

**SUBSTITUTE FOR
HOUSE BILL NO. 5385**

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 320a, 625a, 625c, 625d, and 625g (MCL
257.320a, 257.625a, 257.625c, 257.625d, and 257.625g), section
320a as amended by 2012 PA 592, sections 625a and 625g as amended
by 2013 PA 23, section 625c as amended by 2008 PA 463, and
section 625d as amended by 1994 PA 211, and by adding section
43a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 43A. "PRELIMINARY ROADSIDE ANALYSIS" MEANS THE ON-SITE**
2 **TAKING OF A PRELIMINARY BREATH TEST FROM THE BREATH OF A PERSON**
3 **OR THE PERFORMANCE AND OBSERVATION OF A FIELD SOBRIETY TEST FOR**
4 **THE PURPOSE OF DETECTING THE PRESENCE OF ANY OF THE FOLLOWING**
5 **WITHIN THE PERSON'S BODY:**

1 (A) ALCOHOLIC LIQUOR.

2 (B) A CONTROLLED SUBSTANCE, AS THAT TERM IS DEFINED IN
3 SECTION 7104 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
4 333.7104.

5 (C) ANY OTHER INTOXICATING SUBSTANCE, AS THAT TERM IS
6 DEFINED IN SECTION 625.

7 Sec. 320a. (1) Within 5 days after receipt of a properly
8 prepared abstract from a court of this state or another state,
9 the secretary of state shall record the date of conviction, civil
10 infraction determination, or probate court disposition, and the
11 number of points for each, based on the following formula, except
12 as otherwise provided in this section and section 629c:

13 (a) Manslaughter, negligent homicide, or a
14 felony resulting from the operation of a motor
15 vehicle, ORV, or snowmobile.....6 points

16 (b) A violation of section 601b(2) or (3),
17 601c(1) or (2), or 653a(3) or (4) or, beginning
18 October 31, 2010, a violation of section 601d.....6 points

19 (c) A violation of section 625(1), (4), (5),
20 (7), or (8), section 81134 or 82127(1) of the
21 natural resources and environmental protection act,
22 1994 PA 451, MCL 324.81134 and 324.82127, or a law or
23 ordinance substantially corresponding to section
24 625(1), (4), (5), (7), or (8), or section 81134
25 or 82127(1) of the natural resources and
26 environmental protection act, 1994 PA 451,
27 MCL 324.81134 and 324.82127.....6 points

28 (d) Failing to stop and disclose identity

1 at the scene of an accident when required by law.....6 points
 2 (e) Operating a motor vehicle in violation
 3 of section 626.....6 points
 4 (f) Fleeing or eluding an officer.....6 points
 5 (g) A violation of section 627(9) pertaining
 6 to speed in a work zone described in that section
 7 by exceeding the lawful maximum by more than
 8 15 miles per hour.....5 points
 9 (h) A violation of any law other than the
 10 law described in subdivision (g) or ordinance
 11 pertaining to speed by exceeding the lawful
 12 maximum by more than 15 miles per hour.....4 points
 13 (i) A violation of section 625(3) or (6),
 14 section 81135 or 82127(3) of the natural
 15 resources and environmental protection act,
 16 1994 PA 451, MCL 324.81135 and 324.82127,
 17 or a law or ordinance substantially corresponding
 18 to section 625(3) or (6) or section 81135
 19 or 82127(3) of the natural resources and
 20 environmental protection act, 1994 PA 451,
 21 MCL 324.81135 and 324.82127.....4 points
 22 (j) A violation of section 626a or a law
 23 or ordinance substantially corresponding to
 24 section 626a.....4 points
 25 (k) A violation of section 653a(2).....4 points
 26 (l) A violation of section 627(9) pertaining
 27 to speed in a work zone described in that section
 28 by exceeding the lawful maximum by more than 10
 29 but not more than 15 miles per hour.....4 points
 30 (m) Beginning October 31, 2010, a
 31 moving violation resulting in an at-fault

