

**SENATE 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,~~**2021**, 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,~~**2021**, 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 2021, 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~~ **MUST**
18 be 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~~ **MUST** be served
22 consecutively. This term of imprisonment ~~shall~~ **MUST** not be
23 suspended.

24 (B) Community service for not less than 30 days or more than
25 90 days.

26 (ii) If the violation occurs within 7 years of a prior
27 conviction or after 2 or more prior convictions, regardless of the

1 number of years that have elapsed since any prior conviction, a
2 person who violates this subdivision is guilty of a felony and
3 ~~shall~~**MUST** be sentenced to pay a fine of not less than \$500.00 or
4 more than \$5,000.00 and to either of the following:

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

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

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

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

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

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

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

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

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

5 (B) Community service for not less than 30 days or more than
6 90 days.

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

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

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

1 section, or of a controlled substance described in section
2 7214(a) (iv) of the public health code, 1978 PA 368, MCL 333.7214.

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

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

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

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

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

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

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

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

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

1 \$5,000.00 and to either of the following:

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

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

9 (d) A term of imprisonment imposed under subdivision (b) or
10 (c) ~~shall~~**MUST** not be suspended.

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

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

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

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

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

27 (c) If the person operating the motor vehicle violated

1 subsection (5), a felony punishable by imprisonment for not more
2 than 2 years or a fine of not less than \$1,000.00 or more than
3 \$5,000.00, or both.

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

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

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

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

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

12 (b) If the violation occurs within 7 years of 1 prior
13 conviction, the person ~~shall~~**MUST** be sentenced to pay a fine of not
14 less than \$200.00 or more than \$1,000.00, and 1 or more of the
15 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~~**MUST** 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~~**MUST** be
24 sentenced to pay a fine of not less than \$500.00 or more than
25 \$5,000.00 and 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~~**MUST** be
5 served consecutively.

6 (d) A term of imprisonment imposed under subdivision (b) or
7 (c) ~~shall~~**MUST** 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 (12) If a person is convicted of violating subsection (6), all
16 of the following apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (b) An abstract of conviction.

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

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

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

6 (f) Information contained in a presentence report.

7 (g) An admission by the defendant.

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

21 (19) Except as otherwise provided in subsection (20), if a
22 person is charged with operating a vehicle while his or her ability
23 to operate the vehicle was visibly impaired due to his or her
24 consumption of a controlled substance or other intoxicating
25 substance or a combination of alcoholic liquor, a controlled
26 substance, or other intoxicating substance in violation of
27 subsection (3) or a local ordinance substantially corresponding to

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

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

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

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

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

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

27 (b) On a form or forms prescribed by the state court

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

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

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

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

19 (25) As used in this section:

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

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

25 (A) The official United States pharmacopoeia.

26 (B) The official homeopathic pharmacopoeia of the United
27 States.

1 (C) The official national formulary.

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

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

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

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

21 (B) Section 625m.

22 (C) Former section 625b.

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

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

27 (26) Except for purposes of the enhancement described in

1 subsection (12) (b), only 1 violation or attempted violation of
2 subsection (6), a local ordinance substantially corresponding to
3 subsection (6), or a law of another state substantially
4 corresponding to subsection (6) may be used as a prior conviction.

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

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

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

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

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

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

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

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

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

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

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

11 (c) A person who submits to a preliminary chemical breath
12 analysis remains subject to the requirements of sections 625c,
13 625d, 625e, and 625f for purposes of chemical tests described in
14 those sections.

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

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

27 (4) A person who was operating a commercial motor vehicle and

1 who is requested to submit to a preliminary chemical breath
2 analysis under this section ~~shall~~**MUST** be advised that refusing a
3 peace officer's request to take a test described in this section is
4 a misdemeanor punishable by imprisonment for not more than 93 days
5 or a fine of not more than \$100.00, or both, and will result in the
6 issuance of a 24-hour out-of-service order.

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

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

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

22 (b) A person arrested for a crime described in section 625c(1)
23 ~~shall~~**MUST** be advised of all of the following:

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

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

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

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

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

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

1 a licensed physician who withdraws or analyzes blood or assists in
2 the withdrawal or analysis in accordance with this act unless the
3 withdrawal or analysis is performed in a negligent manner.

