

# HOUSE BILL No. 4351

February 20, 1991, Introduced by Rep. Clack and referred to the Committee on Transportation.

A bill to amend sections 312f, 319b, 320a, 323, 625a, 625c, 625h, 732, and 904 of Act No. 300 of the Public Acts of 1949, entitled as amended

"Michigan vehicle code,"

section 312f as amended by Act No. 181 of the Public Acts of 1990, section 319b as added and sections 323, 732, and 904 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, and sections 625a and 625c as amended and section 625h as added by Act No. 310 of the Public Acts of 1982, being sections 257.312f, 257.319b, 257.320a, 257.323, 257.625a, 257.625c, 257.625h, 257.732, and 257.904 of the Michigan Compiled Laws; and to add section 625m.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Section 1. Sections 312f, 319b, 320a, 323, 625a, 625c,  
2 625h, 732, and 904 of Act No. 300 of the Public Acts of 1949,  
3 section 312f as amended by Act No. 181 of the Public Acts of  
4 1990, section 319b as added and sections 323, 732, and 904 as  
5 amended by Act No. 346 of the Public Acts of 1988, section 320a  
6 as amended by Act No. 154 of the Public Acts of 1987, and sec-  
7 tions 625a and 625c as amended and section 625h as added by Act  
8 No. 310 of the Public Acts of 1982, being sections 257.312f,  
9 257.319b, 257.320a, 257.323, 257.625a, 257.625c, 257.625h,  
10 257.732, and 257.904 of the Michigan Compiled Laws, are amended  
11 and section 625m is added to read as follows:

12       Sec. 312f. (1) Except as otherwise provided in this sec-  
13 tion, a person shall be ~~at least~~ NOT LESS THAN 18 years of age  
14 before he or she is issued a vehicle group designation or  
15 indorsement, other than a motorcycle indorsement on an operator's  
16 or chauffeur's license and the person shall pass an examination  
17 as provided in this section and pursuant to 49 C.F.R. part 383.  
18 A person operating a vehicle to be used for farming purposes only  
19 may obtain a group A, a group B, or an F vehicle group designa-  
20 tion if he or she is ~~at least~~ NOT LESS THAN 16 years of age.  
21 Each written examination given an applicant for a vehicle group  
22 designation or indorsement on an operator's or chauffeur's  
23 license shall include subjects designed to cover the type or gen-  
24 eral class of vehicle to be operated. A person shall pass an  
25 examination which ~~shall include~~ THAT INCLUDES a driving test  
26 designed to test competency of the applicant for an original  
27 vehicle group designation and passenger indorsement on an

1 operator's or chauffeur's license to drive that type or general  
2 class of vehicle upon the highways of this state with safety to  
3 that person and other persons and property, except that the sec-  
4 retary of state may waive the requirement for a driving test for  
5 a vehicle group designation and passenger indorsement upon  
6 receipt of adequate evidence of experience, testing, and driving  
7 record as prescribed under 49 C.F.R. part 383 and section 307 in  
8 operating the vehicle group ~~which~~ THAT the applicant intends to  
9 drive. The secretary of state shall waive the driving skills  
10 test for a person operating a vehicle that is used under the con-  
11 ditions described in subsection (4)(a) to (d) ~~except if~~ UNLESS  
12 the vehicle has a gross vehicle weight rating of 26,001 pounds or  
13 more on the power unit and is to be used to carry hazardous mate-  
14 rials on which a placard is required under 49 C.F.R. parts 100 to  
15 199. The driving test may be waived ~~when~~ IF the applicant has  
16 a valid license, indorsement, or vehicle group designation to  
17 operate that type or group of vehicle in another state except  
18 that the driving test for a vehicle group designation or passen-  
19 ger vehicle indorsement may not be waived unless the applicant  
20 has a valid license with the appropriate vehicle group designa-  
21 tion or passenger vehicle indorsement in another state issued in  
22 compliance with the commercial motor vehicle safety act of 1986,  
23 Public Law 99-570, 100 Stat. ~~-3207-~~ 3207-170.

24 (2) The secretary of state may enter into an agreement with  
25 another public or private person or agency to conduct a skills  
26 test required under this section, section 312e, or 49 C.F.R. part  
27 383.

1 (3) The secretary of state shall not issue a vehicle group  
2 designation or indorsement to an applicant for an original  
3 VEHICLE group designation or indorsement ~~who comes under~~ TO  
4 WHOM 1 or more of the following ~~conditions~~ APPLY:

5 (a) ~~Has~~ THE APPLICANT HAS had his or her license suspended  
6 or revoked for a reason other than as provided in section 321a,  
7 515, or 801c in the 36 months immediately preceding application,  
8 except that a VEHICLE GROUP designation may be issued if the sus-  
9 pension or revocation was due to a temporary medical condition or  
10 failure to appear at a reexamination as provided in section 320.

11 (b) ~~Was~~ THE APPLICANT WAS convicted of or incurred a bond  
12 forfeiture in relation to a 6-point violation as provided in sec-  
13 tion 320a or a violation of section 625b in the 24 months immedi-  
14 ately preceding application, if the violation of section 625b  
15 occurred while the applicant was operating a type of vehicle that  
16 is operated under a vehicle group designation.

17 (c) ~~Is~~ THE APPLICANT IS listed on the national driver reg-  
18 ister or on a commercial driver license information system in the  
19 United States department of transportation as being disqualified  
20 from operating a motor vehicle.

