



# HOUSE BILL No. 6049

September 11, 1996, Introduced by Reps. Hill, Bush, McBryde, Ryan and Rhead and referred to the Committee on Judiciary and Civil Rights.

A bill to amend section 625 of Act No. 300 of the Public Acts of 1949, entitled as amended  
"Michigan vehicle code,"  
as amended by Act No. 449 of the Public Acts of 1994, being section 257.625 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 625 of Act No. 300 of the Public Acts of  
2 1949, as amended by Act No. 449 of the Public Acts of 1994, being  
3 section 257.625 of the Michigan Compiled Laws, is amended to read  
4 as follows:

5 Sec. 625. (1) A person, whether licensed or not, shall not  
6 operate a vehicle upon a highway or other place open to the gen-  
7 eral public or generally accessible to motor vehicles, including  
8 an area designated for the parking of vehicles, within this state  
9 if either of the following applies:

1 (a) The person is under the influence of intoxicating liquor  
2 or a controlled substance ~~—~~ or a combination of intoxicating  
3 liquor and a controlled substance.

4 (b) The person has an alcohol content of 0.10 grams or more  
5 per 100 milliliters of blood, per 210 liters of breath, or per 67  
6 milliliters of urine.

7 (2) The owner of a vehicle or a person in charge or in con-  
8 trol of a vehicle shall not authorize or knowingly permit the  
9 vehicle to be operated upon a highway or other place open to the  
10 general public or generally accessible to motor vehicles, includ-  
11 ing an area designated for the parking of motor vehicles, within  
12 this state by a person who is under the influence of intoxicating  
13 liquor or a controlled substance ~~—~~ or a combination of intoxi-  
14 cating liquor and a controlled substance ~~—~~ or who has an alco-  
15 hol content of 0.10 grams or more per 100 milliliters of blood,  
16 per 210 liters of breath, or per 67 milliliters of urine.

17 (3) A person, whether licensed or not, shall not operate a  
18 vehicle upon a highway or other place open to the general public  
19 or generally accessible to motor vehicles, including an area des-  
20 ignated for the parking of vehicles within this state when, due  
21 to the consumption of an intoxicating liquor, a controlled sub-  
22 stance, or a combination of an intoxicating liquor and a con-  
23 trolled substance, the person's ability to operate the vehicle is  
24 visibly impaired. If a person is charged with violating subsec-  
25 tion (1), a finding of guilty under this subsection may be  
26 rendered.

1 (4) A person, whether licensed or not, who operates a motor  
2 vehicle upon a highway or other place open to the general public  
3 or generally accessible to motor vehicles, including an area des-  
4 ignated for the parking of vehicles, within this state    in  
5 violation of subsection (1) or (3)    and by the operation of  
6 that motor vehicle causes the death of another person is guilty  
7 of a felony punishable by imprisonment for not more than 15 years  
8 or a fine of not less than \$2,500.00 or more than \$10,000.00, or  
9 both.

10 (5) A person, whether licensed or not, who operates a motor  
11 vehicle upon a highway or other place open to the general public  
12 or generally accessible to motor vehicles, including an area des-  
13 ignated for the parking of vehicles, within this state    in  
14 violation of subsection (1) or (3) and by the operation of that  
15 motor vehicle causes a serious impairment of a body function of  
16 another person is guilty of a felony punishable by imprisonment  
17 for not more than 5 years or a fine of not less than \$1,000.00 or  
18 more than \$5,000.00, or both. As used in this subsection,  
19 "serious impairment of a body function" includes, but is not  
20 limited to, 1 or more of the following:

21 (a) Loss of a limb or use of a limb.

22 (b) Loss of a hand, foot, finger, or thumb or use of a hand,  
23 foot, finger, or thumb.

24 (c) Loss of an eye or ear or use of an eye or ear.

25 (d) Loss or substantial impairment of a bodily function.

26 (e) Serious visible disfigurement.

1 (f) A comatose state that lasts for more than 3 days.

2 (g) Measurable brain damage or mental impairment.

3 (h) A skull fracture or other serious bone fracture.

4 (i) Subdural hemorrhage or subdural hematoma.

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

12 (a) An alcohol content of not less than 0.02 grams or more  
13 than 0.07 grams per 100 milliliters of blood, per 210 liters of  
14 breath, or per 67 milliliters of urine.

