

# HOUSE BILL No. 4307

February 23, 1989, Introduced by Reps. Nye, Gubow, Hertel, Van Regenmorter, Stabenow, Ouwinga, Hoekman, Walberg, Hillegonds, Bennett, Trim, Munsell, Giese, Crandall, Dunaskiss, DeLange, Hoffman, Dolan, Kosteva, Saunders, Berman, Muxlow, Bandstra, London, Stacey, DeBeaussaert, Bartnik, Fitzgerald, Honigman, Van Singel, Ciaramitaro, Maynard and Palamara and referred to the Committee on Transportation.

A bill to amend sections 303, 320a, 625, 625a, and 625c of Act No. 300 of the Public Acts of 1949, entitled as amended "Michigan vehicle code," section 303 as amended by Act No. 346 of the Public Acts of 1988, section 320a as amended by Act No. 154 of the Public Acts of 1987, section 625 as amended by Act No. 109 of the Public Acts of 1987, and sections 625a and 625c as amended by Act No. 310 of the Public Acts of 1982, being sections 257.303, 257.320a, 257.625, 257.625a, and 257.625c of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 303, 320a, 625, 625a, and 625c of Act  
2 No. 300 of the Public Acts of 1949, section 303 as amended by Act  
3 No. 346 of the Public Acts of 1988, section 320a as amended by  
4 Act No. 154 of the Public Acts of 1987, section 625 as amended by  
5 Act No. 109 of the Public Acts of 1987, and sections 625a and

1 625c as amended by Act No. 310 of the Public Acts of 1982, being  
2 sections 257.303, 257.320a, 257.625, 257.625a, and 257.625c of  
3 the Michigan Compiled Laws, are amended to read as follows:

4       Sec. 303. (1) The secretary of state shall not issue a  
5 license under this act TO ANY OF THE FOLLOWING:

6       (a) ~~To a~~ A person, as an operator, who is ~~+17 years of age~~  
7 ~~or~~ less THAN 18 YEARS OF AGE, except that the secretary of state  
8 may issue a license to a person who is not less than 16 years of  
9 age and who has satisfactorily passed a driver education course  
10 and examination given by a public school or nonpublic school of  
11 this or another state offering a course approved by the depart-  
12 ment of education, or an equivalent COURSE AND examination as  
13 prescribed in section 811. The secretary of state may issue to a  
14 person not less than 14 years of age a restricted license as pro-  
15 vided in this act. This subdivision shall not apply to a person  
16 who has been the holder of a valid driver's license issued by  
17 another state, territory, or possession of the United States or  
18 another sovereignty for at least 1 year immediately before appli-  
19 cation for a driver's license under this act.

20       (b) ~~To a~~ A person, as a chauffeur, who is ~~+17 years of age~~  
21 ~~or~~ less THAN 18 YEARS OF AGE, except that the secretary of state  
22 may issue a license to a person who is not less than 16 years of  
23 age and who has satisfactorily passed a driver education course  
24 and examination given by a public school or nonpublic school of  
25 this or another state offering a course approved by the depart-  
26 ment of education, or an equivalent COURSE AND examination as  
27 prescribed in section 811.

1 (c) ~~To a~~ A person whose license has been suspended during  
2 the period for which the license was suspended.

3 (d) ~~To a~~ A person whose license has been revoked under  
4 this act until the later of the following:

5 (i) The expiration of not less than 1 year after the license  
6 was revoked.

7 (ii) The expiration of not less than 5 years after the date  
8 of a subsequent revocation occurring within 7 years after the  
9 date of any prior revocation.