21 (d) ~~Is~~ THE APPLICANT IS listed on the national driver reg-  
22 ister or on a commercial driver license information system in the  
23 United States department of transportation as having had a  
24 license suspended, revoked, or canceled in the 36 months immedi-  
25 ately preceding application.

26 (e) ~~Is~~ THE APPLICANT IS listed on the national driver  
27 register or on a commercial driver license information system in

1 the United States department of transportation as having been  
2 convicted of or incurred a bond forfeiture in relation to any of  
3 the offenses specified in section 205(a)(3) of the national  
4 driver register act of 1982, as set forth in section 401 note of  
5 title 23 of the United States Code, 23 U.S.C. 401 note.

6 (f) ~~Is~~ THE APPLICANT IS subject to a suspension OR  
7 REVOCATION under section 319b.

8 (g) ~~Has~~ THE APPLICANT HAS been disqualified under THE  
9 COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986, title XII of Public  
10 Law 99-570, 100 Stat. ~~3207~~ 3207-107, within 36 months immedi-  
11 ately preceding the date of application.

12 (4) The secretary of state shall only consider violations  
13 listed under subsection (3)(e) and bond forfeitures under  
14 subsection (3)(b) for violations ~~which~~ THAT occurred on or  
15 after October 1, 1989 when determining the applicability of sub-  
16 section (3).

17 Sec. 319b. (1) The secretary of state shall immediately  
18 suspend OR REVOKE all vehicle group designations on an operator's  
19 or chauffeur's license ~~when the secretary of state receives~~  
20 UPON RECEIVING notice of a conviction, bond forfeiture, or civil  
21 infraction determination for a violation described in this sec-  
22 tion committed within this state or another state. The period of  
23 suspension ~~shall be~~ OR REVOCATION IS as follows:

24 (a) ~~For~~ SUSPENSION FOR 60 days ~~when~~ IF the licensee is  
25 convicted of or found responsible for 2 serious traffic viola-  
26 tions while operating a commercial motor vehicle within 36  
27 months.

1 (b) ~~For~~ SUSPENSION FOR 120 days ~~when~~ IF the licensee is  
2 convicted of or found responsible for 3 serious traffic viola-  
3 tions while operating a commercial motor vehicle within 36  
4 months.

5 (c) ~~For~~ SUSPENSION FOR 1 year ~~when~~ IF the licensee is  
6 convicted of 1 of the following:

7 (i) A violation of section 625(1) or (2), ~~or section~~ 625b,  
8 OR 625M or a local ordinance or law of another state substan-  
9 tially corresponding to section 625(1) or (2), ~~or section~~ 625b,  
10 OR 625M while operating a commercial motor vehicle.

11 (ii) Leaving the scene of an accident involving a commercial  
12 motor vehicle ~~, which commercial motor vehicle is~~ operated by  
13 the licensee.

14 (iii) A felony in which a commercial motor vehicle was  
15 used.

16 (iv) A 6-point violation as provided in section 320a.

17 (d) ~~For~~ SUSPENSION FOR 3 years ~~when~~ IF the licensee is  
18 convicted of a felony in which a commercial motor vehicle was  
19 used if the vehicle was carrying hazardous material required to  
20 have a placard pursuant to 49 C.F.R. parts 100 to 199.

21 (e) ~~For life when~~ REVOCATION FOR NOT LESS THAN 10 YEARS  
22 AND UNTIL THE PERSON IS APPROVED FOR THE ISSUANCE OF A VEHICLE  
23 GROUP DESIGNATION IF a licensee is convicted of 1 of the  
24 following:

25 (i) Two violations under section 625(1) or (2), ~~or~~  
26 ~~section~~ 625b, OR 625M, or a local ordinance or law of another  
27 state substantially corresponding to section 625(1) or (2), ~~or~~

1 ~~section~~ 625b, OR 625M, while driving a commercial motor  
2 vehicle.

3 (ii) Two violations of leaving the scene of an accident  
4 involving a commercial motor vehicle ~~, which commercial motor~~  
5 ~~vehicle is~~ operated by the licensee.

6 (iii) Two violations of a felony in which a commercial motor  
7 vehicle was used.

8 (iv) Two violations of any combination of the offenses under  
9 ~~subparagraphs~~ SUBPARAGRAPH (i), (ii), or (iii).

10 (v) One violation of a felony in which a commercial motor  
11 vehicle was used and ~~which involves~~ THAT INVOLVED the manufac-  
12 ture, distribution, or dispensing of a controlled substance or  
13 possession with intent to manufacture, distribute, or dispense a  
14 controlled substance.

15 (2) As used in this section:

16 (a) "Felony in which a commercial motor vehicle was used"  
17 means a felony during the commission of which the person con-  
18 victed operated a commercial motor vehicle and while THE PERSON  
19 WAS operating the vehicle 1 or more of the following circum-  
20 stances existed:

21 (i) The vehicle was used as an instrument of the felony.

22 (ii) The vehicle was used to transport a victim of the  
23 felony.

24 (iii) The vehicle was used to flee the scene of the felony.

25 (iv) The vehicle was necessary for the commission of the  
26 felony.

