

SENATE BILL No. 846

October 26, 2005, Introduced by Senators SWITALSKI and GOSCHKA and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 319, 319b, 625, 625a, 625i, 625n, and 904d
(MCL 257.319, 257.319b, 257.625, 257.625a, 257.625i, 257.625n, and
257.904d), section 319 as amended by 2004 PA 362, section 319b as
amended by 2004 PA 495, section 625 as amended by 2004 PA 62,
sections 625a, 625i, and 904d as amended by 2003 PA 61, and section
625n as amended by 1998 PA 349.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 319. (1) The secretary of state shall immediately suspend
2 a person's license as provided in this section upon receiving a
3 record of the person's conviction for a crime described in this
4 section, whether the conviction is under a law of this state, a
5 local ordinance substantially corresponding to a law of this state,

1 or a law of another state substantially corresponding to a law of
2 this state.

3 (2) The secretary of state shall suspend the person's license
4 for 1 year for any of the following crimes:

5 (a) Fraudulently altering or forging documents pertaining to
6 motor vehicles in violation of section 257.

7 (b) A violation of section 413 of the Michigan penal code,
8 1931 PA 328, MCL 750.413.

9 (c) A violation of section 1 of former 1931 PA 214, MCL
10 752.191, or section 626c.

11 (d) A felony in which a motor vehicle was used. As used in
12 this section, "felony in which a motor vehicle was used" means a
13 felony during the commission of which the person convicted operated
14 a motor vehicle and while operating the vehicle presented real or
15 potential harm to persons or property and 1 or more of the
16 following circumstances existed:

17 (i) The vehicle was used as an instrument of the felony.

18 (ii) The vehicle was used to transport a victim of the felony.

19 (iii) The vehicle was used to flee the scene of the felony.

20 (iv) The vehicle was necessary for the commission of the
21 felony.

22 (e) A violation of section 602a(2) or (3) of this act or
23 section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL
24 750.479a.

25 (3) The secretary of state shall suspend the person's license
26 for 90 days for any of the following crimes:

27 (a) Failing to stop and disclose identity at the scene of an

1 accident resulting in injury in violation of section 617a.

2 (b) A violation of section 601b(2), section 601c(1), section
3 626, or section 653a(3).

4 (c) Malicious destruction resulting from the operation of a
5 vehicle under section 382(1)(b), (c), or (d) of the Michigan penal
6 code, 1931 PA 328, MCL 750.382.

7 (d) A violation of section 703(2) of the Michigan liquor
8 control code of 1998, 1998 PA 58, MCL 436.1703.

9 (4) The secretary of state shall suspend the person's license
10 for 30 days for malicious destruction resulting from the operation
11 of a vehicle under section 382(1)(a) of the Michigan penal code,
12 1931 PA 328, MCL 750.382.

13 (5) For perjury or making a false certification to the
14 secretary of state under any law requiring the registration of a
15 motor vehicle or regulating the operation of a vehicle on a
16 highway, or for conduct prohibited under section 324(1) or a local
17 ordinance substantially corresponding to section 324(1), the
18 secretary shall suspend the person's license as follows:

19 (a) If the person has no prior conviction for an offense
20 described in this subsection within 7 years, for 90 days.

21 (b) If the person has 1 or more prior convictions for an
22 offense described in this subsection within 7 years, for 1 year.

23 (6) For a violation of section 414 of the Michigan penal code,
24 1931 PA 328, MCL 750.414, the secretary of state shall suspend the
25 person's license as follows:

26 (a) If the person has no prior conviction for that offense
27 within 7 years, for 90 days.

1 (b) If the person has 1 or more prior convictions for that
2 offense within 7 years, for 1 year.

3 (7) For a violation of section 624a or 624b of this act or
4 section 703(1) of the Michigan liquor control code of 1998, 1998 PA
5 58, MCL 436.1703, the secretary of state shall suspend the person's
6 license as follows:

7 (a) If the person has 1 prior conviction for an offense
8 described in this subsection or section 33b(1) of former 1933 (Ex
9 Sess) PA 8, for 90 days. The secretary of state may issue the
10 person a restricted license after the first 30 days of suspension.

11 (b) If the person has 2 or more prior convictions for an
12 offense described in this subsection or section 33b(1) of former
13 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue
14 the person a restricted license after the first 60 days of
15 suspension.

16 (8) The secretary of state shall suspend the person's license
17 for a violation of section 625 or 625m as follows:

18 (a) For 180 days for a violation of section ~~625(1)~~ **625(1) (A)**
19 **OR (B)** or (8) if the person has no prior convictions within 7
20 years. The secretary of state may issue the person a restricted
21 license during a specified portion of the suspension, except that
22 the secretary of state shall not issue a restricted license during
23 the first 30 days of suspension.

24 **(B) FOR 1 YEAR FOR A VIOLATION OF SECTION 625(1) (C) IF THE**
25 **PERSON HAS NO PRIOR CONVICTIONS WITHIN 7 YEARS. THE SECRETARY OF**
26 **STATE MAY ISSUE THE PERSON A RESTRICTED LICENSE DURING ALL OR A**
27 **SPECIFIED PORTION OF THE SUSPENSION, EXCEPT THAT THE SECRETARY OF**

1 **STATE SHALL NOT ISSUE A RESTRICTED LICENSE DURING THE FIRST 90 DAYS**
2 **OF SUSPENSION.**

3 **(C)** ~~—(b)—~~ For 90 days for a violation of section 625(3) if the
4 person has no prior convictions within 7 years. However, if the
5 person is convicted of a violation of section 625(3), for operating
6 a vehicle when, due to the consumption of a controlled substance or
7 a combination of alcoholic liquor and a controlled substance, the
8 person's ability to operate the vehicle was visibly impaired, the
9 secretary of state shall suspend the person's license under this
10 subdivision for 180 days. The secretary of state may issue the
11 person a restricted license during all or a specified portion of
12 the suspension.

13 **(D)** ~~—(e)—~~ For 30 days for a violation of section 625(6) if the
14 person has no prior convictions within 7 years. The secretary of
15 state may issue the person a restricted license during all or a
16 specified portion of the suspension.

17 **(E)** ~~—(d)—~~ For 90 days for a violation of section 625(6) if the
18 person has 1 or more prior convictions for that offense within 7
19 years.

20 **(F)** ~~—(e)—~~ For 180 days for a violation of section 625(7) if
21 the person has no prior convictions within 7 years. The secretary
22 of state may issue the person a restricted license after the first
23 90 days of suspension.

24 **(G)** ~~—(f)—~~ For 90 days for a violation of section 625m if the
25 person has no prior convictions within 7 years. The secretary of
26 state may issue the person a restricted license during all or a
27 specified portion of the suspension.

1 (9) For a violation of section 367c of the Michigan penal
2 code, 1931 PA 328, MCL 750.367c, the secretary of state shall
3 suspend the person's license as follows:

4 (a) If the person has no prior conviction for an offense
5 described in this subsection within 7 years, for 6 months.

6 (b) If the person has 1 or more convictions for an offense
7 described in this subsection within 7 years, for 1 year.

8 (10) For a violation of section 315(4), the secretary of state
9 may suspend the person's license for 6 months.

10 (11) For a violation or attempted violation of section 411a(2)
11 of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a
12 school, the secretary of state shall suspend the license of a
13 person 14 years of age or over but less than 21 years of age until
14 3 years after the date of the conviction or juvenile disposition
15 for the violation. The secretary of state may issue the person a
16 restricted license after the first 365 days of suspension.

17 (12) Except as provided in subsection (14), a suspension under
18 this section shall be imposed notwithstanding a court order unless
19 the court order complies with section 323.

20 (13) If the secretary of state receives records of more than 1
21 conviction of a person resulting from the same incident, a
22 suspension shall be imposed only for the violation to which the
23 longest period of suspension applies under this section.

