

**SUBSTITUTE FOR
SENATE BILL NO. 153**

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 625a and 625c (MCL 257.625a and 257.625c),
section 625a as amended by 2015 PA 11 and section 625c as amended
by 2014 PA 315.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 (a) The peace officer has reasonable cause to believe the
4 person was, at the time of an accident in this state, the operator
5 of a vehicle involved in the accident and was operating the vehicle
6 in violation of section 625 or a local ordinance substantially
7 corresponding to section 625.

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

7 (2) A peace officer who has reasonable cause to believe that a
8 person was operating a vehicle upon a public highway or other place
9 open to the public or generally accessible to motor vehicles,
10 including an area designated for the parking of vehicles, within
11 this state and that the person by the consumption of alcoholic
12 liquor, a controlled substance, or other intoxicating substance or
13 a combination of them may have affected his or her ability to
14 operate a vehicle, or reasonable cause to believe that a person was
15 operating a commercial motor vehicle within the state while the
16 person's blood, breath, or urine contained any measurable amount of
17 alcohol, a controlled substance, or any other intoxicating
18 substance or while the person had any detectable presence of
19 alcoholic liquor, a controlled substance or any other intoxicating
20 substance, or any combination of them, or reasonable cause to
21 believe that a person who is less than 21 years of age was
22 operating a vehicle upon a public highway or other place open to
23 the public or generally accessible to motor vehicles, including an
24 area designated for the parking of vehicles, within this state
25 while the person had any bodily alcohol content as that term is
26 defined in section 625(6), may require the person to submit to a
27 preliminary chemical breath analysis. The following provisions

1 apply with respect to a preliminary chemical breath analysis
2 administered under this subsection:

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

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

9 (i) To assist the court or hearing officer in determining a
10 challenge to the validity of an arrest. This subparagraph does not
11 limit the introduction of other competent evidence offered to
12 establish the validity of an arrest.

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

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

23 (c) A person who submits to a preliminary chemical breath
24 analysis remains subject to the requirements of sections 625c,
25 625d, 625e, and 625f for purposes of chemical tests described in
26 those sections.

27 (d) Except as provided in subsection (5), a person who refuses

1 to submit to a preliminary chemical breath analysis upon a lawful
2 request by a peace officer is responsible for a civil infraction.

3 (3) A peace officer shall use the results of a preliminary
4 chemical breath analysis conducted under this section to determine
5 whether to order a person out-of-service under section 319d. A
6 peace officer shall order out-of-service as required under section
7 319d a person who was operating a commercial motor vehicle and who
8 refuses to submit to a preliminary chemical breath analysis as
9 provided in this section. This section does not limit use of other
10 competent evidence by the peace officer to determine whether to
11 order a person out-of-service under section 319d.

12 (4) A person who was operating a commercial motor vehicle and
13 who is requested to submit to a preliminary chemical breath
14 analysis under this section shall be advised that refusing a peace
15 officer's request to take a test described in this section is a
16 misdemeanor punishable by imprisonment for not more than 93 days or
17 a fine of not more than \$100.00, or both, and will result in the
18 issuance of a 24-hour out-of-service order.

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

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

27 (a) The amount of alcohol or presence of a controlled

1 substance or other intoxicating substance in a driver's blood or
2 urine or the amount of alcohol in a person's breath at the time
3 alleged as shown by chemical analysis of the person's blood, urine,
4 or breath is admissible into evidence in any civil or criminal
5 proceeding and is presumed to be the same as at the time the person
6 operated the vehicle.

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

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

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

17 (iii) He or she is responsible for obtaining a chemical
18 analysis of a test sample obtained at his or her own request.