1 (b) "Serious traffic violation" means reckless driving, a  
 2 traffic violation ~~received~~ THAT OCCURS in connection with an  
 3 accident in which a person dies, careless driving, excessive  
 4 speeding as defined in the federal administrative regulations  
 5 promulgated to implement THE COMMERCIAL MOTOR VEHICLE SAFETY ACT  
 6 OF 1986, title XII of Public Law 99-570, 100 Stat. ~~3207~~  
 7 3207-107, or any other serious traffic offense as specified in  
 8 the federal regulations implementing that act or as prescribed  
 9 under this act.

10 (3) For the purpose of this section only, a bond forfeiture  
 11 ~~shall be~~ IS considered a conviction.

12 (4) The secretary of state may suspend OR REVOKE a vehicle  
 13 group designation UNDER SUBSECTION (1) notwithstanding a suspen-  
 14 sion, restriction, revocation, or denial of an operator's or  
 15 chauffeur's license under another section of this act.

16 (5) The secretary of state, when determining the applicabi-  
 17 lity of conditions listed in this section, shall only consider  
 18 violations ~~which~~ THAT occurred after October 1, 1989.

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

25 (a) Manslaughter, negligent homicide, or a felony  
 26 resulting from the operation of a motor vehicle..... 6 points



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

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

3 (2) Points shall not be entered for a violation of section  
4 311, 625M, 658, 717, 719, 719a, or 723.

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

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

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

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

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

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

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

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

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

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

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

23 (10) If a Michigan driver commits a violation in another  
 24 state that would be a civil infraction if committed in Michigan,  
 25 and a conviction results solely because of the failure of the

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

5       Sec. 323. (1) A person who is aggrieved by a final determi-  
6 nation of the secretary of state denying the person an operator's  
7 or chauffeur's license, a vehicle group designation, or an  
8 indorsement on a license or revoking, suspending, or restricting  
9 an operator's or chauffeur's license, vehicle group designation,  
10 or an indorsement may petition for a review of the determination  
11 in the circuit court in the county where the person was arrested  
12 if the denial or suspension was imposed pursuant to section 625f  
13 or pursuant to the order of a trial court under section 328 or,  
14 in all other cases, in the circuit court in the county of resi-  
15 dence of the person.

16       (2) The circuit court shall enter an order setting the cause  
17 for hearing for a day certain ~~in~~ not to exceed 60 days after  
18 the date of the order. The order, together with a copy of the  
19 petition ~~which shall include~~ THAT INCLUDED the person's full  
20 name, current address, birth date, and driver's license number,  
21 and all supporting affidavits, shall be served on the secretary  
22 of state's office in Lansing not less than 20 days before the  
23 date set for the hearing. If the person is seeking a review of  
24 the record prepared pursuant to section 625f(3) to determine  
25 whether the hearing officer properly determined the issues enu-  
26 merated in section 625f(2), then the service upon the secretary

1 of state shall be made not less than 50 days before the date set  
2 for the hearing.

3 (3) Except as provided in subsection (4), the court may take  
4 testimony and examine into all the facts and circumstances inci-  
5 dent to the denial, suspension, restriction, or revocation of the  
6 person's license. The court may affirm, modify, or set aside the  
7 restriction, suspension, revocation, or denial except that the  
8 court shall not order the secretary of state to issue a  
9 restricted or unrestricted chauffeur's license ~~which~~ THAT would  
10 permit a person to drive a truck or truck tractor, including a  
11 trailer, ~~which~~ THAT hauls a hazardous material. The order of  
12 the court shall be ~~duly~~ entered and a certified copy shall be  
13 filed immediately with the secretary of state's office in  
14 Lansing.

15 (4) In reviewing a determination resulting in a denial or  
16 suspension under section 625f, the court shall confine its con-  
17 sideration to 1 or both of the following:

18 (a) A review of the record prepared pursuant to section  
19 625f(3) to determine whether the hearing officer properly deter-  
20 mined the issues enumerated in section 625f(2).

21 (b) A determination of whether to order the issuance of a  
22 restricted license as provided in section 323c.

23 (5) This section ~~shall~~ DOES not apply to a denial, revoca-  
24 tion, suspension, or restriction imposed pursuant to a court  
25 order issued as part of the sentence for ~~of~~ a conviction of a  
26 violation of section ~~625 or~~ 625(1) OR (2), 625b, OR 625M or a

1 local ordinance substantially corresponding to section 625(1) or  
2 (2), ~~or~~ 625b, OR 625M.

3 (6) This section ~~shall~~ DOES not apply to a denial, revoca-  
4 tion, suspension, or restriction imposed pursuant to the finan-  
5 cial responsibility act contained in chapter V.

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

11 (a) A violation of section 625(1), (2), or (3), ~~or~~ 625b,  
12 OR 625M or of a local ordinance substantially corresponding to  
13 section 625(1), (2), or (3), ~~or~~ 625b, OR 625M.

14 (b) Felonious driving, negligent homicide, or manslaughter  
15 resulting from the operation of a motor vehicle while the driver  
16 is alleged to have been impaired by or under the influence of  
17 intoxicating liquor or a controlled substance or a combination of  
18 intoxicating liquor and a controlled substance, or to have had a  
19 blood alcohol content of 0.10% or more by weight of alcohol.

20 (2) If a test is given, the results of the test shall be  
21 made available to the person charged or the person's attorney  
22 upon written request to the prosecution, with a copy of the  
23 request filed with the court. The prosecution shall furnish the  
24 report at least 2 days before the day of the trial and the  
25 results shall be offered as evidence by the prosecution in a  
26 criminal proceeding. Failure to fully comply with the request

1 shall bar the admission of the results into evidence by the  
2 prosecution.