24 (14) The secretary of state may waive a restriction,
25 suspension, or revocation of a person's license imposed under this
26 act if the person submits proof that a court in another state
27 revoked, suspended, or restricted his or her license for a period

1 equal to or greater than the period of a restriction, suspension,
2 or revocation prescribed under this act for the violation and that
3 the revocation, suspension, or restriction was served for the
4 violation, or may grant a restricted license.

5 (15) The secretary of state shall not issue a restricted
6 license to a person whose license is suspended under this section
7 unless a restricted license is authorized under this section and
8 the person is otherwise eligible for a license.

9 (16) The secretary of state shall not issue a restricted
10 license to a person under subsection (8) that would permit the
11 person to operate a commercial motor vehicle.

12 (17) A restricted license issued under this section shall
13 permit the person to whom it is issued to take any driving skills
14 test required by the secretary of state and to drive under 1 or
15 more of the following circumstances:

16 (a) In the course of the person's employment or occupation.

17 (b) To and from any combination of the following:

18 (i) The person's residence.

19 (ii) The person's work location.

20 (iii) An alcohol or drug education or treatment program as
21 ordered by the court.

22 (iv) The court probation department.

23 (v) A court-ordered community service program.

24 (vi) An educational institution at which the person is enrolled
25 as a student.

26 (vii) A place of regularly occurring medical treatment for a
27 serious condition for the person or a member of the person's

1 household or immediate family.

2 (18) While driving with a restricted license, the person shall
3 carry proof of his or her destination and the hours of any
4 employment, class, or other reason for traveling and shall display
5 that proof upon a peace officer's request.

6 (19) Subject to subsection (21), as used in subsection (8),
7 "prior conviction" means a conviction for any of the following,
8 whether under a law of this state, a local ordinance substantially
9 corresponding to a law of this state, or a law of another state
10 substantially corresponding to a law of this state:

11 (a) Except as provided in subsection (20), a violation or
12 attempted violation of any of the following:

13 (i) Section 625, except a violation of section 625(2), or a
14 violation of any prior enactment of section 625 in which the
15 defendant operated a vehicle while under the influence of
16 intoxicating or alcoholic liquor or a controlled substance, or a
17 combination of intoxicating or alcoholic liquor and a controlled
18 substance, or while visibly impaired, or with an unlawful bodily
19 alcohol content.

20 (ii) Section 625m.

21 (iii) Former section 625b.

22 (b) Negligent homicide, manslaughter, or murder resulting from
23 the operation of a vehicle or an attempt to commit any of those
24 crimes.

25 (20) Except for purposes of the suspensions described in
26 subsection (8)(c) and (d), only 1 violation or attempted violation
27 of section 625(6), a local ordinance substantially corresponding to

1 section 625(6), or a law of another state substantially
2 corresponding to section 625(6) may be used as a prior conviction.

3 (21) If 2 or more convictions described in subsection (19) are
4 convictions for violations arising out of the same transaction,
5 only 1 conviction shall be used to determine whether the person has
6 a prior conviction.

7 Sec. 319b. (1) The secretary of state shall immediately
8 suspend or revoke, as applicable, all vehicle group designations on
9 the operator's or chauffeur's license of a person upon receiving
10 notice of a conviction, bond forfeiture, or civil infraction
11 determination of the person, or notice that a court or
12 administrative tribunal has found the person responsible, for a
13 violation described in this subsection of a law of this state, a
14 local ordinance substantially corresponding to a law of this state
15 while the person was operating a commercial motor vehicle, or a law
16 of another state substantially corresponding to a law of this
17 state, or notice that the person has refused to submit to a
18 chemical test of his or her blood, breath, or urine for the purpose
19 of determining the amount of alcohol or presence of a controlled
20 substance or both in the person's blood, breath, or urine while the
21 person was operating a commercial motor vehicle as required by a
22 law or local ordinance of this or another state. The period of
23 suspension or revocation is as follows:

24 (a) Suspension for 60 days if the person is convicted of or
25 found responsible for 1 of the following while operating a
26 commercial motor vehicle:

27 (i) Two serious traffic violations arising from separate

1 incidents within 36 months.

2 (ii) A violation of section 667, 668, 669, or 669a.

3 (iii) A violation of motor carrier safety regulations 49 CFR
4 392.10 or 392.11, as adopted by section 1a of the motor carrier
5 safety act of 1963, 1963 PA 181, MCL 480.11a.

6 (iv) A violation of section 57 of the pupil transportation act,
7 1990 PA 187, MCL 257.1857.

8 (v) A violation of motor carrier safety regulations 49 CFR
9 392.10 or 392.11, as adopted by section 31 of the motor bus
10 transportation act, 1982 PA 432, MCL 474.131.

11 (vi) A violation of motor carrier safety regulations 49 CFR
12 392.10 or 392.11 while operating a commercial motor vehicle other
13 than a vehicle covered under subparagraph (iii), (iv), or (v).

14 (b) Suspension for 120 days if the person is convicted of or
15 found responsible for 1 of the following arising from separate
16 incidents within 36 months while operating a commercial motor
17 vehicle:

18 (i) Three serious traffic violations.

19 (ii) Any combination of 2 violations described in subdivision
20 (a) (ii).

21 (c) Suspension for 1 year if the person is convicted of or
22 found responsible for 1 of the following:

23 (i) A violation of section ~~625(1)~~ **625(1) (A) OR (B)**, (3), (4),
24 (5), (6), (7), or (8), section 625m, or former section 625(1) or
25 (2), or former section 625b, while operating a commercial motor
26 vehicle.

27 (ii) Leaving the scene of an accident involving a commercial

1 motor vehicle operated by the person.

2 (iii) A felony in which a commercial motor vehicle was used.

3 (iv) A refusal of a peace officer's request to submit to a
4 chemical test of his or her blood, breath, or urine to determine
5 the amount of alcohol or presence of a controlled substance or both
6 in his or her blood, breath, or urine while he or she was operating
7 a commercial motor vehicle as required by a law or local ordinance
8 of this state or another state.

9 (v) Effective October 1, 2005, operating a commercial motor
10 vehicle in violation of a suspension, revocation, denial, or
11 cancellation that was imposed for previous violations committed
12 while operating a commercial motor vehicle.

13 (vi) Effective October 1, 2005, causing a fatality through the
14 negligent or criminal operation of a commercial motor vehicle,
15 including, but not limited to, the crimes of motor vehicle
16 manslaughter, motor vehicle homicide, and negligent homicide.

17 (vii) A 6-point violation as provided in section 320a while
18 operating a commercial motor vehicle.

19 (viii) Any combination of 3 violations described in subdivision
20 (a)(ii) arising from separate incidents within 36 months while
21 operating a commercial motor vehicle.

22 (d) Suspension for 3 years if the person is convicted of or
23 found responsible for ~~an~~ **ANY OF THE FOLLOWING:**

24 (i) **AN** offense enumerated in subdivision (c)(i) to (vii) in which
25 a commercial motor vehicle was used if the vehicle was carrying
26 hazardous material required to have a placard pursuant to 49 CFR
27 parts 100 to 199.

1 **(ii) A VIOLATION OF SECTION 625(1) (C), WHILE OPERATING A**
2 **COMMERCIAL MOTOR VEHICLE.**

3 (e) Revocation for life, but with eligibility for reissue of a
4 group vehicle designation after not less than 10 years and after
5 approval by the secretary of state, if the person is convicted of
6 or found responsible for 1 of the following:

7 (i) Any combination of 2 violations arising from 2 or more
8 separate incidents under section 625(1), (3), (4), (5), (6), (7),
9 or (8), section 625m, or former section 625(1) or (2), or former
10 section 625b, while driving a commercial motor vehicle.

11 (ii) Two violations of leaving the scene of an accident
12 involving a commercial motor vehicle operated by the licensee.

