

# SENATE BILL NO. 347

May 24, 2019, Introduced by Senator ALEXANDER and referred to the Committee on Judiciary and Public Safety.

A bill to amend 1949 PA 300, entitled  
"Michigan vehicle code,"  
by amending section 625 (MCL 257.625), 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

1 person is operating while intoxicated. As used in this section,  
2 "operating while intoxicated" means any of the following:

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

7 (b) The person has an alcohol content of 0.08 grams or more  
8 per 100 milliliters of blood, per 210 liters of breath, or per 67  
9 milliliters of urine or, beginning October 1, 2021, the person has  
10 an alcohol content of 0.10 grams or more per 100 milliliters of  
11 blood, per 210 liters of breath, or per 67 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, 2021, the person has  
28 an alcohol content of 0.10 grams or more per 100 milliliters of  
29 blood, per 210 liters of breath, or per 67 milliliters of urine.

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

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

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

27 (b) If the violation occurs while the person has an alcohol  
28 content of 0.17 grams or more per 100 milliliters of blood, per 210  
29 liters of breath, or per 67 milliliters of urine, and within 7

1 years of a prior conviction, the person is guilty of a felony  
2 punishable by imprisonment for not more than 20 years or a fine of  
3 not less than \$2,500.00 or more than \$10,000.00, or both. The  
4 judgment of sentence may impose the sanction permitted under  
5 section 625n. If the vehicle is not ordered forfeited under section  
6 625n, the court shall order vehicle immobilization under section  
7 904d in the judgment of sentence.

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

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

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

1 section 904d in the judgment of sentence.

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

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

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

25 (b) Any presence of alcohol within a person's body resulting  
26 from the consumption of alcoholic liquor, other than consumption of  
27 alcoholic liquor as a part of a generally recognized religious  
28 service or ceremony.

29 (7) A person, whether licensed or not, is subject to the

1 following requirements:

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

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

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

14 (B) Community service for not less than 30 days or more than  
15 90 days.

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

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

24 (B) Probation with imprisonment in the county jail for not  
25 less than 30 days or more than 1 year and community service for not  
26 less than 60 days or more than 180 days. Not less than 48 hours of  
27 this imprisonment must be served consecutively. This term of  
28 imprisonment must not be suspended.

29 (b) He or she shall not operate a vehicle in violation of

1 subsection (6) while another person who is less than 16 years of  
2 age is occupying the vehicle. A person who violates this  
3 subdivision is guilty of a misdemeanor punishable as follows:

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

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

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

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

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

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

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

21 (c) In the judgment of sentence under subdivision (a) (i) or  
22 (b) (i), the court may, unless the vehicle is ordered forfeited under  
23 section 625n, order vehicle immobilization as provided in section  
24 904d. In the judgment of sentence under subdivision (a) (ii) or  
25 (b) (ii), the court shall, unless the vehicle is ordered forfeited  
26 under section 625n, order vehicle immobilization as provided in  
27 section 904d.

28 (d) This subsection does not prohibit a person from being  
29 charged with, convicted of, or punished for a violation of

1 subsection (4) or (5) that is committed by the person while  
 2 violating this subsection. However, points shall not be assessed  
 3 under section 320a for both a violation of subsection (4) or (5)  
 4 and a violation of this subsection for conduct arising out of the  
 5 same transaction.

6 (8) A person, whether licensed or not, shall not operate a  
 7 vehicle upon a highway or other place open to the general public or  
 8 generally accessible to motor vehicles, including an area  
 9 designated for the parking of vehicles, within this state if the  
 10 person has **any of the following** in his or her body: ~~any~~

11 (a) **Any** amount of a controlled substance listed in schedule 1  
 12 under section 7212 of the public health code, 1978 PA 368, MCL  
 13 333.7212, or a rule promulgated under that section, ~~or other than~~  
 14 **marihuana.**

15 (b) **Marihuana, as shown by 5 or more nanograms per milliliter**  
 16 **of blood of any of the following:**

- 17 (i) **Delta 9-tetrahydrocannabinol (delta 9-THC).**  
 18 (ii) **11-hydroxy-delta 9-tetrahydrocannabinol (11-OH-THC).**  
 19 (iii) **11-nor-9-carbox-delta 9-tetrahydrocannabinol (THC-COOH).**

20 (c) **Any amount** 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.  
 28 (ii) Imprisonment for not more than 93 days, or, if the person  
 29 is convicted of violating subsection (1)(c), imprisonment for not



1 more than 180 days.