3       (3) Except in a prosecution relating solely to a violation  
4 of section 625(2) OR 625M, the amount of alcohol in the driver's  
5 blood at the time alleged as shown by chemical analysis of the  
6 person's blood, urine, or breath shall give rise to the following  
7 presumptions:

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

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

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

19       (4) A sample or specimen of urine or breath shall be taken  
20 and collected in a reasonable manner. Only a licensed physician,  
21 or a licensed nurse or medical technician under the direction of  
22 a licensed physician and qualified to withdraw blood acting in a  
23 medical environment, at the request of a peace officer, may with-  
24 draw blood for the purpose of determining the amount of alcohol  
25 or presence of a controlled substance or both in the person's  
26 blood, as provided in this act. Liability for a crime or civil  
27 damages predicated on the act of withdrawing blood and related

1 procedures shall not attach to a qualified person who withdraws  
2 blood or assists in the withdrawal in accordance with this act  
3 unless the withdrawal is performed in a negligent manner.

4       (5) The tests shall be administered at the request of a  
5 peace officer having reasonable grounds to believe the person has  
6 committed a crime described in subsection (1). A person who  
7 takes a chemical test administered at the request of a peace  
8 officer, as provided in this section, shall be given a reasonable  
9 opportunity to have a person of his or her own choosing adminis-  
10 ter 1 of the chemical tests described in this section within a  
11 reasonable time after his or her detention, and the results of  
12 the test shall be admissible and shall be considered with other  
13 competent evidence in determining the innocence or guilt of the  
14 defendant. If the person charged is administered a chemical test  
15 by a person of his or her own choosing, the person charged shall  
16 be responsible for obtaining a chemical analysis of the test  
17 sample. The person charged shall be informed that he or she has  
18 the right to demand that a person of his or her choosing adminis-  
19 ter 1 of the tests provided for in subsection (1), that the  
20 results of the test shall be admissible and shall be considered  
21 with other competent evidence in determining the innocence or  
22 guilt of the defendant, and that the person charged shall be  
23 responsible for obtaining a chemical analysis of the test  
24 sample.

25       (6) The person charged shall be advised that if the person  
26 refuses the request of a peace officer to take a test described  
27 in this section, a test shall not be given without a court



1 order. The person charged shall also be advised that the  
2 person's refusal of the request of a peace officer to take a test  
3 described in this section shall result in the suspension of his  
4 or her operator's or chauffeur's license or operating privilege,  
5 and in the addition of 6 points to his or her driver record.

6 (7) This section ~~shall not be construed as limiting~~ DOES  
7 NOT LIMIT the introduction of any other competent evidence bear-  
8 ing upon the question of whether or not the person was impaired  
9 by or under the influence of intoxicating liquor or a controlled  
10 substance, or a combination of intoxicating liquor and a con-  
11 trolled substance, or whether the person had a blood alcohol con-  
12 tent of 0.10% or more by weight of alcohol.

13 (8) If a jury instruction regarding a defendant's refusal to  
14 submit to a chemical test under this section is requested by the  
15 prosecution or the defendant, the jury instruction shall be given  
16 as follows:

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

23 (9) If after an accident the driver of a vehicle involved in  
24 the accident is transported to a medical facility and a sample of  
25 the driver's blood is withdrawn at that time for the purpose of  
26 medical treatment, the results of a chemical analysis of that  
27 sample ~~shall be~~ ARE admissible in a criminal prosecution for a

1 crime described in subsection (1) to show the amount of alcohol  
2 or presence of a controlled substance or both in the person's  
3 blood at the time alleged, regardless of whether the person had  
4 been offered or had refused a chemical test. The medical facil-  
5 ity or person performing the chemical analysis shall disclose the  
6 results of the analysis to a prosecuting attorney who requests  
7 the results for use in a criminal prosecution as provided in this  
8 subsection. A medical facility or person disclosing information  
9 in compliance with this subsection ~~shall~~ IS not ~~be~~ civilly or  
10 criminally liable for making the disclosure.

11 (10) If after a highway accident the driver of a vehicle  
12 involved in the accident is deceased, a sample of the decedent's  
13 blood shall be withdrawn in a manner directed by the medical  
14 examiner for the purpose of determining blood alcohol content or  
15 presence of a controlled substance or both.

16 Sec. 625c. (1) A person who operates a vehicle upon a  
17 public highway or other place open to the general public, includ-  
18 ing an area designated for the parking of vehicles, in the state  
19 is considered to have given consent to chemical tests of his or  
20 her blood, breath, or urine for the purpose of determining the  
21 amount of alcohol or presence of a controlled substance or both  
22 in his or her blood if:

23 (a) The person is arrested for a violation of section 625(1)  
24 or (2), ~~or~~ 625b, OR 625M or a local ordinance substantially  
25 corresponding to section 625(1) or (2), ~~or~~ 625b, OR 625M.

26 (b) The person is arrested for felonious driving, negligent  
27 homicide, or manslaughter resulting from the operation of a motor

1 vehicle, and the peace officer had reasonable grounds to believe  
2 that the person was operating the vehicle while impaired by or  
3 under the influence of intoxicating liquor or a controlled sub-  
4 stance or a combination of intoxicating liquor and a controlled  
5 substance, or while having a blood alcohol content of 0.10% or  
6 more by weight of alcohol.

