person had an alcohol content of 0.08 grams or
23 more per 100 milliliters of blood, per 210 liters of breath, or per
24 67 milliliters of urine or, beginning October 1, ~~2013~~, **2018**, the
25 person had an alcohol content of 0.10 grams or more per 100
26 milliliters of blood, per 210 liters of breath, or per 67
27 milliliters of urine.

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

5 (i) An alcohol content of 0.02 grams or more but less than 0.08
6 grams per 100 milliliters of blood, per 210 liters of breath, or
7 per 67 milliliters of urine or, beginning October 1, ~~2013~~, **2018**,
8 the person had an alcohol content of 0.02 grams or more but less
9 than 0.10 grams or more per 100 milliliters of blood, per 210
10 liters of breath, or per 67 milliliters of urine.

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

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

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

1 accordingly.

2 Sec. 625g. (1) If a person refuses a chemical test offered
3 ~~pursuant to~~**UNDER** section 625a(6), or submits to the chemical test
4 or a chemical test is performed ~~pursuant to~~**UNDER** a court order and
5 the test reveals an unlawful alcohol content, the peace officer who
6 requested the person to submit to the test shall do all of the
7 following:

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

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

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

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

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

23 (2) If a person submits to a chemical test offered ~~pursuant to~~
24 **UNDER** section 625a(6) that requires an analysis of blood or urine
25 and a report of the results of that chemical test is not
26 immediately available, the peace officer who requested the person
27 to submit to the test shall comply with subsection (1)(a) pending

1 receipt of the test report. If the report reveals an unlawful
2 alcohol content, the peace officer who requested the person to
3 submit to the test shall immediately comply with subsection (1)(b).
4 If the report does not reveal an unlawful alcohol content, the
5 peace officer who requested the person to submit to the test shall
6 immediately notify the person of the test results and immediately
7 return the person's license or permit by first-class mail to the
8 address given at the time of arrest.

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

11 (a) If the case is not prosecuted, for 90 days after issuance
12 or until the person's license or permit is suspended ~~pursuant to~~
13 **UNDER** section 625f, whichever occurs earlier. The prosecuting
14 attorney shall notify the secretary of state if a case referred to
15 the prosecuting attorney is not prosecuted. The arresting law
16 enforcement agency shall notify the secretary of state if a case is
17 not referred to the prosecuting attorney for prosecution.

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

22 (4) As used in this section, "unlawful alcohol content" means
23 any of the following, as applicable:

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

27 (b) If the person tested was operating a commercial motor

1 vehicle within this state, 0.04 grams or more of alcohol per 100
2 milliliters of blood, per 210 liters of breath, or per 67
3 milliliters of urine.

4 (c) If the person tested is not a person described in
5 subdivision (a) or (b), 0.08 grams or more of alcohol per 100
6 milliliters of blood, per 210 liters of breath, or per 67
7 milliliters of urine, or, beginning October 1, ~~2013~~, **2018**, 0.10
8 grams or more of alcohol per 100 milliliters of blood, per 210
9 liters of breath, or per 67 milliliters of urine.

10 Sec. 625m. (1) A person, whether licensed or not, who has an
11 alcohol content of 0.04 grams or more but less than 0.08 grams per
12 100 milliliters of blood, per 210 liters of breath, or per 67
13 milliliters of urine, or, beginning October 1, ~~2013~~, **2018**, an
14 alcohol content of 0.04 grams or more but less than 0.10 grams per
15 100 milliliters of blood, per 210 liters of breath, or per 67
16 milliliters of urine, shall not operate a commercial motor vehicle
17 within this state.

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

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

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

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

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

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

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

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

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

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

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

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

8 (i) This section.

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

16 (iii) Former section 625b.

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

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

21 (8) Only 1 violation or attempted violation of section 625(6),
22 a local ordinance substantially corresponding to section 625(6), or
23 a law of another state substantially corresponding to section
24 625(6) may be used as a prior conviction.

25 (9) If 2 or more convictions described in subsection (7) are
26 convictions for violations arising out of the same transaction,
27 only 1 conviction shall be used to determine whether the person has

1 a prior conviction.

2 Enacting section 1. This amendatory act does not take effect
3 unless House Bill No. 4131 of the 97th Legislature is enacted into
4 law.