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

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

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

11 (ii) Community service for not less than 30 days or more than  
12 90 days.

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

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

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

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

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

1 shall, unless the vehicle is ordered forfeited under section 625n,  
2 order vehicle immobilization as provided in section 904d.

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

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

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

10 (b) If the person operating the motor vehicle violated  
11 subsection (4), a felony punishable by imprisonment for not more  
12 than 5 years or a fine of not less than \$1,500.00 or more than  
13 \$10,000.00, or both.

14 (c) If the person operating the motor vehicle violated  
15 subsection (5), a felony punishable by imprisonment for not more  
16 than 2 years or a fine of not less than \$1,000.00 or more than  
17 \$5,000.00, or both.

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

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

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

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

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

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

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

4 (ii) Community service for not less than 30 days or more than  
5 90 days.

6 (c) If the violation occurs after 2 or more prior convictions,  
7 regardless of the number of years that have elapsed since any prior  
8 conviction, the person 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 either of the following:

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

13 (ii) 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 subparagraph must be served  
17 consecutively.

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

20 (e) In the judgment of sentence under subdivision (a), the  
21 court may order vehicle immobilization as provided in section 904d.  
22 In the judgment of sentence under subdivision (b) or (c), the court  
23 shall, unless the vehicle is ordered forfeited under section 625n,  
24 order vehicle immobilization as provided in section 904d.

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

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

29 (a) Except as otherwise provided in subdivision (b), the

1 person is guilty of a misdemeanor punishable by 1 or both of the  
2 following:

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

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

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

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

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

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

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

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

20 (15) If the prosecuting attorney intends to seek an enhanced  
21 sentence under this section or a sanction under section 625n based  
22 upon the defendant having 1 or more prior convictions, the  
23 prosecuting attorney shall include on the complaint and  
24 information, or an amended complaint and information, filed in  
25 district court, circuit court, municipal court, or family division  
26 of circuit court, a statement listing the defendant's prior  
27 convictions.

28 (16) If a person is charged with a violation of subsection  
29 (1), (3), (4), (5), (7), or (8) or section 625m, the court shall

1 not permit the defendant to enter a plea of guilty or nolo  
2 contendere to a charge of violating subsection (6) in exchange for  
3 dismissal of the original charge. This subsection does not prohibit  
4 the court from dismissing the charge upon the prosecuting  
5 attorney's motion.

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

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

9 (b) An abstract of conviction.

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

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

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

14 (f) Information contained in a presentence report.

15 (g) An admission by the defendant.

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

29 (19) Except as otherwise provided in subsection (20), if a

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

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

18 (a) Whether the defendant was under the influence of a  
19 controlled substance or a combination of alcoholic liquor, a  
20 controlled substance, or other intoxicating substance at the time  
21 of the violation.

22 (b) Whether the defendant was visibly impaired due to his or  
23 her consumption of a controlled substance or a combination of  
24 alcoholic liquor, a controlled substance, or other intoxicating  
25 substance at the time of the violation.

26 (21) If a jury or court finds under subsection (18), (19), or  
27 (20) that the defendant operated a motor vehicle under the  
28 influence of or while impaired due to the consumption of a  
29 controlled substance or a combination of a controlled substance, an

1 alcoholic liquor, or other intoxicating substance, the court shall  
2 do both of the following:

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

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

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

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

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

23 (25) As used in this section:

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

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

29 (A) The official United States Pharmacopoeia.

1 (B) The official Homeopathic Pharmacopoeia of the United  
2 States.

3 (C) The official National Formulary.

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

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

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

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

23 (B) Section 625m.

24 (C) Former section 625b.

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

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

29 (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 must be used to determine whether the person has  
8 a prior conviction.

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