15 (b) Any presence of alcohol within a person's body resulting  
16 from the consumption of intoxicating liquor, other than consump-  
17 tion of intoxicating liquor as a part of a generally recognized  
18 religious service or ceremony.

19 (7) If a person is convicted of violating subsection (1),  
20 all of the following apply:

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

24 (i) Community service for not more than 45 days.

25 (ii) Imprisonment for not more than 90 days.

26 (iii) A fine of not less than \$100.00 or more than \$500.00.

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

5 (i) Community service for not less than 10 days or more than  
6 90 days and may be imprisoned for not more than 1 year.

7 (ii) Imprisonment for not less than 48 consecutive hours or  
8 more than 1 year and may be sentenced to community service for  
9 not more than 90 days.

10 (c) A term of imprisonment imposed under subdivision (b)(ii)  
11 shall not be suspended.

12 (d) If the violation occurs within 10 years of 2 or more  
13 prior convictions, the person is guilty of a felony ~~and~~  
14 PUNISHABLE BY BOTH OF THE FOLLOWING:

15 (i) THE PERSON shall be sentenced to imprisonment for not  
16 less than 1 year or more than 5 years ~~or a fine of~~ UNLESS THE  
17 PERSON VOLUNTARILY AGREES TO CONFINEMENT IN A DRUNK DRIVER DETEN-  
18 TION CENTER, IN WHICH CASE THE PERSON SHALL BE COMMITTED TO A  
19 DRUNK DRIVER DETENTION CENTER, AS PROVIDED IN SECTION 3D OF CHAP-  
20 TER XI OF THE CODE OF CRIMINAL PROCEDURE, ACT NO. 175 OF THE  
21 PUBLIC ACTS OF 1927, BEING SECTION 771.3D OF THE MICHIGAN  
22 COMPILED LAWS. A TERM OF IMPRISONMENT OR A COMMITMENT TO A DRUNK  
23 DRIVER DETENTION CENTER IMPOSED UNDER THIS SUBPARAGRAPH SHALL NOT  
24 BE SUSPENDED.

25 (ii) THE PERSON SHALL BE FINED not less than \$500.00 or more  
26 than \$5,000.00. ~~, or both. A term of imprisonment imposed under~~  
27 ~~this subdivision shall not be suspended.~~

1 (e) As used in this subsection, "prior conviction" means a  
2 conviction for a violation or attempted violation of subsection  
3 (1), (4), or (5) or former section 625(1) or (2), a local ordi-  
4 nance substantially corresponding to subsection (1) or former  
5 section 625(1) or (2), or a law of another state substantially  
6 corresponding to subsection (1), (4), or (5) or former section  
7 625(1) or (2).

8 (8) A person who is convicted of violating subsection (2) is  
9 guilty of a misdemeanor punishable by imprisonment for not more  
10 than 90 days or a fine of not less than \$100.00 or more than  
11 \$500.00, or both.

12 (9) If a person is convicted of violating subsection (3),  
13 all of the following apply:

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

17 (i) Community service for not more than 45 days.

18 (ii) Imprisonment for not more than 90 days.

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

20 (b) If the violation occurs within 7 years of 1 prior con-  
21 viction, the person shall be sentenced to pay a fine of not less  
22 than \$200.00 or more than \$1,000.00, and either of the  
23 following:

24 (i) Community service for not less than 10 days or more than  
25 90 days and may be sentenced to imprisonment for not more than 1  
26 year.

1       (ii) Imprisonment for not more than 1 year and may be  
2 sentenced to community service for not more than 90 days.

3       (c) If the violation occurs within 10 years of 2 or more  
4 prior convictions, the person shall be sentenced to pay a fine of  
5 not less than \$200.00 or more than \$1,000.00, and either of the  
6 following:

7       (i) Community service for not less than 10 days or more than  
8 90 days and may be sentenced to imprisonment for not more than 1  
9 year.

10       (ii) Imprisonment for not more than 1 year and may be sen-  
11 tenced to community service for not more than 90 days.

12       (d) As used in this subsection, "prior conviction" means a  
13 conviction for a violation or attempted violation of subsection  
14 (1), (3), (4), or (5), former section 625(1) or (2), or former  
15 section 625b, a local ordinance substantially corresponding to  
16 subsection (1) or (3), former section 625(1) or (2), or former  
17 section 625b, or a law of another state substantially correspond-  
18 ing to subsection (1), (3), (4), or (5), former section 625(1) or  
19 (2), or former section 625b.