13 (iii) Two violations of a felony in which a commercial motor
14 vehicle was used.

15 (iv) Two refusals of a request of a police officer to submit to
16 a chemical test of his or her blood, breath, or urine for the
17 purpose of determining the amount of alcohol or presence of a
18 controlled substance or both in his or her blood while he or she
19 was operating a commercial motor vehicle in this state or another
20 state, which refusals occurred in separate incidents.

21 (v) Effective October 1, 2005, 2 violations of operating a
22 commercial motor vehicle in violation of a suspension, revocation,
23 denial, or cancellation that was imposed for previous violations
24 committed while operating a commercial motor vehicle.

25 (vi) Effective October 1, 2005, 2 violations of causing a
26 fatality through the negligent or criminal operation of a
27 commercial motor vehicle, including, but not limited to, the crimes

1 of motor vehicle manslaughter, motor vehicle homicide, and
2 negligent homicide.

3 (vii) Two 6-point violations as provided in section 320a while
4 operating a commercial motor vehicle.

5 (viii) Two violations, in any combination, of the offenses
6 enumerated under subdivision (c) (i), (ii), (iii), (iv), or (v) arising
7 from 2 or more separate incidents.

8 (f) Revocation for life if a person is convicted of or found
9 responsible for any of the following:

10 (i) One violation of a felony in which a commercial motor
11 vehicle was used and that involved the manufacture, distribution,
12 or dispensing of a controlled substance or possession with intent
13 to manufacture, distribute, or dispense a controlled substance.

14 (ii) A conviction of any offense described in subdivision (c)
15 or (d) after having been approved for the reissuance of a vehicle
16 group designation under subdivision (e).

17 (iii) A conviction of a violation of chapter LXXXIII-A of the
18 Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z.

19 (2) The secretary of state shall immediately deny, cancel, or
20 revoke a hazardous material indorsement on the operator's or
21 chauffeur's license of a person with a vehicle group designation
22 upon receiving notice from a federal government agency that the
23 person poses a security risk warranting denial, cancellation, or
24 revocation under the uniting and strengthening America by providing
25 appropriate tools required to intercept and obstruct terrorism (USA
26 PATRIOT ACT) act of 2001, Public Law 107-56. The denial,
27 cancellation, or revocation cannot be appealed under section 322 or

1 323 and remains in effect until the secretary of state receives a
2 federal government notice that the person does not pose a security
3 risk in the transportation of hazardous materials.

4 (3) The secretary of state shall immediately suspend all
5 vehicle group designations on a person's operator's or chauffeur's
6 license upon receiving notice of a conviction, bond forfeiture, or
7 civil infraction determination of the person, or notice that a
8 court or administrative tribunal has found the person responsible,
9 for a violation of section 319d(4) or 319f, a local ordinance
10 substantially corresponding to section 319d(4) or 319f, or a law or
11 local ordinance of another state, the United States, Canada,
12 Mexico, or a local jurisdiction of either of these countries
13 substantially corresponding to section 319d(4) or 319f, while
14 operating a commercial motor vehicle. The period of suspension or
15 revocation is as follows:

16 (a) Suspension for 90 days if the person is convicted of or
17 found responsible for a violation of section 319d(4) or 319f while
18 operating a commercial motor vehicle.

19 (b) Suspension for 180 days if the person is convicted of or
20 found responsible for a violation of section 319d(4) or 319f while
21 operating a commercial motor vehicle that is either carrying
22 hazardous material required to have a placard pursuant to 49 CFR
23 parts 100 to 199 or designed to carry 16 or more passengers,
24 including the driver.

25 (c) Suspension for 1 year if the person is convicted of or
26 found responsible for 2 violations, in any combination, of section
27 319d(4) or 319f while operating a commercial motor vehicle arising

1 from 2 or more separate incidents during a 10-year period.

2 (d) Suspension for 3 years if the person is convicted of or
3 found responsible for 3 or more violations, in any combination, of
4 section 319d(4) or 319f while operating a commercial motor vehicle
5 arising from 3 or more separate incidents during a 10-year period.

6 (e) Suspension for 3 years if the person is convicted of or
7 found responsible for 2 or more violations, in any combination, of
8 section 319d(4) or 319f while operating a commercial motor vehicle
9 carrying hazardous material required to have a placard pursuant to
10 49 CFR parts 100 to 199, or designed to carry 16 or more
11 passengers, including the driver, arising from 2 or more separate
12 incidents during a 10-year period.

13 (4) As used in this section:

14 (a) "Felony in which a commercial motor vehicle was used"
15 means a felony during the commission of which the person convicted
16 operated a commercial motor vehicle and while the person was
17 operating the vehicle 1 or more of the following circumstances
18 existed:

19 (i) The vehicle was used as an instrument of the felony.

20 (ii) The vehicle was used to transport a victim of the felony.

21 (iii) The vehicle was used to flee the scene of the felony.

22 (iv) The vehicle was necessary for the commission of the
23 felony.

24 (b) "Serious traffic violation" means any of the following:

25 (i) A traffic violation that occurs in connection with an
26 accident in which a person died.

27 (ii) Careless driving.

1 (iii) Excessive speeding as defined in regulations promulgated
2 under 49 USC 31301 to 31317.

3 (iv) Improper lane use.

4 (v) Following too closely.

5 (vi) Effective October 1, 2005, driving a commercial motor
6 vehicle without obtaining any vehicle group designation on the
7 person's license.

8 (vii) Effective October 1, 2005, driving a commercial motor
9 vehicle without either having an operator's or chauffeur's license
10 in the person's possession or providing proof to the court, not
11 later than the date by which the person must appear in court or pay
12 a fine for the violation, that the person held a valid vehicle
13 group designation and indorsement on the date that the citation was
14 issued.

15 (viii) Effective October 1, 2005, driving a commercial motor
16 vehicle while in possession of an operator's or chauffeur's license
17 that has a vehicle group designation but does not have the
18 appropriate vehicle group designation or indorsement required for
19 the specific vehicle group being operated or the passengers or type
20 of cargo being transported.

21 (ix) Any other serious traffic violation as defined in 49 CFR
22 383.5 or as prescribed under this act.

23 (5) For the purpose of this section only, a bond forfeiture or
24 a determination by a court of original jurisdiction or an
25 authorized administrative tribunal that a person has violated the
26 law is considered a conviction.

27 (6) The secretary of state shall suspend or revoke a vehicle

1 group designation under subsection (1) or deny, cancel, or revoke a
2 hazardous material indorsement under subsection (2) notwithstanding
3 a suspension, restriction, revocation, or denial of an operator's
4 or chauffeur's license or vehicle group designation under another
5 section of this act or a court order issued under another section
6 of this act or a local ordinance substantially corresponding to
7 another section of this act.

8 (7) Effective October 1, 2005, a conviction, bond forfeiture,
9 or civil infraction determination, or notice that a court or
10 administrative tribunal has found a person responsible for a
11 violation described in this subsection while the person was
12 operating a noncommercial motor vehicle counts against the person
13 who holds a license to operate a commercial motor vehicle the same
14 as if the person had been operating a commercial motor vehicle at
15 the time of the violation. For the purpose of this subsection, a
16 noncommercial motor vehicle does not include a recreational vehicle
17 used off-road. This subsection applies to the following state law
18 violations or a local ordinance substantially corresponding to any
19 of those violations or a law of another state or out-of-state
20 jurisdiction substantially corresponding to any of those
21 violations:

22 (a) Operating a vehicle in violation of section 625.

23 (b) Refusing to submit to a chemical test of his or her blood,
24 breath, or urine for the purpose of determining the amount of
25 alcohol or the presence of a controlled substance or both in the
26 person's blood, breath, or urine as required by a law or local
27 ordinance of this or another state.

1 (c) Leaving the scene of an accident.