10 (e) ~~To a~~ A person who is an habitual violator of the crim-  
11 inal laws relating to operating a vehicle while impaired by or  
12 under the influence of intoxicating liquor or a controlled sub-  
13 stance or a combination of intoxicating liquor and a controlled  
14 substance, or with a blood alcohol content ~~of 0.10% or more by~~  
15 ~~weight of alcohol~~ DESCRIBED IN SECTION 625(2). Convictions of  
16 any of the following, whether under a law of this state, a local  
17 ordinance substantially corresponding to a law of this state, or  
18 a law of another state substantially corresponding to a law of  
19 this state, shall be prima facie evidence that the person is an  
20 habitual violator as described in this subdivision:

21 (i) Two convictions under section 625(1) or (2), or 1 con-  
22 viction under section 625(1) and 1 conviction under section  
23 625(2) within 7 years.

24 (ii) Three convictions under section 625b within 10 years.

25 (f) ~~To a~~ A person who in the opinion of the secretary of  
26 state is afflicted with or suffering from a physical or mental  
27 disability or disease which prevents that person from exercising

1 reasonable and ordinary control over a motor vehicle while  
2 operating the motor vehicle upon the highways.

3 (g) ~~To a~~ A person who is unable to understand highway  
4 warning or direction signs in the English language.

5 (h) ~~To a~~ A person who is an habitually reckless driver.  
6 Four convictions of reckless driving under this act or any other  
7 law of this state relating to reckless driving or under a local  
8 ordinance of this state or a law of another state which defines  
9 the term "reckless driving" substantially similar to the law of  
10 this state shall be prima facie evidence that the person is an  
11 habitually reckless driver.

12 (i) ~~To a~~ A person who is an habitual criminal. Two con-  
13 victions of a felony involving the use of a motor vehicle in this  
14 or another state shall be prima facie evidence that the person is  
15 an habitual criminal.

16 (j) ~~To a~~ A person who is unable to pass a knowledge,  
17 skill, or ability test administered by the secretary of state in  
18 connection with the issuance of an original operator's or  
19 chauffeur's license, original motorcycle indorsement, or an orig-  
20 inal or renewal of a vehicle group designation or vehicle  
21 indorsement.

22 (k) ~~To a~~ A person who has been convicted, received a pro-  
23 bate court finding, or been determined responsible for 2 or more  
24 moving violations under a law of this state, a local ordinance  
25 substantially corresponding to a law of this state, or a law of  
26 another state substantially corresponding to a law of this state,  
27 within the preceding 3 years, if the violations occurred prior to

1 the issuance of an original license to the person in this or  
2 another state.

3 (1) ~~To a~~ A nonresident.

4 (2) Upon receipt of the appropriate records of conviction,  
5 the secretary of state shall revoke the operator's or chauffeur's  
6 license of a person having any of the following convictions,  
7 whether under a law of this state, a local ordinance substan-  
8 tially corresponding to a law of this state, or a law of another  
9 state substantially corresponding to a law of this state:

10 (a) Four convictions of reckless driving within 7 years.

11 (b) Two convictions of a felony involving the use of a motor  
12 vehicle within 7 years.

13 (c) Two convictions under section 625(1) or (2), or 1 con-  
14 viction under section 625(1) and 1 conviction under section  
15 625(2) within 7 years.

16 (d) Three convictions under section 625b within 10 years.

17 (3) The secretary of state shall revoke a license under sub-  
18 section (2) notwithstanding a court order issued under section  
19 625 or 625b, or a local ordinance substantially corresponding to  
20 section 625(1) or (2) or 625b.

21 Sec. 320a. (1) The secretary of state, within 10 days after  
22 the receipt of a properly prepared abstract from this or another  
23 state, shall record the date of conviction, civil infraction  
24 determination, or probate court finding, and the number of points  
25 for each, based on the following formula, except as otherwise  
26 provided in this section and section 629c:

- 1 (a) Manslaughter, negligent homicide, or a felony  
 2 resulting from the operation of a motor vehicle..... 6 points
- 3 (b) Operating a motor vehicle while under the  
 4 influence of intoxicating liquor or a controlled sub-  
 5 stance, or a combination of an intoxicating liquor and  
 6 a controlled substance, or while having a blood alcohol  
 7 content ~~of 0.10% or more by weight of alcohol~~  
 8 DESCRIBED IN SECTION 625(2)..... 6 points
- 9 (c) Failing to stop and disclose identity at the  
 10 scene of an accident when required by law..... 6 points
- 11 (d) Operating a motor vehicle in a reckless manner 6 points
- 12 (e) Violation of any law or ordinance pertaining  
 13 to speed by exceeding the lawful maximum by more than  
 14 15 miles per hour..... 4 points
- 15 (f) Violation of section 625b or a law or ordi-  
 16 nance substantially corresponding to section 625b..... 4 points
- 17 (g) Fleeing or eluding an officer..... 6 points
- 18 (h) Violation of section 626a or a law or ordi-  
 19 nance substantially corresponding to section 626a..... 4 points
- 20 (i) Violation of any law or ordinance pertaining  
 21 to speed by exceeding the lawful maximum by more than  
 22 10 but not more than 15 miles per hour or careless  
 23 driving in violation of section 626b or a law or ordi-  
 24 nance substantially corresponding to section 626b..... 3 points
- 25 (j) Violation of any law or ordinance pertaining  
 26 to speed by exceeding the lawful maximum by 10 miles  
 27 per hour or less..... 2 points

1 (k) Disobeying a traffic signal or stop sign, or  
2 improper passing..... 3 points

3 (l) All other moving violations pertaining to the  
4 operation of motor vehicles reported under this section 2 points

5 (2) Points shall not be entered for a violation of section  
6 311, 658, 717, 719, 719a, or 723.

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

8 (4) Points shall not be entered for overweight loads or for  
9 defective equipment.

10 (5) If more than 1 conviction, civil infraction determina-  
11 tion, or probate court finding results from the same incident,  
12 points shall be entered only for the violation which receives the  
13 highest number of points under this section.

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

20 (7) If a person is determined to be responsible for a civil  
21 infraction for a violation of a law or ordinance pertaining to  
22 speed by exceeding the lawful maximum on a street or highway  
23 which maximum was reduced by Act No. 28 of the Public Acts of  
24 1974, then points shall be entered only pursuant to the  
25 following:

1 (a) Sixty miles per hour to the lawful maximum in  
 2 effect before being reduced by Act No. 28 of the Public  
 3 Acts of 1974..... 1 point

4 (b) Exceeding the lawful maximum in effect before  
 5 being reduced by Act No. 28 of the Public Acts of 1974,  
 6 by 10 miles per hour or less..... 2 points

7 (c) Exceeding the lawful maximum in effect before  
 8 being reduced by Act No. 28 of the Public Acts of 1974,  
 9 by more than 10 but not more than 15 miles per hour.... 3 points

10 (d) Exceeding the lawful maximum in effect before  
 11 being reduced by Act No. 28 of the Public Acts of 1974,  
 12 by more than 15 miles per hour..... 4 points

13 (8) Notwithstanding subsection (7), if a person violates a  
 14 speed restriction established by an executive order issued during  
 15 a state of energy emergency as provided by Act No. 191 of the  
 16 Public Acts of 1982, being sections 10.81 to 10.89 of the  
 17 Michigan Compiled Laws, the secretary of state shall enter points  
 18 for the violation pursuant to subsection (1).

19 (9) The secretary of state shall enter 6 points upon the  
 20 record of a person whose license is suspended or denied pursuant  
 21 to section 625f for refusal to submit to a chemical test  
 22 described in section 625a. However, if a conviction, civil  
 23 infraction determination, or probate court finding results from  
 24 the same incident, additional points for that offense shall not  
 25 be entered.

26 (10) If a Michigan driver commits a violation in another  
 27 state that would be a civil infraction if committed in Michigan,



1 and a conviction results solely because of the failure of the  
2 Michigan driver to appear in that state to contest the violation,  
3 upon receipt of the abstract of conviction by the secretary of  
4 state, the violation shall be noted on the driver's record, but  
5 no points shall be assessed against his or her driver's license.