20       (10) If a person is convicted of violating subsection (6),  
21 ALL OF the following ~~shall~~ apply:

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

25       (i) Community service for not more than 45 days.

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

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

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

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

6 (c) As used in this subsection, "prior conviction" means a  
7 conviction for a violation or attempted violation of subsection  
8 (1), (3), (4), (5), or (6), former section 625(1) or (2), or  
9 former section 625b, a local ordinance substantially correspond-  
10 ing to subsection (1), (3), or (6), former section 625(1) or (2),  
11 or former section 625b, or a law of another state substantially  
12 corresponding to subsection (1), (3), (4), (5), or (6), former  
13 section 625(1) or (2), or former section 625b.

14 (11) In addition to imposing the sanctions prescribed under  
15 subsection (4), (5), (7), (9), or (10), the court may order the  
16 person to pay the costs of the prosecution — pursuant to the  
17 code of criminal procedure, Act No. 175 of the Public Acts of  
18 1927, being sections 760.1 to 776.21 of the Michigan Compiled  
19 Laws.

20 (12) The court shall impose license sanctions pursuant to  
21 section 625b.

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



1       (14) If the prosecuting attorney intends to seek an enhanced  
2 sentence under subsection (7)(b) or (d), subsection (9)(b) or  
3 (c), or subsection (10)(b) based upon the defendant having 1 or  
4 more prior convictions, the prosecuting attorney shall include on  
5 the complaint and information, or an amended complaint and infor-  
6 mation, filed in district court, circuit court, recorder's court,  
7 municipal court, or probate court a statement listing the  
8 defendant's prior convictions.

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

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

17       (a) An abstract of conviction.

18       (b) A copy of the defendant's driving record.

19       (c) An admission by the defendant.

20       (17) A person who is convicted of an attempted violation of  
21 subsection (1), (3), (4), (5), or (6) or a local ordinance sub-  
22 stantially corresponding to subsection (1), (3), or (6) shall be  
23 punished as if the offense had been completed.

24       (18) When assessing points and taking licensing action under  
25 this act, the secretary of state and the court shall treat a con-  
26 viction of an attempted violation of subsection (1), (3), (4),  
27 (5), or (6) or a local ordinance substantially corresponding to

1 subsection (1), (3), or (6) or a law of another state  
2 substantially corresponding to subsection (1), (3), (4), (5), or  
3 (6) the same as if the offense had been completed.

4       (19) Except as otherwise provided in subsection (21), if a  
5 person is charged with operating a vehicle while under the influ-  
6 ence of a controlled substance or a combination of intoxicating  
7 liquor and a controlled substance in violation of subsection (1)  
8 or a local ordinance substantially corresponding to  
9 subsection (1), the court shall require the jury to return a spe-  
10 cial verdict in the form of a written finding or, if the court  
11 convicts the person without a jury or accepts a plea of guilty or  
12 nolo contendere, the court shall make a finding as to whether the  
13 person was under the influence of a controlled substance or a  
14 combination of intoxicating liquor and a controlled substance at  
15 the time of the violation.

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

1 ability to operate a motor vehicle was visibly impaired at the  
2 time of the violation.

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

6 (a) Whether the defendant was under the influence of a con-  
7 trolled substance or of a combination of intoxicating liquor and  
8 a controlled substance at the time of the violation.

9 (b) Whether the defendant was visibly impaired due to his or  
10 her consumption of a controlled substance or a combination of  
11 intoxicating liquor and a controlled substance at the time of the  
12 violation.

13 (22) If a jury or court makes a finding under subsection  
14 (19), (20), or (21) that the defendant operated a motor vehicle  
15 under the influence of or while impaired due to the consumption  
16 of a controlled substance, or combination of a controlled sub-  
17 stance and an intoxicating liquor, the court shall do both of the  
18 following:

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

20 (b) Forward to the department of state police, on a form or  
21 forms prescribed by the state court administrator, a record that  
22 specifies the penalties imposed by the court, including any term  
23 of imprisonment and any licensing sanction imposed under  
24 section 625b.

25 (23) Except as otherwise provided by law, a record described  
26 in subsection (22)(b) is a public record, and the department of

1 state police shall retain the information contained on that  
2 record for a period of not less than 7 years.

3 (24) In a prosecution for a violation of subsection (6), the  
4 defendant shall bear the burden of proving that the consumption  
5 of intoxicating liquor was a part of a generally recognized reli-  
6 gious service or ceremony by a preponderance of the evidence.