

SENATE BILL No. 62

February 18, 1987, Introduced by Senators NICHOLS, J. HART,
SEDERBURG, KELLY and DE GROW and referred to the Committee
on Judiciary.

A bill to amend section 625 of Act No. 300 of the Public
Acts of 1949, entitled as amended
"Michigan vehicle code,"
as amended by Act No. 309 of the Public Acts of 1982, being sec-
tion 257.625 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 625 of Act No. 300 of the Public Acts of
2 1949, as amended by Act No. 309 of the Public Acts of 1982, being
3 section 257.625 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 625. (1) A person, whether licensed or not, who is
6 under the influence of intoxicating liquor or a controlled sub-
7 stance, or a combination of intoxicating liquor and a controlled
8 substance, shall not operate a vehicle upon a highway or other
9 place open to the general public, including an area designated

1 for the parking of vehicles, within the state. A peace officer
2 may, without a warrant, arrest a person when the peace officer
3 has reasonable cause to believe that the person was, at the time
4 of an accident, the driver of a vehicle involved in the accident
5 and was operating the vehicle upon a public highway or other
6 place open to the general public, including an area designated
7 for the parking of vehicles, in the state while in violation of
8 this subsection or of subsection (2), or of a local ordinance
9 substantially corresponding to this subsection or subsection
10 (2).

11 (2) A person, whether licensed or not, whose blood contains
12 0.10% or more by weight of alcohol, shall not operate a vehicle
13 upon a highway or other place open to the general public, includ-
14 ing an area designated for the parking of vehicles, within the
15 state.

16 (3) The owner of a vehicle or a person in charge or in con-
17 trol of a vehicle shall not authorize or knowingly permit the
18 vehicle to be operated upon a highway or other place open to the
19 general public, including an area designated for the parking of
20 motor vehicles, within the state by a person who is under the
21 influence of intoxicating liquor or a controlled substance, or a
22 combination of intoxicating liquor and a controlled substance.

23 (4) Except as otherwise provided in this section, a person
24 who is convicted of a violation of subsection (1), (2), or (3) is
25 guilty of a misdemeanor, punishable by imprisonment for not more
26 than 90 days, or a fine of not less than \$100.00 nor more than
27 \$500.00, or both, together with costs of the prosecution. As

1 part of the sentence for a violation of subsection (1) or (2),
2 the court shall order the secretary of state to suspend the
3 operator's or chauffeur's license of the person for a period of
4 not less than 6 months nor more than 2 years. The court may
5 order the secretary of state to issue to the person a restricted
6 license permitting the person during all or a specified portion
7 of the period of suspension to drive only to and from the
8 person's residence and work location; in the course of the
9 person's employment or occupation; to and from an alcohol or drug
10 education program or treatment program as ordered by the court;
11 to and from the person's residence and an educational institution
12 at which the person is enrolled as a student; or pursuant to a
13 combination of these restrictions. The court shall not order the
14 secretary of state to issue a restricted chauffeur's license
15 which would permit a person to operate a truck or truck tractor,
16 including a trailer, which hauls hazardous material. The court
17 shall not order the secretary of state to issue a restricted
18 license unless the person states under oath and the court finds
19 that the person is unable to take public transportation to and
20 from his or her work location, place of alcohol or drug education
21 or treatment, or educational institution, and does not have any
22 family members or others able to provide transportation. The
23 court order and license shall indicate the person's work location
24 and the approved route or routes and permitted times of travel.
25 For purposes of this subsection, "work location" includes, as
26 applicable, either or both of the following:

1 (i) The specific place or places of employment.

2 (ii) The territory or territories regularly visited by the
3 person in pursuance of the person's occupation.

4 (5) A person who violates subsection (1) or (2) or a local
5 ordinance substantially corresponding to subsection (1) or (2)
6 within 7 years of a prior conviction ~~may~~ SHALL be sentenced to
7 imprisonment for not LESS THAN 48 HOURS NOR more than 1 year,
8 ~~or~~ AND, IN ADDITION, a fine of not more than \$1,000.00 ~~, or~~
9 ~~both~~ MAY BE IMPOSED. THE COURT MAY ORDER THE PERSON TO PERFORM
10 NOT LESS THAN 10 DAYS NOR MORE THAN 22 DAYS OF SERVICE TO THE
11 COMMUNITY IN LIEU OF THE IMPRISONMENT. THE TERM OF IMPRISONMENT
12 OR COMMUNITY SERVICE IMPOSED UNDER THIS SUBSECTION SHALL NOT BE
13 SUSPENDED. As part of the sentence, the court shall order the
14 secretary of state to revoke the operator's or chauffeur's
15 license of the person. For purposes of this section, "prior
16 conviction" means a conviction under subsection (1) or (2), a
17 local ordinance substantially corresponding to subsection (1) or
18 (2), or a law of another state substantially corresponding to
19 subsection (1) or (2).