2 (d) Using a vehicle to commit a felony.

3 (8) When determining the applicability of conditions listed in
4 this section, the secretary of state shall consider only violations
5 that occurred after January 1, 1990.

6 (9) When determining the applicability of conditions listed in
7 subsection (1)(a) or (b), the secretary of state shall count only
8 from incident date to incident date.

9 Sec. 625. (1) A person, whether licensed or not, shall not
10 operate a vehicle upon a highway or other place open to the general
11 public or generally accessible to motor vehicles, including an area
12 designated for the parking of vehicles, within this state if the
13 person is operating while intoxicated. As used in this section,
14 "operating while intoxicated" means either of the following
15 applies:

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

19 (b) The person has an alcohol content of 0.08 grams or more
20 per 100 milliliters of blood, per 210 liters of breath, or per 67
21 milliliters of urine, or, beginning October 1, 2013, the person has
22 an alcohol content of 0.10 grams or more **BUT LESS THAN 0.25 GRAMS**
23 per 100 milliliters of blood, per 210 liters of breath, or per 67
24 milliliters of urine.

25 **(C) THE PERSON HAS AN ALCOHOL CONTENT OF 0.25 GRAMS OR MORE**
26 **PER 100 MILLILITERS OF BLOOD, PER 210 LITERS OF BREATH, OR PER 67**
27 **MILLILITERS OF URINE.**

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

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

10 (b) The person has an alcohol content of 0.08 grams or more
11 per 100 milliliters of blood, per 210 liters of breath, or per 67
12 milliliters of urine or, beginning October 1, 2013, the person has
13 an alcohol content of 0.10 grams or more per 100 milliliters of
14 blood, per 210 liters of breath, or per 67 milliliters of urine.

15 (c) The person's ability to operate the motor vehicle is
16 visibly impaired due to the consumption of alcoholic liquor, a
17 controlled substance, or a combination of alcoholic liquor and a
18 controlled substance.

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

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

5 (a) Except as provided in subdivision (b), the person is
6 guilty of a felony punishable by imprisonment for not more than 15
7 years or a fine of not less than \$2,500.00 or more than \$10,000.00,
8 or both. The judgment of sentence may impose the sanction permitted
9 under section 625n. If the vehicle is not ordered forfeited under
10 section 625n, the court shall order vehicle immobilization under
11 section 904d in the judgment of sentence.

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

24 (5) A person, whether licensed or not, who operates a motor
25 vehicle in violation of subsection (1), (3), or (8) and by the
26 operation of that motor vehicle causes a serious impairment of a
27 body function of another person is guilty of a felony punishable by

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

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

14 (a) An alcohol content of 0.02 grams or more but less than
15 0.08 grams per 100 milliliters of blood, per 210 liters of breath,
16 or per 67 milliliters of urine, or, beginning October 1, 2013, the
17 person has an alcohol content of 0.02 grams or more but less than
18 0.10 grams per 100 milliliters of blood, per 210 liters of breath,
19 or per 67 milliliters of urine.

20 (b) Any presence of alcohol within a person's body resulting
21 from the consumption of alcoholic liquor, other than consumption of
22 alcoholic liquor as a part of a generally recognized religious
23 service or ceremony.

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

26 (a) He or she shall not operate a vehicle in violation of
27 subsection (1), (3), (4), (5), or (8) while another person who is

1 less than 16 years of age is occupying the vehicle. A person who
2 violates this subdivision is guilty of a crime punishable as
3 follows:

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

8 (A) Imprisonment for not less than 5 days or more than 1 year.
9 Not less than 48 hours of this imprisonment shall be served
10 consecutively. This term of imprisonment shall not be suspended.

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 within 10 years of 2 or more prior convictions, a
15 person who violates this subdivision is guilty of a felony and
16 shall be sentenced to pay a fine of not less than \$500.00 or more
17 than \$5,000.00 and to either of the following:

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

20 (B) 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 this imprisonment shall be served consecutively. This term of
24 imprisonment shall not be suspended.

25 (b) He or she shall not operate a vehicle in violation of
26 subsection (6) while another person who is less than 16 years of
27 age is occupying the vehicle. A person who violates this

1 subdivision is guilty of a misdemeanor punishable as follows:

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

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

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

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

8 (ii) If the violation occurs within 7 years of a prior
9 conviction or within 10 years of 2 or more prior convictions, a
10 person who violates this subdivision shall be sentenced to pay a
11 fine of not less than \$200.00 or more than \$1,000.00 and to 1 or
12 more of the following:

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

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

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

25 (d) This subsection does not prohibit a person from being
26 charged with, convicted of, or punished for a violation of
27 subsection (4) or (5) that is committed by the person while

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

5 (8) A person, whether licensed or not, shall not operate a
6 vehicle upon 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 if the
9 person has in his or her body any amount of a controlled substance
10 listed in schedule 1 under section 7212 of the public health code,
11 1978 PA 368, MCL 333.7212, or a rule promulgated under that
12 section, or of a controlled substance described in section
13 7214(a)(iv) of the public health code, 1978 PA 368, MCL 333.7214.

14 (9) If a person is convicted of violating subsection ~~(1)~~
15 **(1) (A) OR (B)** or (8), all of the following apply:

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

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

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

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

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

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

1 (ii) Community service for not less than 30 days or more than
2 90 days.

3 (c) If the violation occurs within 10 years of 2 or more prior
4 convictions, the person is guilty of a felony and shall be
5 sentenced to pay a fine of not less than \$500.00 or more than
6 \$5,000.00 and to either of the following:

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

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

14 (D) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISIONS (E) AND (F),
15 A PERSON WHO VIOLATES SUBSECTION (1)(C) IS GUILTY OF A MISDEMEANOR
16 PUNISHABLE BY 1 OR MORE OF THE FOLLOWING:

17 (i) COMMUNITY SERVICE FOR NOT MORE THAN 90 DAYS.

18 (ii) IMPRISONMENT FOR NOT MORE THAN 180 DAYS.

19 (iii) A FINE OF NOT LESS THAN \$200.00 OR MORE THAN \$1,000.00.

20 (E) IF THE VIOLATION OCCURS WITHIN 7 YEARS OF A PRIOR
21 CONVICTION, THE PERSON IS GUILTY OF A FELONY AND SHALL BE SENTENCED
22 TO PAY A FINE OF NOT LESS THAN \$400.00 OR MORE THAN \$2,000.00 AND 1
23 OR MORE OF THE FOLLOWING:

24 (i) IMPRISONMENT FOR NOT LESS THAN 2 YEARS OR MORE THAN 7
25 YEARS.

26 (ii) COMMUNITY SERVICE FOR NOT LESS THAN 60 DAYS OR MORE THAN
27 180 DAYS.

1 (F) IF THE VIOLATION OCCURS WITHIN 10 YEARS OF 2 OR MORE PRIOR
2 CONVICTIONS, THE PERSON IS GUILTY OF A FELONY AND SHALL BE
3 SENTENCED TO PAY A FINE OF NOT LESS THAN \$1,000.00 OR MORE THAN
4 \$10,000.00 AND TO IMPRISONMENT UNDER THE JURISDICTION OF THE
5 DEPARTMENT OF CORRECTIONS FOR NOT LESS THAN 2 YEARS OR MORE THAN 10
6 YEARS.

7 (G) ~~—(d)—~~ A term of imprisonment imposed under subdivision ~~(b)~~
8 (B) (i), (C), (E), or ~~(e)~~ (F) shall not be suspended.

9 (H) ~~—(e)—~~ In the judgment of sentence under subdivision (a) OR
10 (D), the court may order vehicle immobilization as provided in
11 section 904d. In the judgment of sentence under subdivision (b), ~~or~~
12 (c), (E), OR (F), the court shall, unless the vehicle is ordered
13 forfeited under section 625n, order vehicle immobilization as
14 provided in section 904d.

