

Act No. 104
Public Acts of 1991
Approved by the Governor
September 30, 1991
Filed with the Secretary of State
September 30, 1991

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1991**

Introduced by Rep. Nye

ENROLLED HOUSE BILL No. 5099

AN ACT to amend section 625e of Act No. 300 of the Public Acts of 1949, entitled as amended "An act to provide for the registration, titling, sale, transfer, and regulation of vehicles operated upon the public highways of this state or any other place open to the general public and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," as amended by Act No. 310 of the Public Acts of 1982, being section 257.625e of the Michigan Compiled Laws; to add section 625h[1]; and to repeal certain parts of the act on specific dates.

The People of the State of Michigan enact:

Section 1. Section 625e of Act No. 300 of the Public Acts of 1949, as amended by Act No. 310 of the Public Acts of 1982, being section 257.625e of the Michigan Compiled Laws, is amended and section 625h[1] is added to read as follows:

Sec. 625e. (1) If a person refuses to submit to a chemical test pursuant to section 625d, the peace officer shall immediately notify the person in writing that within 14 days of the date of the notice the person may request a hearing as provided in section 625f. The form of the notice shall be prescribed and furnished by the secretary of state.

(2) The notice shall specifically state that failure to request a hearing within 14 days will result in the suspension of the person's license or permit to drive. The notice shall also state that there is not a requirement that the person retain counsel for the hearing, though counsel would be permitted to represent the person at the hearing.

Sec. 625h[1]. (1) A peace officer who has reasonable cause to believe that a person was operating a vehicle upon a public highway or other place open to the general public, including an area designated for the parking of vehicles, in the state, and that the person by the consumption of intoxicating liquor may have affected his or her ability to operate a vehicle, may require the person to submit to a preliminary chemical breath analysis.

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

(3) The results of a preliminary chemical breath analysis shall be admissible in a criminal prosecution for a crime enumerated in section 625a(1) or in an administrative hearing under section 625f, solely to assist the court or hearing officer in determining a challenge to the validity of an arrest. This subsection does not limit the introduction of other competent evidence offered to establish the validity of an arrest.

(4) A person who submits to a preliminary chemical breath analysis shall remain subject to the requirements of sections 625a, 625c, 625d, 625e, and 625f for the purposes of chemical tests described in those sections.

(5) A person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a peace officer is responsible for a civil infraction.

(6) Section 625g shall apply to a preliminary chemical breath analysis.

(7) This section shall take effect October 1, 1991.

(8) This section is repealed effective January 1, 1992.

Section 2. Section 625e of Act No. 300 of the Public Acts of 1949, as amended by this amendatory act, shall take effect January 1, 1992.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.