6       Sec. 625. (1) A person, whether licensed or not, who is  
7 under the influence of intoxicating liquor or a controlled sub-  
8 stance, or a combination of intoxicating liquor and a controlled  
9 substance, shall not operate a vehicle upon a highway or other  
10 place open to the general public, including an area designated  
11 for the parking of vehicles, within the state. A peace officer  
12 may, without a warrant, arrest a person when the peace officer  
13 has reasonable cause to believe that the person was, at the time  
14 of an accident, the driver of a vehicle involved in the accident  
15 and was operating the vehicle upon a public highway or other  
16 place open to the general public, including an area designated  
17 for the parking of vehicles, in the state while in violation of  
18 this subsection or of subsection (2), or of a local ordinance  
19 substantially corresponding to this subsection or subsection  
20 (2).

21       (2) A person, whether licensed or not, ~~whose blood contains~~  
22 ~~0.10% or more by weight of alcohol,~~ shall not operate a vehicle  
23 upon a highway or other place open to the general public, includ-  
24 ing an area designated for the parking of vehicles, within the  
25 state UNDER EITHER OF THE FOLLOWING CIRCUMSTANCES:

26       (A) IF THE PERSON'S BLOOD CONTAINS 0.10% OR MORE BY WEIGHT  
27 OF ALCOHOL.

1 (B) IF THE VEHICLE IS A COMMERCIAL MOTOR VEHICLE AND THE  
2 PERSON'S BLOOD CONTAINS 0.04% OR MORE BY WEIGHT OF ALCOHOL.

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

10 (4) Except as otherwise provided in this section, a person  
11 who is convicted of a violation of subsection (1), (2), or (3) is  
12 guilty of a misdemeanor, punishable by imprisonment for not more  
13 than 90 days, or a fine of not less than \$100.00 ~~nor~~ OR more  
14 than \$500.00, or both, together with costs of the prosecution.  
15 As part of the sentence for a violation of subsection (1) or (2),  
16 the court shall order the secretary of state to suspend the  
17 operator's or chauffeur's license of the person for a period of  
18 not less than 6 months ~~nor~~ OR more than 2 years. The court may  
19 order the secretary of state to issue to the person a restricted  
20 license permitting the person during all or a specified portion  
21 of the period of suspension to drive only to and from the  
22 person's residence and work location; in the course of the  
23 person's employment or occupation; to and from an alcohol or drug  
24 education program or treatment program as ordered by the court;  
25 to and from the person's residence and an educational institution  
26 at which the person is enrolled as a student; or pursuant to a  
27 combination of these restrictions. The court may also order that

1 the restricted license include the requirement that a person  
2 shall not operate a motor vehicle unless the vehicle is equipped  
3 with a functioning certified ignition interlock device. The  
4 device shall be set to render the motor vehicle inoperable if the  
5 device detects 0.02% or more by weight of alcohol in the blood of  
6 the person who offers a breath sample. The court may order  
7 installation of a certified ignition interlock device on any  
8 motor vehicle that the person owns or operates, the costs of  
9 which shall be borne by the person whose license is restricted.  
10 The court shall not order the secretary of state to issue a  
11 restricted chauffeur's license which would permit a person to  
12 operate a truck or truck tractor, including a trailer, which  
13 hauls hazardous material. The court shall not order the secre-  
14 tary of state to issue a restricted license unless the person  
15 states under oath and the court finds that the person is unable  
16 to take public transportation to and from his or her work loca-  
17 tion, place of alcohol or drug education or treatment, or educa-  
18 tional institution, and does not have any family members or  
19 others able to provide transportation. The court order and  
20 license shall indicate the person's work location and the  
21 approved route or routes and permitted times of travel. For pur-  
22 poses of this subsection, "work location" includes, as applica-  
23 ble, either or both of the following:

- 24       (i) The specific place or places of employment.
- 25       (ii) The territory or territories regularly visited by the
- 26 person in pursuance of the person's occupation.