15 (I) ~~—(f)—~~ In the judgment of sentence under subdivision (b),
16 ~~or~~ (c), (D), (E), OR (F), the court may impose the sanction
17 permitted under section 625n.

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

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

23 (b) If the person operating the motor vehicle violated
24 subsection (4), a felony punishable by imprisonment for not more
25 than 5 years or a fine of not less than \$1,500.00 or more than
26 \$10,000.00, or both.

27 (c) If the person operating the motor vehicle violated

1 subsection (5), a felony punishable by imprisonment for not more
2 than 2 years or a fine of not less than \$1,000.00 or more than
3 \$5,000.00, or both.

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

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

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

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

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

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

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

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

21 (c) If the violation occurs within 10 years of 2 or more prior
22 convictions, the person is guilty of a felony and shall be
23 sentenced to pay a fine of not less than \$500.00 or more than
24 \$5,000.00 and either of the following:

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

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

1 less than 30 days or more than 1 year and community service for not
2 less than 60 days or more than 180 days. Not less than 48 hours of
3 the imprisonment imposed under this subparagraph shall be served
4 consecutively.

5 (d) A term of imprisonment imposed under subdivision (b) or
6 (c) shall not be suspended.

7 (e) In the judgment of sentence under subdivision (a), the
8 court may order vehicle immobilization as provided in section 904d.
9 In the judgment of sentence under subdivision (b) or (c), the court
10 shall, unless the vehicle is ordered forfeited under section 625n,
11 order vehicle immobilization as provided in section 904d.

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

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

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

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

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

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

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

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

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

27 (13) In addition to imposing the sanctions prescribed under

1 this section, the court may order the person to pay the costs of
2 the prosecution under the code of criminal procedure, 1927 PA 175,
3 MCL 760.1 to 777.69.

4 (14) A person sentenced to perform community service under
5 this section shall not receive compensation and shall reimburse the
6 state or appropriate local unit of government for the cost of
7 supervision incurred by the state or local unit of government as a
8 result of the person's activities in that service.

9 (15) If the prosecuting attorney intends to seek an enhanced
10 sentence under this section or a sanction under section 625n based
11 upon the defendant having 1 or more prior convictions, the
12 prosecuting attorney shall include on the complaint and
13 information, or an amended complaint and information, filed in
14 district court, circuit court, municipal court, or family division
15 of circuit court, a statement listing the defendant's prior
16 convictions.

17 (16) If a person is charged with a violation of subsection
18 (1), (3), (4), (5), (7), or (8) or section 625m, the court shall
19 not permit the defendant to enter a plea of guilty or nolo
20 contendere to a charge of violating subsection (6) in exchange for
21 dismissal of the original charge. This subsection does not prohibit
22 the court from dismissing the charge upon the prosecuting
23 attorney's motion.

24 (17) A prior conviction shall be established at sentencing by
25 1 or more of the following:

26 (a) An abstract of conviction.

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

1 (c) An admission by the defendant.

2 (18) Except as otherwise provided in subsection (20), if a
3 person is charged with operating a vehicle while under the
4 influence of a controlled substance or a combination of alcoholic
5 liquor and a controlled substance in violation of subsection (1) or
6 a local ordinance substantially corresponding to subsection (1),
7 the court shall require the jury to return a special verdict in the
8 form of a written finding or, if the court convicts the person
9 without a jury or accepts a plea of guilty or nolo contendere, the
10 court shall make a finding as to whether the person was under the
11 influence of a controlled substance or a combination of alcoholic
12 liquor and a controlled substance at the time of the violation.

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

26 (20) A special verdict described in subsections (18) and (19)
27 is not required if a jury is instructed to make a finding solely as

1 to either of the following:

2 (a) Whether the defendant was under the influence of a
3 controlled substance or a combination of alcoholic liquor and a
4 controlled substance at the time of the violation.

5 (b) Whether the defendant was visibly impaired due to his or
6 her consumption of a controlled substance or a combination of
7 alcoholic liquor and a controlled substance at the time of the
8 violation.

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

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

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

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

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

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

7 (25) Subject to subsection (27), as used in this section,
8 "prior conviction" means a conviction for any of the following,
9 whether under a law of this state, a local ordinance substantially
10 corresponding to a law of this state, or a law of another state
11 substantially corresponding to a law of this state:

12 (a) Except as provided in subsection (26), a violation or
13 attempted violation of any of the following:

14 (i) This section, except a violation of section 625(2), or a
15 violation of any prior enactment of this section in which the
16 defendant operated a vehicle while under the influence of
17 intoxicating or alcoholic liquor or a controlled substance, or a
18 combination of intoxicating or alcoholic liquor and a controlled
19 substance, or while visibly impaired, or with an unlawful bodily
20 alcohol content.

21 (ii) Section 625m.

22 (iii) Former section 625b.

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

26 (26) Except for purposes of the enhancement described in
27 subsection (12)(b), only 1 violation or attempted violation of

1 subsection (6), a local ordinance substantially corresponding to
2 subsection (6), or a law of another state substantially
3 corresponding to subsection (6) may be used as a prior conviction.

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

8 Sec. 625a. (1) A peace officer may arrest a person without a
9 warrant under either of the following circumstances:

10 (a) The peace officer has reasonable cause to believe the
11 person was, at the time of an accident in this state, the operator
12 of a vehicle involved in the accident and was operating the vehicle
13 in violation of section 625 or a local ordinance substantially
14 corresponding to section 625.

15 (b) The person is found in the driver's seat of a vehicle
16 parked or stopped on a highway or street within this state if any
17 part of the vehicle intrudes into the roadway and the peace officer
18 has reasonable cause to believe the person was operating the
19 vehicle in violation of section 625 or a local ordinance
20 substantially corresponding to section 625.

21 (2) A peace officer who has reasonable cause to believe that a
22 person was operating a vehicle upon a public highway or other place
23 open to the public or generally accessible to motor vehicles,
24 including an area designated for the parking of vehicles, within
25 this state and that the person by the consumption of alcoholic
26 liquor may have affected his or her ability to operate a vehicle,
27 or reasonable cause to believe that a person was operating a

1 commercial motor vehicle within the state while the person's blood,
2 breath, or urine contained any measurable amount of alcohol or
3 while the person had any detectable presence of alcoholic liquor,
4 or reasonable cause to believe that a person who is less than 21
5 years of age was operating a vehicle upon a public highway or other
6 place open to the public or generally accessible to motor vehicles,
7 including an area designated for the parking of vehicles, within
8 this state while the person had any bodily alcohol content as that
9 term is defined in section 625(6), may require the person to submit
10 to a preliminary chemical breath analysis. The following provisions
11 apply with respect to a preliminary chemical breath analysis
12 administered under this subsection:

13 (a) A peace officer may arrest a person based in whole or in
14 part upon the results of a preliminary chemical breath analysis.

15 (b) The results of a preliminary chemical breath analysis are
16 admissible in a criminal prosecution for a crime enumerated in
17 section 625c(1) or in an administrative hearing for 1 or more of
18 the following purposes:

19 (i) To assist the court or hearing officer in determining a
20 challenge to the validity of an arrest. This subparagraph does not
21 limit the introduction of other competent evidence offered to
22 establish the validity of an arrest.

23 (ii) As evidence of the defendant's breath alcohol content, if
24 offered by the defendant to rebut testimony elicited on cross-
25 examination of a defense witness that the defendant's breath
26 alcohol content was higher at the time of the charged offense than
27 when a chemical test was administered under subsection (6).

1 (iii) As evidence of the defendant's breath alcohol content, if
2 offered by the prosecution to rebut testimony elicited on cross-
3 examination of a prosecution witness that the defendant's breath
4 alcohol content was lower at the time of the charged offense than
5 when a chemical test was administered under subsection (6).