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

11 (3) The tests shall be administered as provided in section  
12 625a.

13 Sec. 625h. (1) A peace officer who MAY REQUIRE A PERSON TO  
14 SUBMIT TO A PRELIMINARY CHEMICAL BREATH ANALYSIS IF THE OFFICER  
15 has reasonable cause to believe ~~that a~~ EITHER OF THE FOLLOWING:

16 (A) THAT THE person was operating a vehicle upon a public  
17 highway or other place open to the general public, including an  
18 area designated for the parking of vehicles, ~~in~~ WITHIN the  
19 state, and that the person by the consumption of intoxicating  
20 liquor may have affected his or her ability to operate a vehicle.  
21 ~~, may require the person to submit to a preliminary chemical~~  
22 ~~breath analysis.~~

23 (B) THAT THE PERSON WAS OPERATING A COMMERCIAL MOTOR VEHICLE  
24 WITHIN THE STATE IN VIOLATION OF SECTION 625M.

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

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

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

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

15 (6) Section 625g ~~shall apply~~ APPLIES to a preliminary  
16 chemical breath analysis.

17 SEC. 625M. (1) A PERSON, WHETHER LICENSED OR NOT, WHOSE  
18 BLOOD CONTAINS 0.04% OR MORE BUT NOT MORE THAN 0.07% BY WEIGHT OF  
19 ALCOHOL SHALL NOT OPERATE A COMMERCIAL MOTOR VEHICLE WITHIN THE  
20 STATE.

21 (2) A POLICE OFFICER MAY, WITHOUT A WARRANT, ARREST A PERSON  
22 IF THE POLICE OFFICER HAS REASONABLE CAUSE TO BELIEVE THAT THE  
23 PERSON WAS, AT THE TIME OF AN ACCIDENT, THE DRIVER OF A COMMER-  
24 CIAL MOTOR VEHICLE INVOLVED IN THE ACCIDENT AND WAS OPERATING THE  
25 VEHICLE IN VIOLATION OF THIS SECTION OR OF A LOCAL ORDINANCE SUB-  
26 STANTIALLY CORRESPONDING TO THIS SECTION.

1 (3) A PERSON WHO IS CONVICTED OF A VIOLATION OF THIS SECTION  
2 OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO THIS SECTION  
3 IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT  
4 MORE THAN 90 DAYS OR A FINE OF NOT MORE THAN \$300.00, OR BOTH,  
5 TOGETHER WITH COSTS OF THE PROSECUTION. AS PART OF THE SENTENCE,  
6 THE COURT SHALL ORDER THE SECRETARY OF STATE TO SUSPEND THE VEHI-  
7 CLE GROUP DESIGNATIONS ON THE PERSON'S OPERATOR'S OR CHAUFFEUR'S  
8 LICENSE PURSUANT TO SECTION 319B(1)(C) OR (D). THE COURT SHALL  
9 NOT ORDER THE SECRETARY OF STATE TO ISSUE A RESTRICTED LICENSE  
10 THAT WOULD PERMIT THE PERSON TO OPERATE A COMMERCIAL MOTOR  
11 VEHICLE.

12 (4) A PERSON WHO VIOLATES THIS SECTION OR A LOCAL ORDINANCE  
13 SUBSTANTIALLY CORRESPONDING TO THIS SECTION WITHIN 10 YEARS OF A  
14 PRIOR CONVICTION MAY BE SENTENCED TO IMPRISONMENT FOR NOT MORE  
15 THAN 1 YEAR OR A FINE OF NOT MORE THAN \$1,000.00, OR BOTH. AS  
16 PART OF THE SENTENCE, THE COURT SHALL ORDER THE SECRETARY OF  
17 STATE TO REVOKE THE VEHICLE GROUP DESIGNATIONS ON THE PERSON'S  
18 OPERATOR'S OR CHAUFFEUR'S LICENSE PURSUANT TO SECTION  
19 319B(1)(E). THE COURT SHALL NOT ORDER THE SECRETARY OF STATE TO  
20 ISSUE A RESTRICTED LICENSE THAT WOULD PERMIT THE PERSON TO OPER-  
21 ATE A COMMERCIAL MOTOR VEHICLE. FOR PURPOSES OF THIS SUBSECTION,  
22 "PRIOR CONVICTION" MEANS A CONVICTION FOR A VIOLATION OF THIS  
23 SECTION, SECTION 625(1) OR (2), OR SECTION 625B; A LOCAL ORDI-  
24 NANCE SUBSTANTIALLY CORRESPONDING TO THIS SECTION, SECTION 625(1)  
25 OR (2), OR SECTION 625B; OR A LAW OF ANOTHER STATE SUBSTANTIALLY  
26 CORRESPONDING TO THIS SECTION, SECTION 625(1) OR (2), OR SECTION  
27 625B, WHILE OPERATING A COMMERCIAL MOTOR VEHICLE.

1       Sec. 732. (1) Each municipal judge and each clerk of a  
2 court of record shall keep a full record of every case in which a  
3 person is charged with or cited for a violation of this act or of  
4 a law corresponding to this act regulating the operation of vehi-  
5 cles on highways.