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

17 (e) If, after an accident, the driver of a vehicle involved in
18 the accident is transported to a medical facility and a sample of
19 the driver's blood is withdrawn at that time for medical treatment,
20 the results of a chemical analysis of that sample are admissible in
21 any civil or criminal proceeding to show the amount of alcohol or
22 presence of a controlled substance or other intoxicating substance
23 in the person's blood at the time alleged, regardless of whether
24 the person had been offered or had refused a chemical test. The
25 medical facility or person performing the chemical analysis shall
26 disclose the results of the analysis to a prosecuting attorney who
27 requests the results for use in a criminal prosecution as provided

1 in this subdivision. A medical facility or person disclosing
2 information in compliance with this subsection is not civilly or
3 criminally liable for making the disclosure.

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

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

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

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

27 (b) Whether the person had an alcohol content of 0.08 grams or

1 more per 100 milliliters of blood, per 210 liters of breath, or per
2 67 milliliters of urine or, beginning October 1, ~~2018,~~**2021**, the
3 person had an alcohol content of 0.10 grams or more per 100
4 milliliters of blood, per 210 liters of breath, or per 67
5 milliliters of urine.

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

10 (i) An alcohol content of 0.02 grams or more but less than
11 0.08 grams per 100 milliliters of blood, per 210 liters of breath,
12 or per 67 milliliters of urine or, beginning October 1, ~~2018,~~**2021**,
13 the person had an alcohol content of 0.02 grams or more but less
14 than 0.10 grams or more per 100 milliliters of blood, per 210
15 liters of breath, or per 67 milliliters of urine.

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

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

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

7 (10) As used in this section:

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

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

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

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

27 (b) Except as provided in subsection (2), immediately do all

1 of the following:

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

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

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

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

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

1 (a) If the case is not prosecuted, for 90 days after issuance
2 or until the person's license or permit is suspended under section
3 625f, whichever occurs earlier. The prosecuting attorney shall
4 notify the secretary of state if a case referred to the prosecuting
5 attorney is not prosecuted. The arresting law enforcement agency
6 shall notify the secretary of state if a case is not referred to
7 the prosecuting attorney for prosecution.

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

12 (4) As used in this section:

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

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

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

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

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

26 (iii) If the person tested is not a person described in
27 subparagraph (i) or (ii), 0.08 grams or more of alcohol per 100

1 milliliters of blood, per 210 liters of breath, or per 67
2 milliliters of urine ~~or~~, beginning October 1, ~~2018~~, ~~2021~~, 0.10
3 grams or more of alcohol per 100 milliliters of blood, per 210
4 liters of breath, or per 67 milliliters of urine.

5 Sec. 625m. (1) A person, whether licensed or not, who has an
6 alcohol content of 0.04 grams or more but less than 0.08 grams per
7 100 milliliters of blood, per 210 liters of breath, or per 67
8 milliliters of urine ~~or~~, beginning October 1, ~~2018~~, ~~2021~~, an
9 alcohol content of 0.04 grams or more but less than 0.10 grams per
10 100 milliliters of blood, per 210 liters of breath, or per 67
11 milliliters of urine, shall not operate a commercial motor vehicle
12 within this state.

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

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

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

26 (3) Except as otherwise provided in subsections (4) and (5), a
27 person who is convicted of a violation of this section or a local

1 ordinance substantially corresponding to this section is guilty of
2 a misdemeanor punishable by imprisonment for not more than 93 days
3 or a fine of not more than \$300.00, or both, together with costs of
4 the prosecution.

5 (4) A person who violates this section or a local ordinance
6 substantially corresponding to this section within 7 years of 1
7 prior conviction may be sentenced to imprisonment for not more than
8 1 year or a fine of not more than \$1,000.00, or both.

9 (5) A person who violates this section or a local ordinance
10 substantially corresponding to this section within 10 years of 2 or
11 more prior convictions is guilty of a felony and ~~shall~~**MUST** be
12 sentenced to pay a fine of not less than \$500.00 or more than
13 \$5,000.00 and to either of the following:

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

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

21 (6) A term of imprisonment imposed under subsection (4) or (5)
22 ~~shall~~**MUST** not be suspended.

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

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

3 (i) This section.

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

11 (iii) Former section 625b.

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

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

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

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

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

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

1 law.