6 (c) A person who submits to a preliminary chemical breath
7 analysis remains subject to the requirements of sections 625c,
8 625d, 625e, and 625f for purposes of chemical tests described in
9 those sections.

10 (d) Except as provided in subsection (5), a person who refuses
11 to submit to a preliminary chemical breath analysis upon a lawful
12 request by a peace officer is responsible for a civil infraction.

13 (3) A peace officer shall use the results of a preliminary
14 chemical breath analysis conducted pursuant to this section to
15 determine whether to order a person out-of-service under section
16 319d. A peace officer shall order out-of-service as required under
17 section 319d a person who was operating a commercial motor vehicle
18 and who refuses to submit to a preliminary chemical breath analysis
19 as provided in this section. This section does not limit use of
20 other competent evidence by the peace officer to determine whether
21 to order a person out-of-service under section 319d.

22 (4) A person who was operating a commercial motor vehicle and
23 who is requested to submit to a preliminary chemical breath
24 analysis under this section shall be advised that refusing a peace
25 officer's request to take a test described in this section is a
26 misdemeanor punishable by imprisonment for not more than 93 days or
27 a fine of not more than \$100.00, or both, and will result in the

1 issuance of a 24-hour out-of-service order.

2 (5) A person who was operating a commercial motor vehicle and
3 who refuses to submit to a preliminary chemical breath analysis
4 upon a peace officer's lawful request is guilty of a misdemeanor
5 punishable by imprisonment for not more than 93 days or a fine of
6 not more than \$100.00, or both.

7 (6) The following provisions apply with respect to chemical
8 tests and analysis of a person's blood, urine, or breath, other
9 than preliminary chemical breath analysis:

10 (a) The amount of alcohol or presence of a controlled
11 substance or both in a driver's blood or urine or the amount of
12 alcohol in a person's breath at the time alleged as shown by
13 chemical analysis of the person's blood, urine, or breath is
14 admissible into evidence in any civil or criminal proceeding and is
15 presumed to be the same as at the time the person operated the
16 vehicle.

17 (b) A person arrested for a crime described in section 625c(1)
18 shall be advised of all of the following:

19 (i) If he or she takes a chemical test of his or her blood,
20 urine, or breath administered at the request of a peace officer, he
21 or she has the right to demand that a person of his or her own
22 choosing administer 1 of the chemical tests.

23 (ii) The results of the test are admissible in a judicial
24 proceeding as provided under this act and will be considered with
25 other admissible evidence in determining the defendant's innocence
26 or guilt.

27 (iii) He or she is responsible for obtaining a chemical analysis

1 of a test sample obtained at his or her own request.

2 (iv) If he or she refuses the request of a peace officer to
3 take a test described in subparagraph (i), a test shall not be given
4 without a court order, but the peace officer may seek to obtain a
5 court order.

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

11 (c) A sample or specimen of urine or breath shall be taken and
12 collected in a reasonable manner. Only a licensed physician, or an
13 individual operating under the delegation of a licensed physician
14 under section 16215 of the public health code, 1978 PA 368, MCL
15 333.16215, qualified to withdraw blood and acting in a medical
16 environment, may withdraw blood at a peace officer's request to
17 determine the amount of alcohol or presence of a controlled
18 substance or both in the person's blood, as provided in this
19 subsection. Liability for a crime or civil damages predicated on
20 the act of withdrawing or analyzing blood and related procedures
21 does not attach to a licensed physician or individual operating
22 under the delegation of a licensed physician who withdraws or
23 analyzes blood or assists in the withdrawal or analysis in
24 accordance with this act unless the withdrawal or analysis is
25 performed in a negligent manner.

26 (d) A chemical test described in this subsection shall be
27 administered at the request of a peace officer having reasonable

1 grounds to believe the person has committed a crime described in
2 section 625c(1). A person who takes a chemical test administered at
3 a peace officer's request as provided in this section shall be
4 given a reasonable opportunity to have a person of his or her own
5 choosing administer 1 of the chemical tests described in this
6 subsection within a reasonable time after his or her detention. The
7 test results are admissible and shall be considered with other
8 admissible evidence in determining the defendant's innocence or
9 guilt. If the person charged is administered a chemical test by a
10 person of his or her own choosing, the person charged is
11 responsible for obtaining a chemical analysis of the test sample.

12 (e) If, after an accident, the driver of a vehicle involved in
13 the accident is transported to a medical facility and a sample of
14 the driver's blood is withdrawn at that time for medical treatment,
15 the results of a chemical analysis of that sample are admissible in
16 any civil or criminal proceeding to show the amount of alcohol or
17 presence of a controlled substance or both in the person's blood at
18 the time alleged, regardless of whether the person had been offered
19 or had refused a chemical test. The medical facility or person
20 performing the chemical analysis shall disclose the results of the
21 analysis to a prosecuting attorney who requests the results for use
22 in a criminal prosecution as provided in this subdivision. A
23 medical facility or person disclosing information in compliance
24 with this subsection is not civilly or criminally liable for making
25 the disclosure.

26 (f) If, after an accident, the driver of a vehicle involved in
27 the accident is deceased, a sample of the decedent's blood shall be

1 withdrawn in a manner directed by the medical examiner to determine
2 the amount of alcohol or the presence of a controlled substance, or
3 both, in the decedent's blood. The medical examiner shall give the
4 results of the chemical analysis of the sample to the law
5 enforcement agency investigating the accident and that agency shall
6 forward the results to the department of state police.

7 (g) The department of state police shall promulgate uniform
8 rules in compliance with the administrative procedures act of 1969,
9 1969 PA 306, MCL 24.201 to 24.328, for the administration of
10 chemical tests for the purposes of this section. An instrument used
11 for a preliminary chemical breath analysis may be used for a
12 chemical test described in this subsection if approved under rules
13 promulgated by the department of state police.

14 (7) The provisions of subsection (6) relating to chemical
15 testing do not limit the introduction of any other admissible
16 evidence bearing upon any of the following questions:

17 (a) Whether the person was impaired by, or under the influence
18 of, alcoholic liquor, a controlled substance, or a combination of
19 alcoholic liquor and a controlled substance.

20 (b) Whether the person had an alcohol content of 0.08 grams or
21 more per 100 milliliters of blood, per 210 liters of breath, or per
22 67 milliliters of urine or, beginning October 1, 2013, the person
23 had an alcohol content of 0.10 grams or more per 100 milliliters of
24 blood, per 210 liters of breath, or per 67 milliliters of urine.

25 (c) If the person is less than 21 years of age, whether the
26 person had any bodily alcohol content within his or her body. As
27 used in this subdivision, "any bodily alcohol content" means ~~either~~

1 of the following:

2 ~~—— (i) An alcohol content of 0.02 grams or more but less than 0.08~~
3 ~~grams per 100 milliliters of blood, per 210 liters of breath, or~~
4 ~~per 67 milliliters of urine or, beginning October 1, 2013, the~~
5 ~~person had an alcohol content of 0.02 grams or more but less than~~
6 ~~0.10 grams or more per 100 milliliters of blood, per 210 liters of~~
7 ~~breath, or per 67 milliliters of urine.~~

8 ~~—— (ii) Any presence of alcohol within a person's body resulting~~
9 ~~from the consumption of alcoholic liquor, other than the~~
10 ~~consumption of alcoholic liquor as a part of a generally recognized~~
11 ~~religious service or ceremony. THAT TERM AS DEFINED IN SECTION~~
12 ~~625(6) .~~

13 (8) If a chemical test described in subsection (6) is
14 administered, the test results shall be made available to the
15 person charged or the person's attorney upon written request to the
16 prosecution, with a copy of the request filed with the court. The
17 prosecution shall furnish the results at least 2 days before the
18 day of the trial. The prosecution shall offer the test results as
19 evidence in that trial. Failure to fully comply with the request
20 bars the admission of the results into evidence by the prosecution.