6       (2) Within 14 days after the conviction or forfeiture of  
7 bail of a person, or entry of a civil infraction determination,  
8 default judgment, or probate court order of disposition for a  
9 child found to be within the provisions of chapter XIIA of Act  
10 No. 288 of the Public Acts of 1939, being sections 712A.1 to  
11 712A.28 of the Michigan Compiled Laws, upon a charge of, or  
12 citation for, violating this act or a local ordinance correspond-  
13 ing to this act regulating the operation of vehicles on highways,  
14 except as provided in subsection ~~-(+2)-~~ (15), the municipal judge  
15 or clerk of the court of record shall prepare and immediately  
16 forward to the secretary of state an abstract of the record of  
17 the court for the case. The abstract shall be certified by sig-  
18 nature, stamp, or facsimile signature by the person required to  
19 prepare the abstract to be true and correct. If a city or vil-  
20 lage department, bureau, or person is authorized to accept a pay-  
21 ment of money as a settlement for a violation of a local ordi-  
22 nance corresponding to this act, the city or village department,  
23 bureau, or person shall send a full report of each case in which  
24 a person pays any amount of money to the city or village depart-  
25 ment, bureau, or person to the secretary of state upon a form  
26 prescribed by the secretary of state.

1 (3) The abstract or report required under this section shall  
 2 be made upon a form furnished by the secretary of state and shall  
 3 include ~~the~~ ALL OF THE FOLLOWING:

4 (A) THE name, address, and date of birth of the person  
 5 charged or cited. ~~, the~~

6 (B) THE number of the person's operator's or chauffeur's  
 7 license, if any. ~~, the~~

8 (C) THE date and nature of the violation. ~~, the~~

9 (D) THE type of vehicle driven at the time of the violation  
 10 and if the vehicle is a commercial motor vehicle, that vehicle's  
 11 group designation and indorsement classification. ~~, the~~

12 (E) THE date of the conviction, finding, forfeiture, judg-  
 13 ment, or determination. ~~, whether~~

14 (F) WHETHER bail was forfeited. ~~, any~~

15 (G) ANY license revocation, restriction, suspension, or  
 16 denial ordered by the court pursuant to this act. ~~, and other~~

17 (H) OTHER information considered necessary to the secretary  
 18 of state.

19 (4) The clerk of the court also shall forward an abstract of  
 20 the record of the court to the secretary of state upon the con-  
 21 viction of a person or entry of a probate court order of disposi-  
 22 tion for a child found to be within the provisions of chapter  
 23 XIIIA of Act No. 288 of the Public Acts of 1939 ~~, being sections~~  
 24 ~~7+2A.1 to 7+2A.28 of the Michigan Compiled Laws,~~ involving ~~a~~  
 25 ANY OF THE FOLLOWING:

26 (A) A violation of section 324, 413, 414, or 479a of the  
 27 Michigan penal code, Act No. 328 of the Public Acts of 1931,

1 being sections 750.324, 750.413, 750.414, and 750.479a of the  
2 Michigan Compiled Laws. ~~—, a~~

3 (B) A violation of section 1 of Act No. 214 of the Public  
4 Acts of 1931, being section 752.191 of the Michigan Compiled  
5 Laws. ~~—, or an~~

6 (C) AN attempt to commit any of ~~these~~ THE offenses  
7 DESCRIBED IN SUBDIVISION (A) OR (B).

8 (5) As used in subsections (6) to (8), "felony in which a  
9 motor vehicle was used" means a felony during the commission of  
10 which the person operated a motor vehicle and while operating the  
11 vehicle presented real or potential harm to persons or property  
12 and 1 or more of the following circumstances existed:

13 (a) The vehicle was used as an instrument of the felony.

14 (b) The vehicle was used to transport a victim of the  
15 felony.

16 (c) The vehicle was used to flee the scene of the felony.

17 (d) The vehicle was necessary for the commission of the  
18 felony.

19 (6) If a person is charged with a felony in which a motor  
20 vehicle was used, other than a felony specified in subsection (4)  
21 ~~—~~ or section 319(1)(a) to (f), the prosecuting attorney shall  
22 include the following statement on the complaint and information  
23 filed in district or circuit court:

24 "You are charged with the commission of a felony in which a  
25 motor vehicle was used. If you are convicted and the judge finds  
26 that the conviction is for a felony in which a motor vehicle was  
27 used, as defined in section 319 of the Michigan vehicle code, Act



1 No. 300 of the Public Acts of 1949, being section 257.319 of the  
2 Michigan Compiled Laws, your driver's license shall be suspended  
3 by the secretary of state."

4 (7) If a child is accused of an act the nature of which con-  
5 stitutes a felony in which a motor vehicle was used, other than a  
6 felony specified in subsection (4) or section 319(1)(a) to (f),  
7 the prosecuting attorney or juvenile court shall include on the  
8 petition filed in the probate court:

9 "You are accused of an act the nature of which constitutes a  
10 felony in which a motor vehicle was used. If the accusation is  
11 found to be true and the judge or referee finds that the nature  
12 of the act constitutes a felony in which a motor vehicle was  
13 used, as defined in section 319 of the Michigan vehicle code, Act  
14 No. 300 of the Public Acts of 1949, being section 257.319 of the  
15 Michigan Compiled Laws, your driver's license shall be suspended  
16 by the secretary of state."

