

HOUSE BILL No. 5099

August 22, 1991, Introduced by Rep. Nye and referred to the Committee on Judiciary.

A bill to amend section 625e of Act No. 300 of the Public Acts of 1949, entitled as amended "Michigan vehicle code," 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:

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

5 Sec. 625e. (1) ~~Upon receipt of the report made pursuant to~~
6 ~~section 625d, the secretary of state~~ IF A PERSON REFUSES TO
7 SUBMIT TO A CHEMICAL TEST PURSUANT TO SECTION 625D, THE PEACE

1 OFFICER shall immediately notify the person in writing ~~, mailed~~
2 ~~to his or her last known address, that the report has been~~
3 ~~received and~~ that within 14 days of the date of the notice the
4 person may request a hearing as provided in section 625f. THE
5 FORM OF THE NOTICE SHALL BE PRESCRIBED AND FURNISHED BY THE SEC-
6 RETARY OF STATE.

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

13 SEC. 625H[1]. (1) A PEACE OFFICER WHO HAS REASONABLE CAUSE
14 TO BELIEVE THAT A PERSON WAS OPERATING A VEHICLE UPON A PUBLIC
15 HIGHWAY OR OTHER PLACE OPEN TO THE GENERAL PUBLIC, INCLUDING AN
16 AREA DESIGNATED FOR THE PARKING OF VEHICLES, IN THE STATE, AND
17 THAT THE PERSON BY THE CONSUMPTION OF INTOXICATING LIQUOR MAY
18 HAVE AFFECTED HIS OR HER ABILITY TO OPERATE A VEHICLE, MAY
19 REQUIRE THE PERSON TO SUBMIT TO A PRELIMINARY CHEMICAL BREATH
20 ANALYSIS.

21 (2) A PEACE OFFICER MAY ARREST A PERSON BASED IN WHOLE OR IN
22 PART UPON THE RESULTS OF A PRELIMINARY CHEMICAL BREATH ANALYSIS.

23 (3) THE RESULTS OF A PRELIMINARY CHEMICAL BREATH ANALYSIS
24 SHALL BE ADMISSIBLE IN A CRIMINAL PROSECUTION FOR A CRIME ENUMER-
25 ATED IN SECTION 625A(1) OR IN AN ADMINISTRATIVE HEARING UNDER
26 SECTION 625F, SOLELY TO ASSIST THE COURT OR HEARING OFFICER IN
27 DETERMINING A CHALLENGE TO THE VALIDITY OF AN ARREST. THIS

1 SUBSECTION DOES NOT LIMIT THE INTRODUCTION OF OTHER COMPETENT
2 EVIDENCE OFFERED TO ESTABLISH THE VALIDITY OF AN ARREST.

3 (4) A PERSON WHO SUBMITS TO A PRELIMINARY CHEMICAL BREATH
4 ANALYSIS SHALL REMAIN SUBJECT TO THE REQUIREMENTS OF SECTIONS
5 625A, 625C, 625D, 625E, AND 625F FOR THE PURPOSES OF CHEMICAL
6 TESTS DESCRIBED IN THOSE SECTIONS.

7 (5) A PERSON WHO REFUSES TO SUBMIT TO A PRELIMINARY CHEMICAL
8 BREATH ANALYSIS UPON A LAWFUL REQUEST BY A PEACE OFFICER IS
9 RESPONSIBLE FOR A CIVIL INFRACTION.

10 (6) SECTION 625G SHALL APPLY TO A PRELIMINARY CHEMICAL
11 BREATH ANALYSIS.

12 (7) THIS SECTION SHALL TAKE EFFECT OCTOBER 1, 1991.

13 (8) THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 1992.

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