21 (9) A person's refusal to submit to a chemical test as
22 provided in subsection (6) is admissible in a criminal prosecution
23 for a crime described in section 625c(1) only to show that a test
24 was offered to the defendant, but not as evidence in determining
25 the defendant's innocence or guilt. The jury shall be instructed
26 accordingly.

27 Sec. 625i. (1) The department of state police shall prepare an

1 annual report that shall be designated the Michigan annual drunk
2 driving audit. The secretary of state, circuit court, district
3 court, family division of circuit court, municipal courts, and
4 local units of government in this state shall cooperate with the
5 department of state police to provide information necessary for the
6 preparation of the report. A copy of the report prepared under this
7 subsection shall be submitted to the governor, the secretary of the
8 senate, the clerk of the house of representatives, and the
9 secretary of state on July 1 of each year. The report shall contain
10 for each county in the state all of the following information
11 applicable to the immediately preceding calendar year:

12 (a) The number of alcohol related motor vehicle crashes
13 resulting in bodily injury, including a breakdown of the number of
14 those injuries occurring per capita of population and per road mile
15 in the county.

16 (b) The number of alcohol related motor vehicle crashes
17 resulting in death, including the breakdown described in
18 subdivision (a).

19 (c) The number of alcohol related motor vehicle crashes, other
20 than those enumerated in subdivisions (a) and (b), including the
21 breakdown described in subdivision (a).

22 (d) The number of arrests made for violations of section
23 625(1) or local ordinances substantially corresponding to section
24 625(1).

25 (e) The number of arrests made for violations of section
26 625(3) or local ordinances substantially corresponding to section
27 625(3).

1 (f) The number of arrests made for violations of section
2 625(6) or local ordinances substantially corresponding to section
3 625(6).

4 (g) The number of arrests made for violations of section
5 625(4) or (5).

6 (h) The number of arrests made for violations of section
7 625(7).

8 (i) The number of arrests made for violations of section
9 625(8).

10 (j) The number of operator's or chauffeur's licenses suspended
11 pursuant to section 625f.

12 (k) The number of arrests made for violations of section 625m
13 or local ordinances substantially corresponding to section 625m.

14 (2) The secretary of state shall compile a report of
15 dispositions of charges for violations of section 625(1), (3), (4),
16 (5), (6), (7), or (8) or section 625m or section 33b(1) or (2) of
17 former 1933 (Ex Sess) PA 8, section 703(1) or (2) of the Michigan
18 liquor control code of 1998, 1998 PA 58, MCL 436.1703, or local
19 ordinances substantially corresponding to section 625(1), (3), (6),
20 or (8) or section 625m or section 33b(1) or (2) of former 1933 (Ex
21 Sess) PA 8, or section 703(1) or (2) of the Michigan liquor control
22 code of 1998, 1998 PA 58, MCL 436.1703, by each judge for inclusion
23 in the annual report. The report compiled by the secretary of state
24 shall include information regarding all of the following:

25 (a) The number of dismissals granted.

26 (b) The number of convictions entered.

27 (c) The number of acquittals entered.

1 (d) The average length of imprisonment imposed.

2 (e) The average length of community service imposed in lieu of
3 imprisonment.

4 (f) The average fine imposed.

5 (g) The number of vehicles ordered immobilized under section
6 904d.

7 (h) The number of vehicles ordered forfeited under section
8 625n.

9 (3) The secretary of state shall include in the compilation
10 under subsection (2) the number of licenses suspended, revoked, or
11 restricted for those violations.

12 ~~—— (4) The department of state police shall enter into a contract~~
13 ~~with the university of Michigan transportation research institute,~~
14 ~~under which the university of Michigan transportation research~~
15 ~~institute shall evaluate the effect and impact of the 1998~~
16 ~~legislation addressing drunk and impaired driving in this state and~~
17 ~~report its findings to the governor and the legislature not later~~
18 ~~than October 1, 2002.~~

19 Sec. 625n. (1) Except as otherwise provided in this section
20 and in addition to any other penalty provided for in this act, the
21 judgment of sentence for a conviction for a violation of section
22 625(1) described in section ~~625(8)(b) or 625(9)(B), (c), (D), (E),~~
23 **OR (F),** a violation of section 625(3) described in section
24 625(10)(b) or (c), a violation of section 625(4), (5), or (7), or a
25 violation of section 904(4) or (5) may require 1 of the following
26 with regard to the vehicle used in the offense if the defendant
27 owns the vehicle in whole or in part or leases the vehicle:

1 (a) Forfeiture of the vehicle if the defendant owns the
2 vehicle in whole or in part.

3 (b) Return of the vehicle to the lessor if the defendant
4 leases the vehicle.

5 (2) The vehicle may be seized pursuant to an order of seizure
6 issued by the court having jurisdiction upon a showing of probable
7 cause that the vehicle is subject to forfeiture or return to the
8 lessor.

9 (3) The forfeiture of a vehicle is subject to the interest of
10 the holder of a security interest who did not have prior knowledge
11 of or consent to the violation.

12 (4) Within 14 days after the defendant's conviction for a
13 violation described in subsection (1), the prosecuting attorney may
14 file a petition with the court for the forfeiture of the vehicle or
15 to have the court order return of a leased vehicle to the lessor.
16 The prosecuting attorney shall give notice by first-class mail or
17 other process to the defendant and his or her attorney, to all
18 owners of the vehicle, and to any person holding a security
19 interest in the vehicle that the court may require forfeiture or
20 return of the vehicle.

21 (5) If a vehicle is seized before disposition of the criminal
22 proceedings, a defendant who is an owner or lessee of the vehicle
23 may move the court having jurisdiction over the proceedings to
24 require the seizing agency to file a lien against the vehicle and
25 to return the vehicle to the owner or lessee pending disposition of
26 the criminal proceedings. The court shall hear the motion within 7
27 days after the motion is filed. If the defendant establishes at the

1 hearing that he or she holds the legal title to the vehicle or that
2 he or she has a leasehold interest and that it is necessary for him
3 or her or a member of his or her family to use the vehicle pending
4 the outcome of the forfeiture action, the court may order the
5 seizing agency to return the vehicle to the owner or lessee. If the
6 court orders the return of the vehicle to the owner or lessee, the
7 court shall order the defendant to post a bond in an amount equal
8 to the retail value of the vehicle, and shall also order the
9 seizing agency to file a lien against the vehicle.

10 (6) Within 14 days after notice by the prosecuting attorney is
11 given under subsection (4), the defendant, an owner, lessee, or
12 holder of a security interest may file a claim of interest in the
13 vehicle with the court. Within 21 days after the expiration of the
14 period for filing claims, but before or at sentencing, the court
15 shall hold a hearing to determine the legitimacy of any claim, the
16 extent of any co-owner's equity interest, the liability of the
17 defendant to any co-lessee, and whether to order the vehicle
18 forfeited or returned to the lessor. In considering whether to
19 order forfeiture, the court shall review the defendant's driving
20 record to determine whether the defendant has multiple convictions
21 under section 625 or a local ordinance substantially corresponding
22 to section 625, or multiple suspensions, restrictions, or denials
23 under section 904, or both. If the defendant has multiple
24 convictions under section 625 or multiple suspensions,
25 restrictions, or denials under section 904, or both, that factor
26 shall weigh heavily in favor of forfeiture.

27 (7) If a vehicle is forfeited under this section, the unit of

1 government that seized the vehicle shall sell the vehicle and
2 dispose of the proceeds in the following order of priority:

3 (a) Pay any outstanding security interest of a secured party
4 who did not have prior knowledge of or consent to the commission of
5 the violation.

6 (b) Pay the equity interest of a co-owner who did not have
7 prior knowledge of or consent to the commission of the violation.

8 (c) Satisfy any order of restitution entered in the
9 prosecution for the violation.

