



HOUSE BILL No. 5938

June 6, 1996, Introduced by Reps. Gire, DeMars and Wetters and referred to the Committee on Transportation.

A bill to amend section 625b of Act No. 300 of the Public Acts of 1949, entitled as amended

"Michigan vehicle code,"

as amended by Act No. 450 of the Public Acts of 1994, being section 257.625b of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 625b of Act No. 300 of the Public Acts
2 of 1949, as amended by Act No. 450 of the Public Acts of 1994,
3 being section 257.625b of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 625b. (1) A person arrested for a misdemeanor viola-
6 tion of section 625(1), (3), or (6) or section 625m or a local
7 ordinance substantially corresponding to section 625(1), (3), or
8 (6) or section 625m shall be arraigned on the citation,
9 complaint, or warrant not more than 14 days after the arrest for

1 the violation or, if an arrest warrant is issued or reissued, not
2 more than 14 days after the issued or reissued arrest warrant is
3 served, whichever is later. The court shall not dismiss a case
4 or impose any other sanction for a failure to comply with this
5 time limit. The time limit does not apply to a violation of
6 section 625(1) punishable under section 625(7)(d) or a violation
7 of section 625(1), (3), or (6) or section 625m joined with a
8 felony charge.

9 (2) The court shall schedule a pretrial conference between
10 the prosecuting attorney, the defendant, and the defendant's
11 attorney in each case in which the defendant is charged with a
12 misdemeanor violation of section 625(1), (3), or (6) or
13 section 625m or a local ordinance substantially corresponding to
14 section 625(1), (3), or (6) or section 625m. The pretrial con-
15 ference shall be held not more than 35 days after the person's
16 arrest for the violation or, if an arrest warrant is issued or
17 reissued, not more than 35 days after the issued or reissued
18 arrest warrant is served, whichever is later. If the court has
19 only 1 judge who sits in more than 1 location in that district,
20 the pretrial conference shall be held not more than 42 days after
21 the person's arrest for the violation or, if an arrest warrant is
22 issued or reissued, not more than 42 days after the date the
23 issued or reissued arrest warrant is served, whichever is later.
24 The court shall not dismiss a case or impose any other sanction
25 for a failure to comply with the applicable time limit. The 35-
26 and 42-day time limits do not apply to a violation of
27 section 625(1) punishable under section 625(7)(d) or a violation

1 of section 625(1), (3), or (6) or section 625m joined with a
2 felony charge. The court shall order the defendant to attend the
3 pretrial conference and may accept a plea by the defendant at the
4 conclusion of the pretrial conference. The court may adjourn the
5 pretrial conference upon the motion of a party for good cause
6 shown. Not more than 1 adjournment shall be granted to a party,
7 and the length of an adjournment shall not exceed 14 days.

8 (3) Except for delay attributable to the unavailability of
9 the defendant, a witness, or material evidence or due to an
10 interlocutory appeal or exceptional circumstances, but not a
11 delay caused by docket congestion, the court shall finally adju-
12 dicate, by a plea of guilty or nolo contendere, entry of a ver-
13 dict, or other final disposition, a case in which the defendant
14 is charged with a misdemeanor violation of section 625(1), (3),
15 or (6) or section 625m or a local ordinance substantially corre-
16 sponding to section 625(1), (3), or (6) or section 625m, within
17 77 days after the person is arrested for the violation or, if an
18 arrest warrant is issued or reissued, not more than 77 days after
19 the date the issued or reissued arrest warrant is served, which-
20 ever is later. The court shall not dismiss a case or impose any
21 other sanction for a failure to comply with this time limit. The
22 77-day time limit does not apply to a violation of section 625(1)
23 punishable under section 625(7)(d) or a violation of
24 section 625(1), (3), or (6) or section 625m joined with a felony
25 charge.

26 (4) Before accepting a plea of guilty or nolo contendere
27 under section 625 or a local ordinance substantially

1 corresponding to section 625(1), (2), (3), or (6), the court
2 shall advise the accused of the maximum possible term of impris-
3 onment and the maximum possible fine that may be imposed for the
4 violation, and shall advise the defendant that the maximum possi-
5 ble license sanctions that may be imposed will be based upon the
6 master driving record maintained by the secretary of state pursu-
7 ant to section 204a.

8 (5) Before imposing sentence, other than court-ordered
9 license sanctions, for a violation of section 625(1), (3), (4),
10 (5), or (6) or a local ordinance substantially corresponding to
11 section 625(1), (3), or (6), the court shall order the person to
12 undergo screening and assessment by a person or agency designated
13 by the office of substance abuse services to determine whether
14 the person is likely to benefit from rehabilitative services,
15 including alcohol or drug education and alcohol or drug treatment
16 programs. As part of the sentence, the court may order the
17 person to participate in and successfully complete 1 or more
18 appropriate rehabilitative programs. The person shall pay for
19 the costs of the screening, reassessment, and rehabilitative
20 services.