1       (5) A person who violates subsection (1) or (2) or a local  
2 ordinance substantially corresponding to subsection (1) or (2)  
3 within 7 years of a prior conviction may be sentenced to impris-  
4 onment for not more than 1 year, or a fine of not more than  
5 \$1,000.00, or both. As part of the sentence, the court shall  
6 order the secretary of state to revoke the operator's or  
7 chauffeur's license of the person. For purposes of this section,  
8 "prior conviction" means a conviction under subsection (1) or  
9 (2), a local ordinance substantially corresponding to subsection  
10 (1) or (2), or a law of another state substantially corresponding  
11 to subsection (1) or (2).

12       (6) A person who violates subsection (1) or (2) or a local  
13 ordinance substantially corresponding to subsection (1) or (2)  
14 within 10 years of 2 or more prior convictions, as defined in  
15 subsection (5), is guilty of a felony. As part of the sentence,  
16 the court shall order the secretary of state to revoke the  
17 operator's or chauffeur's license of the person.

18       (7) As part of the sentence for a violation of subsection  
19 (1) or (2), or a local ordinance substantially corresponding to  
20 subsection (1) or (2), the court may order the person to perform  
21 service to the community, as designated by the court, without  
22 compensation, for a period not to exceed 12 days. The person  
23 shall reimburse the state or appropriate local unit of government  
24 for the cost of insurance incurred by the state or local unit of  
25 government as a result of the person's activities under this  
26 subsection.

1 (8) Before imposing sentence for a violation of subsection  
2 (1) or (2) or a local ordinance substantially corresponding to  
3 subsection (1) or (2), the court shall order the person to  
4 undergo screening and assessment by a person or agency designated  
5 by the office of substance abuse services, to determine whether  
6 the person is likely to benefit from rehabilitative services,  
7 including alcohol or drug education and alcohol or drug treatment  
8 programs. As part of the sentence, the court may order the  
9 person to participate in and successfully complete 1 or more  
10 appropriate rehabilitative programs. The person shall pay for  
11 the costs of the screening, assessment, and rehabilitative  
12 services.

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

19 (10) The operator's or chauffeur's license of a person found  
20 guilty of violating subsection (1) or (2), or a local ordinance  
21 substantially corresponding to subsection (1) or (2), shall be  
22 surrendered to the court in which the person was convicted, and  
23 the court shall immediately forward the surrendered license and  
24 an abstract of conviction to the secretary of state. The  
25 abstract of conviction shall indicate the sentence imposed. Upon  
26 receipt of, and pursuant to the abstract of conviction, the  
27 secretary of state shall suspend or revoke the person's license

1 and, if ordered by the court and the person is otherwise eligible  
2 for a license, issue to the person a restricted license stating  
3 the limited driving privileges indicated on the abstract. If the  
4 license is not forwarded to the secretary of state, an explana-  
5 tion of the reason why the license is absent shall be attached.  
6 If the conviction is appealed to circuit court, that court may,  
7 ex parte, order the secretary of state to rescind the suspension,  
8 revocation, or restricted license issued pursuant to this  
9 section.

10       Sec. 625a. (1) The amount of alcohol or presence of a con-  
11 trolled substance or both in the driver's blood at the time  
12 alleged as shown by chemical analysis of the person's blood,  
13 urine, or breath shall be admissible into evidence in a criminal  
14 prosecution for any of the following:

15       (a) A violation of section 625(1), (2), or (3), or 625b, or  
16 of a local ordinance substantially corresponding to section  
17 625(1), (2), or (3), or 625b.

18       (b) Felonious driving, negligent homicide, or manslaughter  
19 resulting from the operation of a motor vehicle while the driver  
20 is alleged to have been impaired by or under the influence of  
21 intoxicating liquor or a controlled substance or a combination of  
22 intoxicating liquor and a controlled substance, or to have had a  
23 blood alcohol content of 0.10% or more by weight of alcohol OR,  
24 IF THE VEHICLE WAS A COMMERCIAL MOTOR VEHICLE, 0.04% OR MORE BY  
25 WEIGHT OF ALCOHOL.