1 collision with another vehicle, a person,
 2 or any other object.....4 points
 3 (n) A violation of any law other than the
 4 law described in subdivision (l) or ordinance
 5 pertaining to speed by exceeding the lawful
 6 maximum by more than 10 but not more than 15
 7 miles per hour or careless driving in violation
 8 of section 626b or a law or ordinance substantially
 9 corresponding to section 626b.....3 points
 10 (o) A violation of section 627(9) pertaining
 11 to speed in a work zone described in that section
 12 by exceeding the lawful maximum by 10 miles per
 13 hour or less.....3 points
 14 (p) A violation of any law other than the law
 15 described in subdivision (o) or ordinance
 16 pertaining to speed by exceeding the lawful maximum
 17 by 10 miles per hour or less.....2 points
 18 (q) Disobeying a traffic signal or stop sign,
 19 or improper passing.....3 points
 20 (r) A violation of section 624a, 624b, or
 21 a law or ordinance substantially corresponding to
 22 section 624a or 624b.....2 points
 23 (s) A violation of section 310e(4) or (6) or
 24 a law or ordinance substantially corresponding to
 25 section 310e(4) or (6).....2 points
 26 (t) All other moving violations pertaining to
 27 the operation of motor vehicles reported under
 28 this section.....2 points
 29 (u) A refusal by a person ~~less than 21 years of~~
 30 ~~age to submit to a preliminary breath test~~ **ROADSIDE ANALYSIS**
 31 required by a peace officer under section 625a.....2 points

1 (2) Points shall not be entered for a violation of section
2 310e(14), 311, 602b(1), 602c, 625m, 658, 710d, 717, 719, 719a, or
3 723.

4 (3) Points shall not be entered for bond forfeitures.

5 (4) Points shall not be entered for overweight loads or for
6 defective equipment.

7 (5) If more than 1 conviction, civil infraction
8 determination, or probate court disposition results from the same
9 incident, points shall be entered only for the violation that
10 receives the highest number of points under this section.

11 (6) If a person has accumulated 9 points as provided in this
12 section, the secretary of state may call the person in for an
13 interview as to the person's driving ability and record after due
14 notice as to time and place of the interview. If the person fails
15 to appear as provided in this subsection, the secretary of state
16 shall add 3 points to the person's record.

17 (7) If a person violates a speed restriction established by
18 an executive order issued during a state of energy emergency as
19 provided by 1982 PA 191, MCL 10.81 to 10.89, the secretary of
20 state shall enter points for the violation pursuant to subsection
21 (1).

22 (8) The secretary of state shall enter 6 points upon the
23 record of a person whose license is suspended or denied pursuant
24 to section 625f. However, if a conviction, civil infraction
25 determination, or probate court disposition results from the same
26 incident, additional points for that offense shall not be

1 entered.

2 (9) If a Michigan driver commits a violation in another
3 state that would be a civil infraction if committed in Michigan,
4 and a conviction results solely because of the failure of the
5 Michigan driver to appear in that state to contest the violation,
6 upon receipt of the abstract of conviction by the secretary of
7 state, the violation shall be noted on the driver's record, but
8 no points shall be assessed against his or her driver's license.

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

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

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

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

1 **INTOXICATING SUBSTANCE OR A COMBINATION OF THEM** may have affected
2 his or her ability to operate a vehicle, or reasonable cause to
3 believe that a person was operating a commercial motor vehicle
4 within the state while the person's blood, breath, or urine
5 contained any measurable amount of alcohol, **A CONTROLLED**
6 **SUBSTANCE, OR ANY OTHER INTOXICATING SUBSTANCE** or while the
7 person had any detectable presence of alcoholic liquor, **A**
8 **CONTROLLED SUBSTANCE OR ANY OTHER INTOXICATING SUBSTANCE, OR ANY**
9 **COMBINATION OF THEM**, or reasonable cause to believe that a person
10 who is less than 21 years of age was operating a vehicle upon a
11 public highway or other place open to the public or generally
12 accessible to motor vehicles, including an area designated for
13 the parking of vehicles, within this state while the person had
14 any bodily alcohol content as that term is defined in section
15 625(6), may require the person to submit to a preliminary
16 ~~chemical-breath~~ **ROADSIDE** analysis. The following provisions apply
17 with respect to a preliminary ~~chemical-breath~~ **ROADSIDE** analysis
18 administered under this subsection:

19 **(A) BEFORE REQUESTING A PERSON TO SUBMIT TO A PRELIMINARY**
20 **ROADSIDE ANALYSIS, A PEACE OFFICER SHALL ADVISE THE PERSON THAT A**
21 **PERSON WHO REFUSES A REQUEST TO SUBMIT TO A PRELIMINARY ROADSIDE**
22 **ANALYSIS IS RESPONSIBLE FOR A CIVIL INFRACTION, MAY BE ORDERED TO**
23 **PAY A FINE OF NOT MORE THAN \$100.00, AND WILL BE ASSESSED 2**
24 **POINTS ON HIS OR HER DRIVING RECORD.**

25 **(B)** ~~(a)~~ A peace officer may arrest a person based in whole
26 or in part upon the results of a preliminary ~~chemical-breath~~
27 **ROADSIDE** analysis.

1 (C) ~~(b)~~ The results of a preliminary ~~chemical breath~~
2 **ROADSIDE** analysis are admissible in a criminal prosecution for a
3 crime enumerated in section 625c(1) or in an administrative
4 hearing for 1 or more of the following purposes:

5 (i) To assist the court or hearing officer in determining a
6 challenge to the validity of an arrest. This subparagraph does
7 not limit the introduction of other competent evidence offered to
8 establish the validity of an arrest.

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

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

20 (D) ~~(c)~~ A person who submits to a preliminary ~~chemical~~
21 ~~breath~~ **ROADSIDE** analysis remains subject to the requirements of
22 sections 625c, 625d, 625e, and 625f for purposes of chemical
23 tests described in those sections.

24 (E) ~~(d)~~ Except as provided in subsection (5), a person who
25 refuses to submit to a preliminary ~~chemical breath~~ **ROADSIDE**
26 analysis upon a lawful request by a peace officer is responsible
27 for a civil infraction.

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

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

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

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

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

7 (b) A person arrested for a crime described in section
8 625c(1) 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,
11 he 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
16 innocence 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
27 points to his or her driver record.

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

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

1 chemical test by a person of his or her own choosing, the person
2 charged is responsible for obtaining a chemical analysis of the
3 test sample.

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

19 (f) If, after an accident, the driver of a vehicle involved
20 in the accident is deceased, a sample of the decedent's blood
21 shall be withdrawn in a manner directed by the medical examiner
22 to determine the amount of alcohol or the presence of a
23 controlled substance ~~, or both,~~ **OTHER INTOXICATING SUBSTANCE, OR**
24 **ANY COMBINATION OF THEM,** in the decedent's blood. The medical
25 examiner shall give the results of the chemical analysis of the
26 sample to the law enforcement agency investigating the accident
27 and that agency shall forward the results to the department of

1 state police.

2 (g) The department of state police shall promulgate uniform
3 rules in compliance with the administrative procedures act of
4 1969, 1969 PA 306, MCL 24.201 to 24.328, for the administration
5 of chemical tests for the purposes of this section. An instrument
6 used for a preliminary ~~chemical breath~~ **ROADSIDE** analysis may be
7 used for a chemical test described in this subsection if approved
8 under rules promulgated by the department of state police.

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

12 (a) Whether the person was impaired by, or under the
13 influence of, alcoholic liquor, a controlled substance **OR OTHER**
14 **INTOXICATING SUBSTANCE**, or a combination of alcoholic liquor, ~~and~~
15 a controlled substance, **OR OTHER INTOXICATING SUBSTANCE**.