21 (6) Immediately upon acceptance by the court of a plea of
22 guilty or nolo contendere or upon entry of a verdict of guilty
23 for a violation of section 625(1), (3), (4), (5), or (6) or a
24 local ordinance substantially corresponding to section 625(1),
25 (3), or (6), whether or not the person is eligible to be sen-
26 tenced as a multiple offender, the court shall consider all prior
27 convictions currently entered upon the person's Michigan driving

1 record, except convictions the court determines upon the
2 defendant's motion to be constitutionally invalid, and shall
3 impose the following licensing sanctions:

4 (a) For a conviction under section 625(4) or (5), the court
5 shall order the secretary of state to revoke the person's
6 operator's or chauffeur's license and shall not order the secre-
7 tary of state to issue a restricted license to the person.

8 (b) For a conviction under section 625(1) or a local ordi-
9 nance substantially corresponding to section 625(1):

10 (i) If the court finds that the person has no prior convic-
11 tions within 7 years for a violation of section 625(1), (3), (4),
12 or (5), former section 625(1) or (2), or former section 625b, a
13 local ordinance substantially corresponding to section 625(1) or
14 (3), former section 625(1) or (2), or former section 625b, or a
15 law of another state substantially corresponding to section
16 625(1), (3), (4), or (5), former section 625(1) or (2), or former
17 section 625b, the court shall order the secretary of state to
18 suspend the person's operator's or chauffeur's license for not
19 less than 6 months or more than 2 years. If the court finds com-
20 pelling circumstances under subsection (10) sufficient to warrant
21 the issuance of a restricted license to a person, the court may
22 order the secretary of state to issue to the person a restricted
23 license during all or a specified portion of the suspension,
24 except that a restricted license shall not be issued during the
25 first 30 days of the suspension.

26 (ii) If the court finds that the person has 1 prior
27 conviction within 7 years for a violation of section 625(3) or

1 former section 625b, a local ordinance substantially
2 corresponding to section 625(3) or former section 625b, or a law
3 of another state substantially corresponding to section 625(3) or
4 former section 625b, the court shall order the secretary of state
5 to suspend the person's operator's or chauffeur's license for not
6 less than 6 months or more than 2 years. If the court finds com-
7 pelling circumstances under subsection (10) sufficient to warrant
8 the issuance of a restricted license to a person, the court may
9 order the secretary of state to issue to the person a restricted
10 license during all or any portion of the suspension, except that
11 a restricted license shall not be issued during the first 60 days
12 of the suspension.

13 (iii) If the court finds that the person has 1 or more prior
14 convictions within 7 years for a violation of section 625(1),
15 (4), or (5) or former section 625(1) or (2), a local ordinance
16 substantially corresponding to section 625(1) or former section
17 625(1) or (2), or a law of another state substantially corre-
18 sponding to section 625(1), (4), or (5) or former section 625(1)
19 or (2), or that the person has 2 or more prior convictions within
20 10 years for a violation of section 625(1), (3), (4), or (5),
21 former section 625(1) or (2), or former section 625b, a local
22 ordinance substantially corresponding to section 625(1) or (3),
23 former section 625(1) or (2), or former section 625b, or a law of
24 another state substantially corresponding to section 625(1), (3),
25 (4), or (5), former section 625(1) or (2), or former section
26 625b, the court shall order the secretary of state to revoke the
27 person's operator's or chauffeur's license and shall not order

1 the secretary of state to issue a restricted license to the
2 person.

3 (c) For a conviction under section 625(3) or a local ordi-
4 nance substantially corresponding to section 625(3):

5 (i) If the court finds that the convicted person has no
6 prior conviction within 7 years for a violation of section
7 625(1), (3), (4), or (5), former section 625(1) or (2), or former
8 section 625b, a local ordinance substantially corresponding to
9 section 625(1) or (3), former section 625(1) or (2), or former
10 section 625b, or a law of another state substantially correspond-
11 ing to section 625(1), (3), (4), or (5), former section 625(1) or
12 (2), or former section 625b, the court shall order the secretary
13 of state to suspend the person's operator's or chauffeur's
14 license for not less than 90 days or more than 1 year. However,
15 if the person is convicted of a violation of section 625(3) or a
16 local ordinance substantially corresponding to section 625(3) for
17 operating a vehicle when, due to the consumption of a controlled
18 substance or a combination of intoxicating liquor and a con-
19 trolled substance, the person's ability to operate the vehicle
20 was visibly impaired, the court shall order the secretary of
21 state to suspend the operator's or chauffeur's license of the
22 person for not less than 6 months or more than 1 year. If the
23 court finds compelling circumstances under subsection (10) suffi-
24 cient to warrant the issuance of a restricted license to a
25 person, the court may order the secretary of state to issue to
26 the person a restricted license during all or a specified portion
27 of the suspension.