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

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

1 (c) A sample or specimen of urine or breath shall be taken and
2 collected in a reasonable manner. Only a licensed physician, or an
3 individual operating under the delegation of a licensed physician
4 under section 16215 of the public health code, 1978 PA 368, MCL
5 333.16215, qualified to withdraw blood and acting in a medical
6 environment, may withdraw blood at a peace officer's request to
7 determine the amount of alcohol or presence of a controlled
8 substance or other intoxicating substance in the person's blood, as
9 provided in this subsection. Liability for a crime or civil damages
10 predicated on the act of withdrawing or analyzing blood and related
11 procedures does not attach to a licensed physician or individual
12 operating under the delegation of a licensed physician who
13 withdraws or analyzes blood or assists in the withdrawal or
14 analysis in accordance with this act unless the withdrawal or
15 analysis is performed in a negligent manner.

16 (d) A chemical test described in this subsection shall be
17 administered at the request of a peace officer having reasonable
18 grounds to believe the person has committed a crime described in
19 section 625c(1). A person who takes a chemical test administered at
20 a peace officer's request as provided in this section shall be
21 given a reasonable opportunity to have a person of his or her own
22 choosing administer 1 of the chemical tests described in this
23 subsection within a reasonable time after his or her detention. The
24 test results are admissible and shall be considered with other
25 admissible evidence in determining the defendant's innocence or
26 guilt. If the person charged is administered a chemical test by a
27 person of his or her own choosing, the person charged is

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1 responsible for obtaining a chemical analysis of the test sample.

2 (e) If, after an accident, the driver of a vehicle involved in
3 the accident is transported to a medical facility and a sample of
4 the driver's blood is withdrawn **OR THE DRIVER'S URINE IS OBTAINED**
5 at that time for medical treatment, the results of a chemical
6 analysis of ~~that sample~~ **EITHER OR BOTH OF THOSE SAMPLES** are
7 admissible in any civil or criminal proceeding to show the amount
8 of alcohol or presence of a controlled substance or other
9 intoxicating substance in the person's blood **OR URINE** at the time
10 alleged, regardless of whether the person had been offered or had
11 refused a chemical test. The medical facility or person performing
12 the chemical analysis shall disclose the results of the analysis to
13 a prosecuting attorney who requests the results for use in a
14 criminal prosecution as provided in this subdivision. A medical
15 facility or person disclosing information in compliance with this
16 subsection is not civilly or criminally liable for making the
17 disclosure.

18 (f) If, after an accident, the driver of a vehicle involved in
19 the accident is deceased, a sample of the decedent's blood shall be
20 withdrawn in a manner directed by the ~~<<medical examiner~~ **LAW ENFORCEMENT**
OFFICER>> to determine
21 the amount of alcohol or the presence of a controlled substance or
22 other intoxicating substance, or any combination of them, in the
23 decedent's blood. The medical examiner shall give the results of
24 the chemical analysis of the sample to the law enforcement agency
25 investigating the accident and that agency shall forward the
26 results to the department of state police.

27 (g) The department of state police shall promulgate uniform

1 rules in compliance with the administrative procedures act of 1969,
2 1969 PA 306, MCL 24.201 to 24.328, for the administration of
3 chemical tests for the purposes of this section. An instrument used
4 for a preliminary chemical breath analysis may be used for a
5 chemical test described in this subsection if approved under rules
6 promulgated by the department of state police.

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

10 (a) Whether the person was impaired by, or under the influence
11 of, alcoholic liquor, a controlled substance or other intoxicating
12 substance, or a combination of alcoholic liquor, a controlled
13 substance, or other intoxicating substance.

14 (b) Whether the person had an alcohol content of 0.08 grams or
15 more per 100 milliliters of blood, per 210 liters of breath, or per
16 67 milliliters of urine or, beginning October 1, 2018, the person
17 had an alcohol content of 0.10 grams or more per 100 milliliters of
18 blood, per 210 liters of breath, or per 67 milliliters of urine.

