

# HOUSE BILL No. 4420

March 21, 2019, Introduced by Reps. Hammoud, Whitsett, Kennedy and Manoogian and referred to the Committee on Judiciary.

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), as amended by 2017 PA 153.

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

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

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

1 intoxicating substance.

2 (b) The person has an alcohol content of 0.08 grams or more  
3 per 100 milliliters of blood, per 210 liters of breath, or per 67  
4 milliliters of urine or, beginning October 1, 2021, the person has  
5 an alcohol content of 0.10 grams or more per 100 milliliters of  
6 blood, per 210 liters of breath, or per 67 milliliters of urine.

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

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

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

20 (b) The person has an alcohol content of 0.08 grams or more  
21 per 100 milliliters of blood, per 210 liters of breath, or per 67  
22 milliliters of urine or, beginning October 1, 2021, the person has  
23 an alcohol content of 0.10 grams or more per 100 milliliters of  
24 blood, per 210 liters of breath, or per 67 milliliters of urine.

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

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

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

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

17 (a) Except as provided in subdivisions (b) and (c), the person  
18 is guilty of a felony punishable by imprisonment for not more than  
19 15 years or a fine of not less than \$2,500.00 or more than  
20 \$10,000.00, or both. The judgment of sentence may impose the  
21 sanction permitted under section 625n. If the vehicle is not  
22 ordered forfeited under section 625n, the court shall order vehicle  
23 immobilization under section 904d in the judgment of sentence.

24 (b) If the violation occurs while the person has an alcohol  
25 content of 0.17 grams or more per 100 milliliters of blood, per 210  
26 liters of breath, or per 67 milliliters of urine, and within 7  
27 years of a prior conviction, the person is guilty of a felony

1 punishable by imprisonment for not more than 20 years or a fine of  
2 not less than \$2,500.00 or more than \$10,000.00, or both. The  
3 judgment of sentence may impose the sanction permitted under  
4 section 625n. If the vehicle is not ordered forfeited under section  
5 625n, the court shall order vehicle immobilization under section  
6 904d in the judgment of sentence.

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

19 (5) 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 a serious impairment of a  
22 body function of another person is guilty of a crime as follows:

23 (a) Except as provided in subdivision (b), the person is  
24 guilty of a felony punishable by imprisonment for not more than 5  
25 years or a fine of not less than \$1,000.00 or more than \$5,000.00,  
26 or both. The judgment of sentence may impose the sanction permitted  
27 under section 625n. If the vehicle is not ordered forfeited under

1 section 625n, the court shall order vehicle immobilization under  
2 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 10 years or a fine of  
8 not less than \$1,000.00 or more than \$5,000.00, 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 (6) A person who is less than 21 years of age, whether  
14 licensed or not, shall not operate a vehicle upon a highway or  
15 other place open to the general public or generally accessible to  
16 motor vehicles, including an area designated for the parking of  
17 vehicles, within this state if the person has any bodily alcohol  
18 content. As used in this subsection, "any bodily alcohol content"  
19 means either of the following:

20 (a) An alcohol content of 0.02 grams or more but less than  
21 ~~0.08~~ 0.05 grams per 100 milliliters of blood, per 210 liters of  
22 breath, or per 67 milliliters of urine or, beginning October 1,  
23 ~~2021~~, 2026, the person has an alcohol content of 0.02 grams or more  
24 but less than 0.10 grams per 100 milliliters of blood, per 210  
25 liters of breath, or per 67 milliliters of urine.

26 (b) Any presence of alcohol within a person's body resulting  
27 from the consumption of alcoholic liquor, other than consumption of

1 alcoholic liquor as a part of a generally recognized religious  
2 service or ceremony.

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

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

10 (i) Except as provided in subparagraph (ii), a person who  
11 violates this subdivision is guilty of a misdemeanor and must be  
12 sentenced to pay a fine of not less than \$200.00 or more than  
13 \$1,000.00 and to 1 or more of the following:

14 (A) Imprisonment for not less than 5 days or more than 1 year.  
15 Not less than 48 hours of this imprisonment must be served  
16 consecutively. This term of imprisonment must not be suspended.

17 (B) Community service for not less than 30 days or more than  
18 90 days.

19 (ii) If the violation occurs within 7 years of a prior  
20 conviction or after 2 or more prior convictions, regardless of the  
21 number of years that have elapsed since any prior conviction, a  
22 person who violates this subdivision is guilty of a felony and must  
23 be sentenced to pay a fine of not less than \$500.00 or more than  
24 \$5,000.00 and to either of the following:

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

27 (B) Probation with imprisonment in the county jail for not

1 less than 30 days or more than 1 year and community service for not  
2 less than 60 days or more than 180 days. Not less than 48 hours of  
3 this imprisonment must be served consecutively. This term of  
4 imprisonment must not be suspended.

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

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

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

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

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

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

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

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

26 (c) In the judgment of sentence under subdivision (a) (i) or  
27 (b) (i), the court may, unless the vehicle is ordered forfeited

1 under section 625n, order vehicle immobilization as provided in  
2 section 904d. In the judgment of sentence under subdivision (a) (ii)  
3 or (b) (ii), the court shall, unless the vehicle is ordered  
4 forfeited under section 625n, order vehicle immobilization as  
5 provided in section 904d.