1 (ii) If the court finds that the person has 1 prior
2 conviction within 7 years for a violation of section 625(1), (3),
3 (4), or (5), former section 625(1) or (2), or former section
4 625b, a local ordinance substantially corresponding to section
5 625(1) or (3), former section 625(1) or (2), or former section
6 625b, or a law of another state substantially corresponding to
7 section 625(1), (3), (4), or (5), former section 625(1) or (2),
8 or former section 625b, the court shall order the secretary of
9 state to suspend the person's operator's or chauffeur's license
10 for not less than 6 months or more than 2 years. If the court
11 finds compelling circumstances under subsection (10) sufficient
12 to warrant the issuance of a restricted license to a person, the
13 court may order the secretary of state to issue to the person a
14 restricted license during all or any portion of the suspension,
15 except that a restricted license shall not be issued during the
16 first 60 days of the suspension.

17 (iii) If the court finds that the person has 2 or more prior
18 convictions within 10 years for a violation of section 625(1),
19 (3), (4), or (5), former section 625(1) or (2), or former section
20 625b, a local ordinance substantially corresponding to section
21 625(1) or (3), former section 625(1) or (2), or former section
22 625b, or a law of another state substantially corresponding to
23 section 625(1), (3), (4), or (5), former section 625(1) or (2),
24 or former section 625b, the court shall order the secretary of
25 state to revoke the person's operator's or chauffeur's license
26 and shall not order the secretary of state to issue a restricted
27 license to the person.

1 (d) For a conviction under section 625(6) or a local
2 ordinance substantially corresponding to section 625(6):

3 (i) If the court finds that the convicted person has no
4 prior conviction within 7 years for a violation of section
5 625(1), (3), (4), (5), or (6), former section 625(1) or (2), or
6 former section 625b, a local ordinance substantially correspond-
7 ing to section 625(1), (3), or (6), former section 625(1) or (2),
8 or former section 625b, or a law of another state substantially
9 corresponding to section 625(1), (3), (4), (5), or (6), former
10 section 625(1) or (2), or former section 625b, the court shall
11 order the secretary of state to suspend the operator's or
12 chauffeur's license of the person for not less than 30 days or
13 more than 90 days. The court may order the secretary of state to
14 issue to the person a restricted license during all or a speci-
15 fied portion of the suspension.

16 (ii) If the court finds that the person has 1 or more prior
17 convictions within 7 years for a violation of section 625(1),
18 (3), (4), (5), or (6), former section 625(1) or (2), or former
19 section 625b, a local ordinance substantially corresponding to
20 section 625(1), (3), or (6), former section 625(1) or (2), or
21 former section 625b, or a law of another state substantially cor-
22 responding to section 625(1), (3), (4), (5), or (6), former sec-
23 tion 625(1) or (2), or former section 625b, the court shall order
24 the secretary of state to suspend the operator's or chauffeur's
25 license of the person for not less than 90 days or more than
26 1 year. The court may order the secretary of state to issue to
27 the person a restricted license during all or any portion of the

1 suspension, except that a restricted license shall not be issued
2 during the first 90 days of the suspension.

3 (7) A restricted license issued pursuant to an order under
4 subsection (6) shall permit the person to whom it is issued to
5 drive under 1 or more of the following circumstances:

6 (a) To and from the person's residence and work location.

7 (b) In the course of the person's employment or occupation.

8 (c) To and from the person's residence and an alcohol or
9 drug education or treatment program as ordered by the court.

10 (d) To and from the person's residence and the court proba-
11 tion department or a court-ordered community service program, or
12 both.

13 (e) To and from the person's residence and an educational
14 institution at which the person is enrolled as a student.

15 (f) To and from the person's residence or work location and
16 a place of regularly occurring medical treatment for a serious
17 condition for the person or a member of the person's household or
18 immediate family.

19 (G) TO AND FROM THE PERSON'S RESIDENCE AND THOSE LOCATIONS
20 REGULARLY VISITED BY THE PERSON TO CARRY OUT HIS OR HER DUTIES
21 AND RESPONSIBILITIES AS A HOMEMAKER AS DETERMINED BY THE COURT IN
22 THE ORDER.

