

**SUBSTITUTE FOR
HOUSE BILL NO. 4548**

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 2014
PA 219, section 625a as amended by 2015 PA 11, section 625g as
amended by 2014 PA 315, and section 625m as amended by 2013 PA 23.

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,

1 "operating while intoxicated" means any of the following:

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

6 (b) The person has an alcohol content of 0.08 grams or more
7 per 100 milliliters of blood, per 210 liters of breath, or per 67
8 milliliters of urine ~~or~~, beginning October 1, ~~2018~~, **2023**, the
9 person has an alcohol content of 0.10 grams or more per 100
10 milliliters of blood, per 210 liters of breath, or per 67
11 milliliters of urine.

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

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

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

25 (b) The person has an alcohol content of 0.08 grams or more
26 per 100 milliliters of blood, per 210 liters of breath, or per 67
27 milliliters of urine or, beginning October 1, ~~2018~~, **2023**, the

1 person has an alcohol content of 0.10 grams or more per 100
2 milliliters of blood, per 210 liters of breath, or per 67
3 milliliters of urine.

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

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

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

23 (a) Except as provided in subdivisions (b) and (c), the person
24 is guilty of a felony punishable by imprisonment for not more than
25 15 years or a fine of not less than \$2,500.00 or more than
26 \$10,000.00, or both. The judgment of sentence may impose the
27 sanction permitted under section 625n. If the vehicle is not

1 ordered forfeited under section 625n, the court shall order vehicle
2 immobilization under section 904d in the judgment of sentence.

3 (b) If the violation occurs while the person has an alcohol
4 content of 0.17 grams or more per 100 milliliters of blood, per 210
5 liters of breath, or per 67 milliliters of urine, and within 7
6 years of a prior conviction, the person is guilty of a felony
7 punishable by imprisonment for not more than 20 years or a fine of
8 not less than \$2,500.00 or more than \$10,000.00, or both. The
9 judgment of sentence may impose the sanction permitted under
10 section 625n. If the vehicle is not ordered forfeited under section
11 625n, the court shall order vehicle immobilization under section
12 904d in the judgment of sentence.

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

25 (5) A person, whether licensed or not, who operates a motor
26 vehicle in violation of subsection (1), (3), or (8) and by the
27 operation of that motor vehicle causes a serious impairment of a

1 body function of another person is guilty of a crime as follows:

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

9 (b) If the violation occurs while the person has an alcohol
10 content of 0.17 grams or more per 100 milliliters of blood, per 210
11 liters of breath, or per 67 milliliters of urine, and within 7
12 years of a prior conviction, the person is guilty of a felony
13 punishable by imprisonment for not more than 10 years or a fine of
14 not less than \$1,000.00 or more than \$5,000.00, or both. The
15 judgment of sentence may impose the sanction permitted under
16 section 625n. If the vehicle is not ordered forfeited under section
17 625n, the court shall order vehicle immobilization under section
18 904d in the judgment of sentence.

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

26 (a) An alcohol content of 0.02 grams or more but less than
27 0.08 grams per 100 milliliters of blood, per 210 liters of breath,

1 or per 67 milliliters of urine ~~or~~, beginning October 1, ~~2018,~~
2 **2023**, the person has an alcohol content of 0.02 grams or more but
3 less than 0.10 grams per 100 milliliters of blood, per 210 liters
4 of breath, or per 67 milliliters of urine.

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

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

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

16 (i) Except as provided in subparagraph (ii), a person who
17 violates this subdivision is guilty of a misdemeanor and shall be
18 sentenced to pay a fine of not less than \$200.00 or more than
19 \$1,000.00 and to 1 or more of the following:

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

23 (B) Community service for not less than 30 days or more than
24 90 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 is guilty of a felony and
2 shall be sentenced to pay a fine of not less than \$500.00 or more
3 than \$5,000.00 and to either of the following:

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

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

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

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

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

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

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

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

27 (A) Imprisonment for not less than 5 days or more than 1 year.

1 Not less than 48 hours of this imprisonment shall be served
2 consecutively. This term of imprisonment shall not be suspended.

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

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

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

19 (8) A person, whether licensed or not, shall not operate a
20 vehicle upon a highway or other place open to the general public or
21 generally accessible to motor vehicles, including an area
22 designated for the parking of vehicles, within this state if the
23 person has in his or her body any amount of a controlled substance
24 listed in schedule 1 under section 7212 of the public health code,
25 1978 PA 368, MCL 333.7212, or a rule promulgated under that
26 section, or of a controlled substance described in section
27 7214(a) (iv) of the public health code, 1978 PA 368, MCL 333.7214.

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

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

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

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

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

13 (b) If the violation occurs within 7 years of a 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 following:

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

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

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

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

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

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

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

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

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

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

20 (b) If the person operating the motor vehicle violated
21 subsection (4), a felony punishable by imprisonment for not more
22 than 5 years or a fine of not less than \$1,500.00 or more than
23 \$10,000.00, or both.