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

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

26 (i) An alcohol content of 0.02 grams or more but less than
27 0.08 grams per 100 milliliters of blood, per 210 liters of

1 breath, or per 67 milliliters of urine or, beginning October 1,
2 2018, the person had an alcohol content of 0.02 grams or more but
3 less than 0.10 grams or more per 100 milliliters of blood, per
4 210 liters of breath, or per 67 milliliters of urine.

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

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

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

24 **(10) AS USED IN THIS SECTION:**

25 **(A) "CONTROLLED SUBSTANCE" MEANS THAT TERM AS DEFINED IN**
26 **SECTION 7104 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL**
27 **333.7104.**

1 **(B) "INTOXICATING SUBSTANCE" MEANS THAT TERM AS DEFINED IN**
2 **SECTION 625.**

3 Sec. 625c. (1) A person who operates a vehicle upon a public
4 highway or other place open to the general public or generally
5 accessible to motor vehicles, including an area designated for
6 the parking of vehicles, within this state is considered to have
7 given consent to chemical tests of his or her blood, breath, or
8 urine for the purpose of determining the amount of alcohol or
9 presence of a controlled substance or ~~both~~**OTHER INTOXICATING**
10 **SUBSTANCE, OR ANY COMBINATION OF THEM,** in his or her blood or
11 urine or the amount of alcohol in his or her breath in all of the
12 following circumstances:

13 (a) If the person is arrested for a violation of section
14 625(1), (3), (4), (5), (6), (7), or (8), section 625a(5), or
15 section 625m or a local ordinance substantially corresponding to
16 section 625(1), (3), (6), or (8), section 625a(5), or section
17 625m.

18 (b) If the person is arrested for a violation of section
19 601d, section 626(3) or (4), or manslaughter, or murder resulting
20 from the operation of a motor vehicle, and the peace officer had
21 reasonable grounds to believe the person was operating the
22 vehicle in violation of section 625.

23 (2) A person who is afflicted with hemophilia, diabetes, or
24 a condition requiring the use of an anticoagulant under the
25 direction of a physician is not considered to have given consent
26 to the withdrawal of blood.

27 (3) The tests shall be administered as provided in section

1 625a(6).

2 (4) AS USED IN THIS SECTION:

3 (A) "CONTROLLED SUBSTANCE" MEANS THAT TERM AS DEFINED IN
4 SECTION 7104 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
5 333.7104.

6 (B) "INTOXICATING SUBSTANCE" MEANS THAT TERM AS DEFINED IN
7 SECTION 625.

8 Sec. 625d. (1) If a person refuses the request of a peace
9 officer to submit to a chemical test offered ~~pursuant to~~ **UNDER**
10 section 625a(6), a test shall not be given without a court order,
11 but the officer may seek to obtain the court order.

12 (2) A written report shall immediately be forwarded to the
13 secretary of state by the peace officer. The report shall state
14 that the officer had reasonable grounds to believe that the
15 person had committed a crime described in section 625c(1), and
16 that the person had refused to submit to the test upon the
17 request of the peace officer and had been advised of the
18 consequences of the refusal. The form of the report shall be
19 prescribed and furnished by the secretary of state.

20 Sec. 625g. (1) If a person **FAILS A PRELIMINARY ROADSIDE**
21 **ANALYSIS**, refuses a chemical test offered under section 625a(6),
22 or submits to the chemical test or a chemical test is performed
23 under a court order and the test reveals an unlawful alcohol
24 content, **OR THE PRESENCE OF A CONTROLLED SUBSTANCE OR OTHER**
25 **INTOXICATING SUBSTANCE, OR ANY COMBINATION OF THEM**, the peace
26 officer who requested the person to submit to the test shall do
27 all of the following:

(a) On behalf of the secretary of state, immediately confiscate the person's license or permit to operate a motor vehicle and, if the person is otherwise eligible for a license or permit, issue a temporary license or permit to the person. The temporary license or permit shall be on a form provided by the secretary of state.