19 (c) If the person is less than 21 years of age, whether the
20 person had any bodily alcohol content within his or her body. As
21 used in this subdivision, "any bodily alcohol content" means either
22 of the following:

23 (i) An alcohol content of 0.02 grams or more but less than
24 0.08 grams per 100 milliliters of blood, per 210 liters of breath,
25 or per 67 milliliters of urine or, beginning October 1, 2018, the
26 person had an alcohol content of 0.02 grams or more but less than
27 0.10 grams or more per 100 milliliters of blood, per 210 liters of

1 breath, or per 67 milliliters of urine.

2 (ii) Any presence of alcohol within a person's body resulting
3 from the consumption of alcoholic liquor, other than the
4 consumption of alcoholic liquor as a part of a generally recognized
5 religious service or ceremony.

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

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

20 (10) As used in this section:

21 (a) "Controlled substance" means that term as defined in
22 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

23 (b) "Intoxicating substance" means that term as defined in
24 section 625.

25 Sec. 625c. (1) A person who operates a vehicle upon a public
26 highway or other place open to the general public or generally
27 accessible to motor vehicles, including an area designated for the

1 parking of vehicles, within this state is considered to have given
2 consent to chemical tests of his or her blood, breath, or urine for
3 the purpose of determining the amount of alcohol or presence of a
4 controlled substance or other intoxicating substance, or any
5 combination of them, in his or her blood or urine or the amount of
6 alcohol in his or her breath in all of the following circumstances:

7 (a) If the person is arrested for a violation of section
8 625(1), (3), (4), (5), (6), (7), or (8), section 625a(5), or
9 section 625m or a local ordinance substantially corresponding to
10 section 625(1), (3), (6), or (8), section 625a(5), or section 625m.

11 (b) If the person is arrested for a violation of section 601d,
12 section 626(3) or (4), or manslaughter, or murder resulting from
13 the operation of a motor vehicle, and the peace officer had
14 reasonable grounds to believe the person was operating the vehicle
15 in violation of section 625.

16 (C) IF THE PEACE OFFICER HAS REASONABLE CAUSE TO BELIEVE THAT
17 THE PERSON WAS THE OPERATOR OF A VEHICLE THAT CAUSED A FATAL
18 ACCIDENT. AS USED IN THIS SUBDIVISION, "FATAL ACCIDENT" MEANS AN
19 ACCIDENT THAT INVOLVES AT LEAST 1 VEHICLE AND THAT RESULTS IN 1 OF
20 THE FOLLOWING:

21 (i) DEATH.

22 (ii) SERIOUS BODILY INJURY THAT GIVES THE PEACE OFFICER REASON
23 TO BELIEVE THAT THE DEATH OF AT LEAST 1 PERSON IS IMMINENT.

24 (2) THE RESULTS OF A CHEMICAL TEST FOR WHICH A PERSON IS
25 CONSIDERED TO HAVE GIVEN CONSENT UNDER SUBSECTION (1) (C) ARE
26 ADMISSIBLE IN A CRIMINAL PROSECUTION FOR A CRIME DESCRIBED IN
27 SUBSECTION (1) IF THE COURT DETERMINES THAT REASONABLE CAUSE

1 EXISTS, INDEPENDENT OF THE TEST RESULT, TO BELIEVE THAT THE PERSON
2 WAS IMPAIRED BY OR UNDER THE INFLUENCE OF ALCOHOLIC LIQUOR, A
3 CONTROLLED SUBSTANCE OR OTHER INTOXICATING SUBSTANCE, OR A
4 COMBINATION OF ALCOHOLIC LIQUOR, A CONTROLLED SUBSTANCE, OR OTHER
5 INTOXICATING SUBSTANCE.

6 (3) ~~(2)~~—A person who is afflicted with hemophilia, diabetes,
7 or a condition requiring the use of an anticoagulant under the
8 direction of a physician is not considered to have given consent to
9 the withdrawal of blood.

10 (4) ~~(3)~~—The tests shall be administered as provided in section
11 625a(6).

12 (5) ~~(4)~~—As used in this section:

13 (a) "Controlled substance" means that term as defined in
14 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

15 (b) "Intoxicating substance" means that term as defined in
16 section 625.

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