20 (6) A person who violates subsection (1) or (2) or a local
21 ordinance substantially corresponding to subsection (1) or (2)
22 within 10 years of 2 or more prior convictions, as defined in
23 subsection (5), is guilty of a felony. THE PERSON SHALL BE SEN-
24 TENCED TO IMPRISONMENT FOR NOT LESS THAN 48 HOURS NOR LESS THAN 5
25 YEARS, AND, IN ADDITION, A FINE OF NOT MORE THAN \$500.00 OR MORE
26 THAN \$5,000.00 MAY BE IMPOSED. THE COURT MAY ORDER THE PERSON TO
27 PERFORM NOT LESS THAN 10 DAYS NOR MORE THAN 22 DAYS OF SERVICE TO

1 THE COMMUNITY IN LIEU OF THE IMPRISONMENT. THE TERM OF
2 IMPRISONMENT OR COMMUNITY SERVICE IMPOSED UNDER THIS SUBSECTION
3 SHALL NOT BE SUSPENDED. As part of the sentence, the court shall
4 order the secretary of state to revoke the operator's or
5 chauffeur's license of the person.

6 (7) As part of the sentence for a violation of subsection
7 (1) or (2), or a local ordinance substantially corresponding to
8 subsection (1) or (2), the court may order the person to perform
9 service to the community, as designated by the court. ~~without~~
10 ~~compensation, for a~~ UNLESS SERVICE TO THE COMMUNITY IS ORDERED
11 UNDER SUBSECTION (5) OR (6) IN LIEU OF IMPRISONMENT, THE period
12 OF SUCH SERVICE SHALL not ~~to~~ exceed 12 days. ~~The person~~ A
13 PERSON SENTENCED TO PERFORM SERVICE TO THE COMMUNITY UNDER THIS
14 SECTION SHALL NOT RECEIVE COMPENSATION AND shall reimburse the
15 state or appropriate local unit of government for the cost of
16 insurance incurred by the state or local unit of government as a
17 result of the person's activities under this ~~subsection~~
18 SECTION.

19 (8) Before imposing sentence for a violation of subsection
20 (1) or (2) or a local ordinance substantially corresponding to
21 subsection (1) or (2), the court shall order the person to
22 undergo screening and assessment by a person or agency designated
23 by the office of substance abuse services, to determine whether
24 the person is likely to benefit from rehabilitative services,
25 including alcohol or drug education and alcohol or drug treatment
26 programs. As part of the sentence, the court may order the
27 person to participate in and successfully complete 1 or more

1 appropriate rehabilitative programs. The person shall pay for
2 the costs of the screening, assessment, and rehabilitative
3 services.

4 (9) Before accepting a plea of guilty under this section,
5 the court shall advise the accused of the statutory consequences
6 possible as the result of a plea of guilty in respect to suspen-
7 sion or revocation of an operator's or chauffeur's license, the
8 penalty imposed for violation of this section, and the limitation
9 on the right of appeal.

10 (10) The operator's or chauffeur's license of a person found
11 guilty of violating subsection (1) or (2), or a local ordinance
12 substantially corresponding to subsection (1) or (2), shall be
13 surrendered to the court in which the person was convicted, and
14 the court shall immediately forward the surrendered license and
15 an abstract of conviction to the secretary of state. The
16 abstract of conviction shall indicate the sentence imposed. Upon
17 receipt of, and pursuant to the abstract of conviction, the sec-
18 retary of state shall suspend or revoke the person's license and,
19 if ordered by the court and the person is otherwise eligible for
20 a license, issue to the person a restricted license stating the
21 limited driving privileges indicated on the abstract. If the
22 license is not forwarded to the secretary of state, an explana-
23 tion of the reason why the license is absent shall be attached.
24 If the conviction is appealed to circuit court, that court may,
25 ex parte, order the secretary of state to rescind the suspension,
26 revocation, or restricted license issued pursuant to this
27 section.

1 Section 2. This amendatory act shall take effect October 1,
2 1987.