23 (8) The court may order that the restricted license issued
24 pursuant to subsection (6) include the requirement that the
25 person shall not operate a motor vehicle unless the vehicle is
26 equipped with a functioning ignition interlock device. The
27 device shall be set to render the motor vehicle inoperable if the

1 device detects an alcohol content of 0.02 grams or more per 210
2 liters of breath of the person who offers a breath sample. The
3 court may order installation of an ignition interlock device on
4 any motor vehicle that the person owns or operates, the costs of
5 which the person whose license is restricted shall bear.

6 (9) The court shall not order the secretary of state under
7 subsection (6) to issue a restricted license that would permit a
8 person to operate a commercial motor vehicle that hauls hazardous
9 materials.

10 (10) The court shall not order the secretary of state to
11 issue a restricted license unless the person states under oath,
12 and the court finds pursuant to testimony taken in open court or
13 pursuant to statements contained in a sworn affidavit on a form
14 prescribed by the state court administrator, that both of the
15 following are true:

16 (a) The person needs vehicular transportation to and from
17 his or her work location, place of alcohol or drug education
18 treatment, court probation department, court-ordered community
19 service program, or educational institution, or a place of regu-
20 larly occurring medical treatment for a serious condition, or in
21 the course of the person's employment or occupation.

22 (b) The person is unable to take public transportation and
23 does not have any family members or other individuals able to
24 provide transportation to a destination or for a purpose
25 described in subdivision (a).

26 (11) The court order issued under subsection (6) and the
27 restricted license shall indicate the permitted destinations of

1 the person or the permitted purposes for which the person may
2 operate a vehicle, the approved route or routes if specified by
3 the court, and permitted times of travel.

4 (12) Immediately upon acceptance by the court of a plea of
5 guilty or nolo contendere or upon entry of a verdict of guilty
6 for a violation of section 625(1), (3), (4), (5), or (6) or a
7 local ordinance substantially corresponding to section 625(1),
8 (3), or (6), the person shall surrender to the court his or her
9 operator's or chauffeur's license or permit. The court shall
10 immediately destroy the license or permit and forward an abstract
11 of conviction with court-ordered license sanctions to the secre-
12 tary of state. Upon receipt of, and pursuant to, the abstract of
13 conviction with court-ordered license sanctions, the secretary of
14 state shall suspend or revoke the person's license and, if
15 ordered by the court and the person is otherwise eligible for a
16 license, issue to the person a restricted license stating the
17 limited driving privileges indicated on the abstract. If the
18 judgment and sentence is appealed to circuit court, the court may
19 ex parte order the secretary of state to stay the suspension,
20 revocation, or restricted license issued pursuant to this section
21 pending the outcome of the appeal.

22 (13) In addition to any other suspension or revocation
23 ordered under this section and as part of the sentence imposed
24 upon a person who violates section 625(1), (3), (4), or (5) or a
25 local ordinance substantially corresponding to section 625(1) or
26 (3) while operating a commercial motor vehicle, the court shall
27 order the secretary of state to suspend the vehicle group

1 designations on the person's operator's or chauffeur's license in
2 accordance with section 319b(1)(c). If the vehicle was trans-
3 porting hazardous material required to have a placard pursuant to
4 49 C.F.R. parts 100 to 199, the court shall order the secretary
5 of state to suspend the vehicle group designations on the
6 person's operator's or chauffeur's license in accordance with
7 section 319b(1)(d). The court shall not order the secretary of
8 state to issue a restricted license that would permit the person
9 to operate a commercial motor vehicle.

10 (14) In addition to any other suspension or revocation
11 ordered under this section and as part of the sentence imposed
12 upon a person who is convicted of a violation of section 625(1),
13 (3), (4), or (5) or a local ordinance substantially corresponding
14 to section 625(1) or (3) while operating a commercial motor vehi-
15 cle within 10 years of a prior conviction, the court shall order
16 the secretary of state to revoke the vehicle group designations
17 on the person's operator's or chauffeur's license in accordance
18 with section 319b(1)(e). The court shall not order the secretary
19 of state to issue a restricted license that would permit the
20 person to operate a commercial motor vehicle. As used in this
21 subsection, "prior conviction" means a conviction under section
22 625(1), (3), (4), or (5), former section 625(1) or (2), or former
23 section 625b, a local ordinance substantially corresponding to
24 section 625(1) or (3), former section 625(1) or (2), or former
25 section 625b, or a law of another state substantially correspond-
26 ing to section 625(1), (3), (4), or (5), former section 625(1) or
27 (2), or former section 625b involving the operation of a

1 commercial motor vehicle, or a conviction under section 625m, a
2 local ordinance substantially corresponding to section 625m, or a
3 law of another state substantially corresponding to section
4 625m.

5 (15) As used in this section, "work location" means, as
6 applicable, the specific place or places of employment or the
7 territory or territories regularly visited by the person in pur-
8 suance of the person's occupation, or both.