10 (d) Pay the claim of each person who shows that he or she is a
11 victim of the violation to the extent that the claim is not covered
12 by an order of restitution.

13 (e) Pay any outstanding lien against the property that has
14 been imposed by a governmental unit.

15 (f) Pay the proper expenses of the proceedings for forfeiture
16 and sale, including, but not limited to, expenses incurred during
17 the seizure process and expenses for maintaining custody of the
18 property, advertising, and court costs.

19 (g) The balance remaining after the payment of items (a)
20 through (f) shall be distributed by the court having jurisdiction
21 over the forfeiture proceedings to the unit or units of government
22 substantially involved in effecting the forfeiture. Seventy-five
23 percent of the money received by a unit of government under this
24 subdivision shall be used to enhance enforcement of the criminal
25 laws and 25% of the money shall be used to implement the crime
26 victim's rights act, 1985 PA 87, MCL 780.751 to 780.834. A unit of
27 government receiving money under this subdivision shall report

1 annually to the department of management and budget the amount of
2 money received under this subdivision that was used to enhance
3 enforcement of the criminal laws and the amount that was used to
4 implement the crime victim's rights act, 1985 PA 87, MCL 780.751 to
5 780.834.

6 (8) The court may order the defendant to pay to a co-lessee
7 any liability determined under subsection (6). The order may be
8 enforced in the same manner as a civil judgment.

9 (9) The return of a vehicle to the lessor under this section
10 does not affect or impair the lessor's rights or the defendant's
11 obligations under the lease.

12 (10) A person who knowingly conceals, sells, gives away, or
13 otherwise transfers or disposes of a vehicle with the intent to
14 avoid forfeiture or return of the vehicle to the lessor under this
15 section is guilty of a misdemeanor punishable by imprisonment for
16 not more than 1 year or a fine of not more than \$1,000.00, or both.

17 (11) The failure of the court or prosecutor to comply with any
18 time limit specified in this section does not preclude the court
19 from ordering forfeiture of a vehicle or its return to a lessor,
20 unless the court finds that the owner or claimant suffered
21 substantial prejudice as a result of that failure.

22 (12) The forfeiture provisions of this section do not preclude
23 the prosecuting attorney from pursuing a forfeiture proceeding
24 under any other law of this state or a local ordinance
25 substantially corresponding to this section.

26 Sec. 904d. (1) Vehicle immobilization applies as follows:

27 (a) For a conviction under section ~~625(1)~~ **625(1)(A) OR (B)**,

1 (3), (7), or (8) or a local ordinance substantially corresponding
2 to section 625(1) or (3) with no prior convictions, the court may
3 order vehicle immobilization for not more than 180 days.

4 (b) For a conviction under section 625(4) or (5) with no prior
5 convictions, the court shall order vehicle immobilization for not
6 more than 180 days.

7 (c) For a conviction under section ~~625(1)~~ **625(1)(C), OR FOR A**
8 **CONVICTION UNDER SECTION 625(1)(A) OR (B)**, (3), (4), (5), (7), or
9 (8) within 7 years after a prior conviction, the court shall order
10 vehicle immobilization for not less than 90 days or more than 180
11 days.

12 (d) For a **SECOND OR SUBSEQUENT CONVICTION UNDER SECTION**
13 **625(1)(C), OR FOR A** conviction under section ~~625(1)~~ **625(1)(A) OR**
14 **(B)**, (3), (4), (5), (7), or (8) within 10 years after 2 or more
15 prior convictions, the court shall order vehicle immobilization for
16 not less than 1 year or more than 3 years.

17 (2) For a conviction or civil infraction determination
18 resulting from a violation that occurred during a period of
19 suspension, revocation, or denial, the following apply:

20 (a) Except as provided in subdivision (b), for 1 prior
21 suspension, revocation, or denial under section 904(10), (11), or
22 (12) or former section 904(2) or (4) within the past 7 years, the
23 court may order vehicle immobilization for not more than 180 days.

24 (b) Except as provided in subdivisions (c) and (d), if the
25 person is convicted under section 904(4) or (5), the court shall
26 order vehicle immobilization for not more than 180 days.

27 (c) For any combination of 2 or 3 prior suspensions,

1 revocations, or denials under section 904(10), (11), or (12) or
2 former section 904(2) or (4) within the past 7 years, the court
3 shall order vehicle immobilization for not less than 90 days or
4 more than 180 days.

5 (d) For any combination of 4 or more prior suspensions,
6 revocations, or denials under section 904(10), (11), or (12) or
7 former section 904(2) or (4) within the past 7 years, the court
8 shall order vehicle immobilization for not less than 1 year or more
9 than 3 years.

10 (3) The defendant shall provide to the court the vehicle
11 identification number and registration plate number of the vehicle
12 involved in the violation.

13 (4) The court may order vehicle immobilization under this
14 section under either of the following circumstances:

15 (a) The defendant is the owner, co-owner, lessee, or co-lessee
16 of the vehicle operated during the violation.

17 (b) The owner, co-owner, lessee, or co-lessee knowingly
18 permitted the vehicle to be operated in violation of section 625(2)
19 or section 904(2) regardless of whether a conviction resulted.

20 (5) An order required to be issued under this section shall
21 not be suspended.

22 (6) If a defendant is ordered imprisoned for the violation for
23 which immobilization is ordered, the period of immobilization shall
24 begin at the end of the period of imprisonment.

25 (7) This section does not apply to any of the following:

26 (a) A suspension, revocation, or denial based on a violation
27 of the support and parenting time enforcement act, 1982 PA 295, MCL

1 552.601 to 552.650.

2 (b) A vehicle that is registered in another state or that is a
3 rental vehicle.

4 (c) A vehicle owned by the federal government, this state, or
5 a local unit of government of this state.

6 (d) A vehicle not subject to registration under section 216.

7 (e) Any of the following:

8 (i) A violation of chapter II.

9 (ii) A violation of chapter V.

10 (iii) A violation for failure to change address.

11 (iv) A parking violation.

12 (v) A bad check violation.

13 (vi) An equipment violation.

14 (vii) A pedestrian, passenger, or bicycle violation, other than
15 a violation of section 703(1) or (2) of the Michigan liquor control
16 code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance
17 substantially corresponding to section 703(1) or (2) of the
18 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or
19 section 624a or 624b or a local ordinance substantially
20 corresponding to section 624a or 624b.

21 (viii) A violation of a local ordinance substantially
22 corresponding to a violation described in subparagraphs (i) to (vii).

23 (8) As used in this section:

24 (a) Subject to subsections (9) and (10), "prior conviction"
25 means a conviction for any of the following, whether under a law of
26 this state, a local ordinance substantially corresponding to a law
27 of this state, or a law of another state substantially

1 corresponding to a law of this state:

2 (i) Except as otherwise provided in subsection (10), a
3 violation or attempted violation of any of the following:

4 (A) Section 625, except a violation of section 625(2), or a
5 violation of any prior enactment of section 625 in which the
6 defendant operated a vehicle while under the influence of
7 intoxicating or alcoholic liquor or a controlled substance, or a
8 combination of intoxicating or alcoholic liquor and a controlled
9 substance, or while visibly impaired, or with an unlawful bodily
10 alcohol content.

11 (B) Section 625m.

12 (C) Former section 625b.

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

16 (b) "Vehicle immobilization" means requiring the motor vehicle
17 involved in the violation immobilized in a manner provided in
18 section 904e.

19 (9) If 2 or more convictions described in subsection (8)(a)
20 are convictions for violations arising out of the same incident,
21 only 1 conviction shall be used to determine whether the person has
22 a prior conviction.

23 (10) Only 1 violation or attempted violation of section
24 625(6), a local ordinance substantially corresponding to section
25 625(6), or a law of another state substantially corresponding to
26 section 625(6) may be used as a prior conviction.