

# HOUSE BILL NO. 4727

April 28, 2021, Introduced by Rep. Hornberger and referred to the Committee on Rules and Competitiveness.

A bill to amend 1949 PA 300, entitled  
"Michigan vehicle code,"  
by amending section 625 (MCL 257.625), as amended by 2020 PA 383.

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

1           Sec. 625. (1) A person, whether licensed or not, shall not  
2 operate a vehicle on 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, 2021, the person has  
9 an alcohol content of 0.10 grams or more per 100 milliliters of  
10 blood, per 210 liters of breath, or per 67 milliliters of urine.

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

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

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

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

29 (c) The person's ability to operate the motor vehicle is

1 visibly impaired due to the consumption of alcoholic liquor, a  
2 controlled substance, or other intoxicating substance, or a  
3 combination of alcoholic liquor, a controlled substance, or other  
4 intoxicating substance.

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

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

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

26 (b) If the violation occurs while the person has an alcohol  
27 content of 0.17 grams or more per 100 milliliters of blood, per 210  
28 liters of breath, or per 67 milliliters of urine, and within 7  
29 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  
28 section 625n, the court shall order vehicle immobilization under  
29 section 904d in the judgment of sentence.

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

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

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

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

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

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

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

10 (A) Imprisonment for not more than 1 year.

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

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

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

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

25 (iii) A term of imprisonment imposed under subparagraph (ii) (A)  
26 or (B) must not be suspended unless the defendant agrees to  
27 participate in a specialty court program and successfully completes  
28 the program.

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 This term of imprisonment must not be suspended unless the  
18 defendant agrees to participate in a specialty court program and  
19 successfully completes the program.

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

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

29 (d) This subsection does not prohibit a person from being

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

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

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

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

18 (i) **Delta 9-tetrahydrocannabinol (delta 9-THC).**

19 (ii) **11-hydroxy-delta 9-tetrahydrocannabinol (11-OH-THC).**

20 (iii) **11-nor-9-carbox-delta 9-tetrahydrocannabinol (THC-COOH).**

21 (c) **Any amount** of a controlled substance described in section  
 22 7214(a) (iv) of the public health code, 1978 PA 368, MCL 333.7214.

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

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

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

29 (ii) Imprisonment for not more than 93 days, or, if the person



1 is convicted of violating subsection (1)(c), imprisonment for not  
2 more than 180 days.

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

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

9 (i) Imprisonment for not less than 5 days or more than 1 year.

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 to 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 unless the defendant agrees to  
26 participate in a specialty court program and successfully completes  
27 the program.

28 (e) In the judgment of sentence under subdivision (a), the  
29 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 (10) A person who is convicted of violating subsection (2) is  
7 guilty of a crime as follows:

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

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

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

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

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

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

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

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

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

1 following:

2 (i) Imprisonment for not less than 5 days or more than 1 year.

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

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

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

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

17 (d) A term of imprisonment imposed under subdivision (b) or  
18 (c) must not be suspended unless the defendant agrees to  
19 participate in a specialty court program and successfully completes  
20 the program.

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (16) If a person is charged with a violation of subsection

1 (1), (3), (4), (5), (7), or (8) or section 625m, the court shall  
2 not permit the defendant to enter a plea of guilty or nolo  
3 contendere to a charge of violating subsection (6) in exchange for  
4 dismissal of the original charge. This subsection does not prohibit  
5 the court from dismissing the charge on the prosecuting attorney's  
6 motion.

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

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

10 (b) An abstract of conviction.

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

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

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

15 (f) Information contained in a presentence report.

16 (g) An admission by the defendant.

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

1           (19) Except as otherwise provided in subsection (20), if a  
2 person is charged with operating a vehicle while his or her ability  
3 to operate the vehicle was visibly impaired due to his or her  
4 consumption of a controlled substance or other intoxicating  
5 substance or a combination of alcoholic liquor, a controlled  
6 substance, or other intoxicating substance in violation of  
7 subsection (3) or a local ordinance substantially corresponding to  
8 subsection (3), the court shall require the jury to return a  
9 special verdict in the form of a written finding or, if the court  
10 convicts the person without a jury or accepts a plea of guilty or  
11 nolo contendere, the court shall make a finding as to whether, due  
12 to the consumption of a controlled substance or a combination of  
13 alcoholic liquor, a controlled substance, or other intoxicating  
14 substance, the person's ability to operate a motor vehicle was  
15 visibly impaired at the time of the violation.

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

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

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

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

1 controlled substance or a combination of a controlled substance, an  
2 alcoholic liquor, or other intoxicating substance, the court shall  
3 do both of the following:

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

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

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

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

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

24 (25) As used in this section:

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

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

1 (A) The official United States Pharmacopoeia.

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

4 (C) The official National Formulary.

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

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

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

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

24 (B) Section 625m.

25 (C) Former section 625b.

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

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



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

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

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