26       (2) If a test is given, the results of the test shall be  
27 made available to the person charged or the person's attorney

1 upon written request to the prosecution, with a copy of the  
2 request filed with the court. The prosecution shall furnish the  
3 report at least 2 days before the day of the trial and the  
4 results shall be offered as evidence by the prosecution in a  
5 criminal proceeding. Failure to fully comply with the request  
6 shall bar the admission of the results into evidence by the  
7 prosecution.

8 (3) Except in a prosecution relating solely to a violation  
9 of section 625(2) AND EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION  
10 (4), the amount of alcohol in the driver's blood at the time  
11 alleged as shown by chemical analysis of the person's blood,  
12 urine, or breath shall give rise to the following presumptions:

13 (a) If there was at the time 0.07% or less by weight of  
14 alcohol in the defendant's blood, it shall be presumed that the  
15 defendant was not under the influence of intoxicating liquor.

16 (b) If there was at the time in excess of 0.07% but less  
17 than 0.10% by weight of alcohol in the defendant's blood, it  
18 shall be presumed that the defendant's ability to operate a vehi-  
19 cle was impaired within the provisions of section 625b due to the  
20 consumption of intoxicating liquor.

21 (c) If there was at the time 0.10% or more by weight of  
22 alcohol in the defendant's blood, it shall be presumed that the  
23 defendant was under the influence of intoxicating liquor.

24 (4) EXCEPT IN A PROSECUTION RELATING SOLELY TO A VIOLATION  
25 OF SECTION 625(2), IF THE DEFENDANT WAS THE OPERATOR OF A COMMER-  
26 CIAL MOTOR VEHICLE AND AT THE TIME ALLEGED THERE WAS 0.04% OR  
27 MORE BY WEIGHT OF ALCOHOL IN THE DEFENDANT'S BLOOD, AS SHOWN BY

1 CHEMICAL ANALYSIS OF THE DEFENDANT'S BLOOD, URINE, OR BREATH, IT  
2 SHALL BE PRESUMED THAT THE DEFENDANT WAS UNDER THE INFLUENCE OF  
3 INTOXICATING LIQUOR.

4 (5) ~~-(4)-~~ A sample or specimen of urine or breath shall be  
5 taken and collected in a reasonable manner. Only a licensed phy-  
6 sician, or a licensed nurse or medical technician under the  
7 direction of a licensed physician and qualified to withdraw blood  
8 acting in a medical environment, at the request of a peace offi-  
9 cer, may withdraw blood for the purpose of determining the amount  
10 of alcohol or presence of a controlled substance or both in the  
11 person's blood, as provided in this act. Liability for a crime  
12 or civil damages predicated on the act of withdrawing blood and  
13 related procedures shall not attach to a qualified person who  
14 withdraws blood or assists in the withdrawal in accordance with  
15 this act unless the withdrawal is performed in a negligent  
16 manner.

17 (6) ~~-(5)-~~ The tests shall be administered at the request of  
18 a peace officer having reasonable grounds to believe the person  
19 has committed a crime described in subsection (1). A person who  
20 takes a chemical test administered at the request of a peace  
21 officer, as provided in this section, shall be given a reasonable  
22 opportunity to have a person of his or her own choosing adminis-  
23 ter 1 of the chemical tests described in this section within a  
24 reasonable time after his or her detention, and the results of  
25 the test shall be admissible and shall be considered with other  
26 competent evidence in determining the innocence or guilt of the  
27 defendant. If the person charged is administered a chemical test



1 by a person of his or her own choosing, the person charged shall  
2 be responsible for obtaining a chemical analysis of the test  
3 sample. The person charged shall be informed that he or she has  
4 the right to demand that a person of his or her choosing adminis-  
5 ter 1 of the tests provided for in subsection (1), that the  
6 results of the test shall be admissible and shall be considered  
7 with other competent evidence in determining the innocence or  
8 guilt of the defendant, and that the person charged shall be  
9 responsible for obtaining a chemical analysis of the test  
10 sample.