24 (c) If the person operating the motor vehicle violated
25 subsection (5), a felony punishable by imprisonment for not more
26 than 2 years or a fine of not less than \$1,000.00 or more than
27 \$5,000.00, or both.

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

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

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

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

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

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

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

16 (ii) Community service for not less than 30 days or more than
17 90 days.

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

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

25 (ii) Probation with imprisonment in the county jail for not
26 less than 30 days or more than 1 year and community service for not
27 less than 60 days or more than 180 days. Not less than 48 hours of

1 the imprisonment imposed under this subparagraph shall be served
2 consecutively.

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

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

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

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

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

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

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

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

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

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

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

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

1 MCL 760.1 to 777.69.

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

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

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

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

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

25 (b) An abstract of conviction.

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

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

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

3 (f) Information contained in a presentence report.

4 (g) An admission by the defendant.

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

18 (19) Except as otherwise provided in subsection (20), if a
19 person is charged with operating a vehicle while his or her ability
20 to operate the vehicle was visibly impaired due to his or her
21 consumption of a controlled substance or other intoxicating
22 substance or a combination of alcoholic liquor, a controlled
23 substance, or other intoxicating substance in violation of
24 subsection (3) or a local ordinance substantially corresponding to
25 subsection (3), the court shall require the jury to return a
26 special verdict in the form of a written finding or, if the court
27 convicts the person without a jury or accepts a plea of guilty or

1 nolo contendere, the court shall make a finding as to whether, due
2 to the consumption of a controlled substance or a combination of
3 alcoholic liquor, a controlled substance, or other intoxicating
4 substance, the person's ability to operate a motor vehicle was
5 visibly impaired at the time of the violation.

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

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

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

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

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

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

1 or 904d.

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

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

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

16 (25) As used in this section:

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

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

22 (A) The official United States pharmacopoeia.

23 (B) The official homeopathic pharmacopoeia of the United
24 States.

25 (C) The official national formulary.

26 (ii) A substance, other than food, taken into a person's body,
27 including, but not limited to, vapors or fumes, that is used in a

1 manner or for a purpose for which it was not intended, and that may
2 result in a condition of intoxication.

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

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

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

18 (B) Section 625m.

19 (C) Former section 625b.

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

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

24 (26) Except for purposes of the enhancement described in
25 subsection (12)(b), only 1 violation or attempted violation of
26 subsection (6), a local ordinance substantially corresponding to
27 subsection (6), or a law of another state substantially

1 corresponding to subsection (6) may be used as a prior conviction.

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

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

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

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

19 (2) A peace officer who has reasonable cause to believe that a
20 person was operating a vehicle upon a public highway or other place
21 open to the public or generally accessible to motor vehicles,
22 including an area designated for the parking of vehicles, within
23 this state and that the person by the consumption of alcoholic
24 liquor, a controlled substance, or other intoxicating substance or
25 a combination of them may have affected his or her ability to
26 operate a vehicle, or reasonable cause to believe that a person was
27 operating a commercial motor vehicle within the state while the

1 person's blood, breath, or urine contained any measurable amount of
2 alcohol, a controlled substance, or any other intoxicating
3 substance or while the person had any detectable presence of
4 alcoholic liquor, a controlled substance or any other intoxicating
5 substance, or any combination of them, or reasonable cause to
6 believe that a person who is less than 21 years of age was
7 operating a vehicle upon a public highway or other place open to
8 the public or generally accessible to motor vehicles, including an
9 area designated for the parking of vehicles, within this state
10 while the person had any bodily alcohol content as that term is
11 defined in section 625(6), may require the person to submit to a
12 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,
4 if 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 under this section to determine
17 whether to order a person out-of-service under section 319d. A
18 peace officer shall order out-of-service as required under section
19 319d a person who was operating a commercial motor vehicle and who
20 refuses to submit to a preliminary chemical breath analysis as
21 provided in this section. This section does not limit use of other
22 competent evidence by the peace officer to determine whether to
23 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 a preliminary chemical breath analysis:

12 (a) The amount of alcohol or presence of a controlled
13 substance or other intoxicating substance in a driver's blood or
14 urine or the amount of alcohol in a person's breath at the time
15 alleged as shown by chemical analysis of the person's blood, urine,
16 or breath is admissible into evidence in any civil or criminal
17 proceeding and is presumed to be the same as at the time the person
18 operated the 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
3 analysis 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
6 given without a court order, but the peace officer may seek to
7 obtain a 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 other intoxicating substance in the person's blood, as
21 provided in this subsection. Liability for a crime or civil damages
22 predicated on the act of withdrawing or analyzing blood and related
23 procedures does not attach to a licensed physician or individual
24 operating under the delegation of a licensed physician who
25 withdraws or analyzes blood or assists in the withdrawal or
26 analysis in accordance with this act unless the withdrawal or
27 analysis is 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 other intoxicating substance
20 in the person's blood at the time alleged, regardless of whether
21 the person had been offered or had refused a chemical test. The
22 medical facility or person performing the chemical analysis shall
23 disclose the results of the analysis to a prosecuting attorney who
24 requests the results for use in a criminal prosecution as provided
25 in this subdivision. A medical facility or person disclosing
26 information in compliance with this subsection is not civilly or
27 criminally liable for making 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 other intoxicating substance, or any combination of them, in the
6 decedent's blood. The medical examiner shall give the results of
7 the chemical analysis of the sample to the law enforcement agency
8 investigating the accident and that agency shall forward the
9 results to the department of state police.