(b) Except as provided in subsection (2), immediately do all of the following:

(i) Forward a copy of the written report of the person's refusal to submit to a chemical test required under section 625d to the secretary of state.

(ii) Notify the secretary of state by means of the law enforcement information network that a temporary license or permit was issued to the person.

(iii) Destroy the person's driver's license or permit.

(2) If a person **FAILED A PRELIMINARY ROADSIDE ANALYSIS AND THE PERSON** submits to a chemical test offered under section 625a(6) that requires an analysis of blood or urine and a report of the results of that chemical test is not immediately available, the peace officer who requested the person to submit to the test shall comply with subsection (1)(a) **AND (B) (i) AND (ii)** pending receipt of the test report. If the report reveals an unlawful alcohol content, **OR THE PRESENCE OF A CONTROLLED SUBSTANCE OR OTHER INTOXICATING SUBSTANCE, OR ANY COMBINATION OF THEM,** the peace officer who requested the person to submit to the test shall immediately comply with subsection ~~(1)(b)~~ **(1) (B) (iii)**. If the report does not reveal an unlawful alcohol content, **OR THE**

1 PRESENCE OF A CONTROLLED SUBSTANCE OR OTHER INTOXICATING

2 SUBSTANCE, OR ANY COMBINATION OF THEM, the peace officer who
3 requested the person to submit to the test shall immediately
4 notify the person of the test results and immediately return the
5 person's license or permit by first-class mail to the address
6 ~~given~~**PROVIDED** at the time of arrest.

7 (3) A temporary license or permit issued under this section
8 is valid for 1 of the following time periods:

9 (a) If the case is not prosecuted, for 90 days after
10 issuance or until the person's license or permit is suspended
11 under section 625f, whichever occurs earlier. The prosecuting
12 attorney shall notify the secretary of state if a case referred
13 to the prosecuting attorney is not prosecuted. The arresting law
14 enforcement agency shall notify the secretary of state if a case
15 is not referred to the prosecuting attorney for prosecution.

16 (b) If the case is prosecuted, until the criminal charges
17 against the person are dismissed, the person is acquitted of
18 those charges, or the person's license or permit is suspended,
19 restricted, or revoked.

20 (4) As used in this section: ~~,"unlawful"~~

21 (A) **"CONTROLLED SUBSTANCE" MEANS THAT TERM AS DEFINED IN**
22 **SECTION 7104 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL**
23 **333.7104.**

24 (B) **"INTOXICATING SUBSTANCE" MEANS THAT TERM AS DEFINED IN**
25 **SECTION 625.**

26 (C) **"UNLAWFUL alcohol content"** means any of the following,
27 as applicable:

House Bill No. 5385 (H-3) as amended June 3, 2014

1 **(i)** ~~(a)~~—If the person tested is less than 21 years of age,
2 0.02 grams or more of alcohol per 100 milliliters of blood, per
3 210 liters of breath, or per 67 milliliters of urine.

4 **(ii)** ~~(b)~~—If the person tested was operating a commercial
5 motor vehicle within this state, 0.04 grams or more of alcohol
6 per 100 milliliters of blood, per 210 liters of breath, or per 67
7 milliliters of urine.

8 **(iii)** ~~(c)~~—If the person tested is not a person described in
9 subdivision ~~(a) or (b)~~, **SUBPARAGRAPH (i) OR (ii)**, 0.08 grams or
10 more of alcohol per 100 milliliters of blood, per 210 liters of
11 breath, or per 67 milliliters of urine, or, beginning October 1,
12 2018, 0.10 grams or more of alcohol per 100 milliliters of blood,
13 per 210 liters of breath, or per 67 milliliters of urine.

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