11 (7) ~~-(6)-~~ The person charged shall be advised that if the  
12 person refuses the request of a peace officer to take a test  
13 described in this section, a test shall not be given without a  
14 court order. The person charged shall also be advised that the  
15 person's refusal of the request of a peace officer to take a test  
16 described in this section shall result in the suspension of his  
17 or her operator's or chauffeur's license or operating privilege,  
18 and in the addition of 6 points to his or her driver record.

19 (8) ~~-(7)-~~ This section shall not be construed as limiting  
20 the introduction of any other competent evidence bearing upon the  
21 question of whether or not the person was impaired by or under  
22 the influence of intoxicating liquor or a controlled substance,  
23 or a combination of intoxicating liquor and a controlled sub-  
24 stance, or whether the person had a blood alcohol content ~~-of~~  
25 ~~0.10% or more by weight of alcohol~~ DESCRIBED IN SECTION 625(2).

26 (9) ~~-(8)-~~ If a jury instruction regarding a defendant's  
27 refusal to submit to a chemical test under this section is

1 requested by the prosecution or the defendant, the jury  
2 instruction shall be given as follows:

3 "Evidence was admitted in this case which, if believed by  
4 the jury, could prove that the defendant had exercised his or her  
5 right to refuse a chemical test. You are instructed that such a  
6 refusal is within the statutory rights of the defendant and is  
7 not evidence of his OR HER guilt. You are not to consider such a  
8 refusal in determining the guilt or innocence of the defendant."

9 (10) ~~-(9)-~~ If after an accident the driver of a vehicle  
10 involved in the accident is transported to a medical facility and  
11 a sample of the driver's blood is withdrawn at that time for the  
12 purpose of medical treatment, the results of a chemical analysis  
13 of that sample shall be admissible in a criminal prosecution for  
14 a crime described in subsection (1) to show the amount of alcohol  
15 or presence of a controlled substance or both in the person's  
16 blood at the time alleged, regardless of whether the person had  
17 been offered or had refused a chemical test. The medical facil-  
18 ity or person performing the chemical analysis shall disclose the  
19 results of the analysis to a prosecuting attorney who requests  
20 the results for use in a criminal prosecution as provided in this  
21 subsection. A medical facility or person disclosing information  
22 in compliance with this subsection shall not be civilly or crimi-  
23 nally liable for making the disclosure.

24 (11) ~~-(10)-~~ If after a highway accident the driver of a  
25 vehicle involved in the accident is deceased, a sample of the  
26 decedent's blood shall be withdrawn in a manner directed by the

1 medical examiner for the purpose of determining blood alcohol  
2 content or presence of a controlled substance or both.

3       Sec. 625c. (1) A person who operates a vehicle upon a  
4 public highway or other place open to the general public, includ-  
5 ing an area designated for the parking of vehicles, in the state  
6 is considered to have given consent to chemical tests of his or  
7 her blood, breath, or urine for the purpose of determining the  
8 amount of alcohol or presence of a controlled substance or both  
9 in his or her blood if EITHER OF THE FOLLOWING APPLIES:

10       (a) The person is arrested for a violation of section 625(1)  
11 or (2) or 625b, or a local ordinance substantially corresponding  
12 to section 625(1) or (2) or 625b.

13       (b) The person is arrested for felonious driving, negligent  
14 homicide, or manslaughter resulting from the operation of a motor  
15 vehicle, and the peace officer had reasonable grounds to believe  
16 that the person was operating the vehicle while impaired by or  
17 under the influence of intoxicating liquor or a controlled sub-  
18 stance or a combination of intoxicating liquor and a controlled  
19 substance, or while having a blood alcohol content of 0.10% or  
20 more by weight of alcohol OR, IF THE VEHICLE IS A COMMERCIAL  
21 MOTOR VEHICLE, 0.04% OR MORE BY WEIGHT OF ALCOHOL.

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

26       (3) The tests shall be administered as provided in section  
27 625a.

1       Section 2. This amendatory act shall take effect October 1,  
2 1989.