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

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

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

24 (b) Whether the person had an alcohol content of 0.08 grams or
25 more per 100 milliliters of blood, per 210 liters of breath, or per
26 67 milliliters of urine or, beginning October 1, ~~2018~~, **2023**, the
27 person had an alcohol content of 0.10 grams or more per 100

1 milliliters of blood, per 210 liters of breath, or per 67
2 milliliters of urine.

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

7 (i) An alcohol content of 0.02 grams or more but less than
8 0.08 grams per 100 milliliters of blood, per 210 liters of breath,
9 or per 67 milliliters of urine or, beginning October 1, ~~2018~~, **2023**,
10 the person had an alcohol content of 0.02 grams or more but less
11 than 0.10 grams or more per 100 milliliters of blood, per 210
12 liters of breath, or per 67 milliliters of urine.

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

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

25 (9) A person's refusal to submit to a chemical test as
26 provided in subsection (6) is admissible in a criminal prosecution
27 for a crime described in section 625c(1) only to show that a test

1 was offered to the defendant, but not as evidence in determining
2 the defendant's innocence or guilt. The jury shall be instructed
3 accordingly.

4 (10) As used in this section:

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

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

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

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

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

26 (i) Forward a copy of the written report of the person's
27 refusal to submit to a chemical test required under section 625d to

1 the secretary of state.

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

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

6 (2) If a person submits to a chemical test offered under
7 section 625a(6) that requires an analysis of blood or urine and a
8 report of the results of that chemical test is not immediately
9 available, the peace officer who requested the person to submit to
10 the test shall comply with subsection (1)(a) and (b)(ii) and
11 indicate in the notice under subsection (1)(b)(ii) that a
12 subsequent chemical test is pending. If the report reveals an
13 unlawful alcohol content, or the presence of a controlled substance
14 or other intoxicating substance, or any combination of them, the
15 peace officer who requested the person to submit to the test shall
16 immediately comply with subsection (1)(b)(iii). If the report does
17 not reveal an unlawful alcohol content, or the presence of a
18 controlled substance or other intoxicating substance, or any
19 combination of them, the peace officer who requested the person to
20 submit to the test shall immediately notify the person of the test
21 results and immediately return the person's license or permit by
22 first-class mail to the address provided at the time of arrest.

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

25 (a) If the case is not prosecuted, for 90 days after issuance
26 or until the person's license or permit is suspended under section
27 625f, whichever occurs earlier. The prosecuting attorney shall

1 notify the secretary of state if a case referred to the prosecuting
2 attorney is not prosecuted. The arresting law enforcement agency
3 shall notify the secretary of state if a case is not referred to
4 the prosecuting attorney for prosecution.

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

9 (4) As used in this section:

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

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

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

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

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

23 (iii) If the person tested is not a person described in
24 subparagraph (i) or (ii), 0.08 grams or more of alcohol per 100
25 milliliters of blood, per 210 liters of breath, or per 67
26 milliliters of urine ~~—or, beginning October 1, 2018,~~ **2023**, 0.10
27 grams or more of alcohol per 100 milliliters of blood, per 210

1 liters of breath, or per 67 milliliters of urine.

2 Sec. 625m. (1) A person, whether licensed or not, who has an
3 alcohol content of 0.04 grams or more but less than 0.08 grams per
4 100 milliliters of blood, per 210 liters of breath, or per 67
5 milliliters of urine ~~—or, beginning October 1, 2018,~~**2023**, an
6 alcohol content of 0.04 grams or more but less than 0.10 grams per
7 100 milliliters of blood, per 210 liters of breath, or per 67
8 milliliters of urine, shall not operate a commercial motor vehicle
9 within this state.

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

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

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

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

1 the prosecution.

2 (4) A person who violates this section or a local ordinance
3 substantially corresponding to this section within 7 years of 1
4 prior conviction may be sentenced to imprisonment for not more than
5 1 year or a fine of not more than \$1,000.00, or both.

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

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

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

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

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

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

27 (i) This section.

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

8 (iii) Former section 625b.

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

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

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

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

21 Enacting section 1. This amendatory act takes effect 90 days
22 after the date it is enacted into law.

23 Enacting section 2. This amendatory act does not take effect
24 unless House Bill No. 4547 of the 99th Legislature is enacted into
25 law.