17 (8) If the judge or juvenile court referee determines as  
18 part of the sentence or disposition that the felony for which the  
19 defendant was convicted or adjudicated and with respect to which  
20 notice was given pursuant to subsection (6) or (7) is a felony in  
21 which a motor vehicle was used, the clerk of the court shall for-  
22 ward an abstract of the court record of that conviction or adju-  
23 dication to the secretary of state.

24 (9) As used in subsections (10) and (11), "Felony in which a  
25 commercial motor vehicle was used" means a felony during the com-  
26 mission of which the person operated a commercial motor vehicle

1 and while THE PERSON WAS operating the vehicle 1 or more of the  
2 following circumstances existed:

3 (a) The vehicle was used as an instrument of the felony.

4 (b) The vehicle was used to transport a victim of the  
5 felony.

6 (c) The vehicle was used to flee the scene of the felony.

7 (d) The vehicle was necessary for the commission of the  
8 felony.

9 (10) If a person is charged with a felony in which a commer-  
10 cial motor vehicle was used and for which a vehicle group desig-  
11 nation on a license is subject to suspension OR REVOCATION under  
12 section 319b(1)(c)(iii), (d), or (e)(iii) or (v), the prosecuting  
13 attorney shall include the following statement on the complaint  
14 and information filed in district or circuit court:

15 "You are charged with the commission of a felony in which a  
16 commercial motor vehicle was used. If you are convicted and the  
17 judge finds that the conviction is for a felony in which a com-  
18 mercial motor vehicle was used, as defined in section 319b of the  
19 Michigan vehicle code, Act No. 300 of the Public Acts of 1949,  
20 being section 257.319b of the Michigan Compiled Laws, all vehicle  
21 group designations on your driver's license shall be suspended OR  
22 REVOKED by the secretary of state."

23 (11) If the judge determines as part of the sentence that  
24 the felony for which the defendant was convicted and with respect  
25 to which notice was given pursuant to subsection (10) is a felony  
26 in which a commercial motor vehicle was used, the clerk of the

1 court shall forward an abstract of the court record of that  
2 conviction to the secretary of state.

3       (12) Every person required to forward abstracts to the sec-  
4 retary of state under this section shall certify for the period  
5 from January 1 through June 30 and for the period from July 1  
6 through December 31 that all abstracts required to be forwarded  
7 during the period have been forwarded. The certification shall  
8 be filed with the secretary of state not later than 28 days after  
9 the end of the period covered by the certification. The certifi-  
10 cation shall be made upon a form furnished by the secretary of  
11 state and shall include all of the following:

12       (a) The name and title of the person required to forward  
13 abstracts.

14       (b) The court for which the certification is filed.

15       (c) The time period covered by the certification.

16       (d) The following statement:

17       "I certify that all abstracts required by section 732 of the  
18 Michigan vehicle code, MCL 257.732; MSA 9.2432, for the period  
19 \_\_\_\_\_ through \_\_\_\_\_ have been forwarded to the secre-  
20 tary of state."

21       (e) Other information the secretary of state considers  
22 necessary.

23       (f) The signature of the person required to forward  
24 abstracts.

25       (13) The failure, refusal, or neglect of a person to comply  
26 with this section shall constitute misconduct in office and shall  
27 be grounds for removal from office.

1       (14) Except as provided in subsection ~~(12)~~ (15), the  
2 secretary of state shall keep all abstracts received under this  
3 section at the secretary of state's main office and the abstracts  
4 shall be open for public inspection during the office's usual  
5 business hours. Each abstract shall be entered upon the master  
6 driving record of the person to whom it pertains.

7       (15) The court shall not submit, and the secretary of state  
8 shall discard and not enter on the master driving record, an  
9 abstract for a conviction, civil infraction determination, or  
10 probate court order of disposition for any of the following  
11 offenses:

12       (a) The parking or standing of a vehicle.

13       (b) A nonmoving violation ~~which~~ THAT is not the basis for  
14 the secretary of state's suspension, revocation, or denial of an  
15 operator's or chauffeur's license.

16       (c) A violation of chapter II ~~which~~ THAT is not the basis  
17 for the secretary of state's suspension, revocation, or denial of  
18 an operator's or chauffeur's license.

19       (d) A pedestrian, passenger, or bicycle violation.

20       (e) A violation of section 710e.

21       (16) The secretary of state shall discard and not enter on  
22 the master driving record an abstract for a bond forfeiture  
23 ~~which~~ THAT occurred outside this state. However, the secretary  
24 of state shall retain and enter on the master driving record an  
25 abstract of an out-of-state bond forfeiture for an offense  
26 ~~which~~ THAT occurred after October 1, 1989 in connection with  
27 the operation of a commercial motor vehicle.

1       (17) The secretary of state shall inform the courts of this  
2 state of the nonmoving violations and violations of chapter II  
3 ~~which~~ THAT are used by the secretary of state as the basis for  
4 the suspension, restriction, revocation, or denial of an  
5 operator's or chauffeur's license.

6       (18) If a conviction, civil infraction determination, or  
7 probate court order of disposition is reversed upon appeal, the  
8 person whose conviction, determination, or order of disposition  
9 has been reversed may serve on the secretary of state a certified  
10 copy of the order of reversal, and the secretary of state shall  
11 enter the order in the proper book or index in connection with  
12 the record of the conviction, civil infraction determination, or  
13 probate court order of disposition.