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

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

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

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

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



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

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

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

10           (i) Imprisonment for not less than 5 days or more than 1 year.  
11 Not less than 48 hours of the term of imprisonment imposed under  
12 this subparagraph must be served consecutively.

13           (ii) Community service for not less than 30 days or more than  
14 90 days.

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

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

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

27           (d) A term of imprisonment imposed under subdivision (b) or

1 (c) must not be suspended.

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

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

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

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

14 (b) If the person operating the motor vehicle violated  
15 subsection (4), a felony punishable by imprisonment for not more  
16 than 5 years or a fine of not less than \$1,500.00 or more than  
17 \$10,000.00, or both.

18 (c) If the person operating the motor vehicle violated  
19 subsection (5), a felony punishable by imprisonment for not more  
20 than 2 years or a fine of not less than \$1,000.00 or more than  
21 \$5,000.00, or both.

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

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

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

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

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

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

7 (i) Imprisonment for not less than 5 days or more than 1 year.  
8 Not less than 48 hours of the term of imprisonment imposed under  
9 this subparagraph must be served consecutively.

10 (ii) Community service for not less than 30 days or more than  
11 90 days.

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

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

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

24 (d) A term of imprisonment imposed under subdivision (b) or  
25 (c) must not be suspended.

26 (e) In the judgment of sentence under subdivision (a), the  
27 court may order vehicle immobilization as provided in section 904d.

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

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

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

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

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

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

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

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

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

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

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

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

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

9           (16) If a person is charged with a violation of subsection  
10 (1), (3), (4), (5), (7), or (8) or section 625m, the court shall  
11 not permit the defendant to enter a plea of guilty or nolo  
12 contendere to a charge of violating subsection (6) in exchange for  
13 dismissal of the original charge. This subsection does not prohibit  
14 the court from dismissing the charge upon the prosecuting  
15 attorney's motion.

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

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

19           (b) An abstract of conviction.

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

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

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

24           (f) Information contained in a presentence report.

25           (g) An admission by the defendant.

26           (18) Except as otherwise provided in subsection (20), if a  
27 person is charged with operating a vehicle while under the

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

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

27 (20) A special verdict described in subsections (18) and (19)

1 is not required if a jury is instructed to make a finding solely as  
2 to either of the following:

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

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

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

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

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

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

27 (23) In a prosecution for a violation of subsection (6), the

1 defendant bears the burden of proving that the consumption of  
2 alcoholic liquor was a part of a generally recognized religious  
3 service or ceremony by a preponderance of the evidence.

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

10 **(25) NOT LATER THAN JANUARY 1, 2025, THE DEPARTMENT OF STATE**  
11 **POLICE SHALL CONDUCT A SAFETY STUDY REGARDING THE IMPACT OF THE**  
12 **0.05 BODILY ALCOHOL CONTENT STANDARD FOR A VIOLATION DESCRIBED IN**  
13 **THIS SECTION AND IN SECTION 625M. UPON ITS COMPLETION, THE STUDY**  
14 **CONDUCTED UNDER THIS SUBSECTION MUST BE PROVIDED TO THE LEGISLATURE**  
15 **AND PUBLISHED ON THE DEPARTMENT OF STATE POLICE'S PUBLIC WEBSITE.**

16 (26) ~~(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)~~: **(28)** :

9 (i) Except as provided in subsection ~~(26)~~, **(27)**, a violation  
10 or 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 **(27)** ~~(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       **(28)** ~~(27)~~—If 2 or more convictions described in subsection  
3 ~~(25)~~—**(26)** are convictions for violations arising out of the same  
4 transaction, only 1 conviction must be used to determine whether  
5 the person has 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 to a preliminary chemical breath analysis administered under  
14 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 must 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 to chemical tests and  
10 analysis of a person's blood, urine, or breath, other than a  
11 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 must 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 must not be given  
6 without a court order, but the peace officer may seek to obtain a  
7 court order.

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

13 (c) A sample or specimen of urine or breath must 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 must 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 must be given  
6 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 must 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 must 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~~**0.05**  
25 grams or more per 100 milliliters of blood, per 210 liters of  
26 breath, or per 67 milliliters of urine or, beginning October 1,  
27 ~~2021~~**2026**, the person had an alcohol content of 0.10 grams or more



1 per 100 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~~**0.05** grams per 100 milliliters of blood, per 210 liters of  
9 breath, or per 67 milliliters of urine or, beginning October 1,  
10 ~~2021~~**2026**, the person had an alcohol content of 0.02 grams or more  
11 but less than 0.10 grams or more per 100 milliliters of blood, per  
12 210 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 must be made available to the person  
19 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 must 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 must 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~~**0.05** grams or more of alcohol per  
25 100 milliliters of blood, per 210 liters of breath, or per 67  
26 milliliters of urine or, beginning October 1, ~~2021~~**2026**, 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~~ **0.05** grams  
4 per 100 milliliters of blood, per 210 liters of breath, or per 67  
5 milliliters of urine or, beginning October 1, ~~2021~~, **2026**, 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 must 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 must be served  
17 consecutively.

18 (6) A term of imprisonment imposed under subsection (4) or (5)  
19 must 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 must 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 Senate Bill No. \_\_\_\_\_ or House Bill No. 4421 (request no.  
25 01419'19 a) of the 100th Legislature is enacted into law.