14       (19) The secretary of state may permit a city or village  
15 department, bureau, person, or court to modify the requirement as  
16 to the time and manner of reporting a conviction, civil infrac-  
17 tion determination, settlement, or probate court order of dispo-  
18 sition to the secretary of state ~~when~~ IF the modification will  
19 increase the economy and efficiency of collecting and utilizing  
20 the records. If the permitted abstract of court record reporting  
21 a conviction, civil infraction determination, settlement, or pro-  
22 bate court order of disposition originates as a part of the writ-  
23 ten notice to appear, authorized in section 728(1) or 742(1), the  
24 form of the written notice and report shall be as prescribed by  
25 the secretary of state.

26       Sec. 904. (1) A person whose operator's or chauffeur's  
27 license or registration certificate has been suspended or revoked

1 and who has been notified as provided in section 212 of that  
2 suspension or revocation, or whose application for license has  
3 been denied, as provided in this act, or who has never applied  
4 for a license, and who operates a motor vehicle upon the highways  
5 of this state or who knowingly permits a motor vehicle owned by  
6 the person to be operated by another upon a highway, except as  
7 permitted under this act, while the license or registration cer-  
8 tificate is suspended or revoked, or whose application for  
9 license has been denied, as provided in this act, is guilty of a  
10 misdemeanor, punishable, except as provided in subsections ~~(2)~~  
11 (3) and ~~(3)~~ (4), by imprisonment for not less than 3 days ~~nor~~  
12 OR more than 90 days, or a fine of not more than \$100.00, or  
13 both. Unless the vehicle was stolen or used with the permission  
14 of a person who did not knowingly permit an unlicensed driver to  
15 operate the vehicle, the registration plates of the vehicle shall  
16 be confiscated.

17 (2) A PERSON WHOSE VEHICLE GROUP DESIGNATION IS SUSPENDED OR  
18 REVOKED AND WHO HAS BEEN NOTIFIED AS PROVIDED IN SECTION 212 OF  
19 THAT SUSPENSION OR REVOCATION, OR WHOSE APPLICATION FOR A VEHICLE  
20 GROUP DESIGNATION HAS BEEN DENIED, AS PROVIDED IN THIS ACT, OR  
21 WHO HAS NEVER APPLIED FOR A VEHICLE GROUP DESIGNATION, AND WHO  
22 OPERATES A COMMERCIAL MOTOR VEHICLE UPON THE HIGHWAYS OF THIS  
23 STATE, EXCEPT AS PERMITTED UNDER THIS ACT, WHILE ANY OF THOSE  
24 CONDITIONS EXIST IS GUILTY OF A MISDEMEANOR, PUNISHABLE, EXCEPT  
25 AS OTHERWISE PROVIDED IN THIS SECTION, BY IMPRISONMENT FOR NOT  
26 LESS THAN 3 DAYS OR MORE THAN 90 DAYS, OR A FINE OF NOT MORE THAN  
27 \$100.00, OR BOTH.

1       (3) ~~-(2)-~~ A person whose operator's or chauffeur's license  
2 has been suspended under section 321a because that person has  
3 failed to answer a citation or has failed to comply with an order  
4 or judgment issued pursuant to section 907 and who operates a  
5 motor vehicle upon a highway, may be punished by imprisonment for  
6 not more than 90 days, or a fine of not more than \$100.00, or  
7 both.

8       (4) ~~-(3)-~~ A person convicted of a second or subsequent vio-  
9 lation of this section is guilty of a misdemeanor, punishable by  
10 imprisonment for not less than 5 days nor more than 1 year, or a  
11 fine of not more than \$500.00, or both. Unless the vehicle was  
12 stolen, the registration plates of the vehicle shall be  
13 confiscated.

14       (5) ~~-(4)-~~ The secretary of state, upon receiving a record of  
15 the conviction or probate court finding of a person upon a charge  
16 of unlawful operation of a motor vehicle while the license of the  
17 person is suspended, revoked, or denied, or of the conviction,  
18 civil infraction determination, or probate court finding of a  
19 person for a violation of the motor vehicle laws of this state  
20 while the license of the person is suspended, revoked, or denied,  
21 immediately shall extend the period of the first suspension or  
22 revocation for an additional like period, or if a period has not  
23 been determined, then for not less than 30 days nor more than 1  
24 year.

25       (6) ~~-(5)-~~ The secretary of state, upon receiving a record of  
26 the conviction, bond forfeiture, or a civil infraction  
27 determination of a person upon a charge of unlawful operation of

1 a motor vehicle requiring a class 1, class 2, or class 3  
2 indorsement or vehicle group designation while the indorsement or  
3 designation is suspended OR REVOKED pursuant to section 319a or  
4 319b, immediately shall extend the period of suspension OR  
5 REVOCATION for an additional like period. This subsection shall  
6 apply to a person who operates a commercial vehicle while dis-  
7 qualified under THE COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986,  
8 title XII of Public Law 99-570, 100 Stat. ~~-3207-~~ 3207-170.

9 (7) ~~-(6)-~~ Before the plea of the person is accepted under  
10 this section, the arresting officer shall check with the secre-  
11 tary of state to determine the record and status of the person  
12 according to the records of the secretary of state and so inform  
13 the court.

14 (8) ~~-(7)-~~ This section ~~-shall-~~ DOES not apply to a person  
15 who operates a vehicle solely for the purpose of protecting human  
16 life or property, if the life or property is endangered and the  
17 summoning of prompt aid is essential.