

HOUSE BILL No. 6013

July 22, 1992, Introduced by Rep. Baade and referred to the Committee on Judiciary.

A bill to amend sections 625 and 625i of Act No. 300 of the Public Acts of 1949, entitled as amended

"Michigan vehicle code,"

section 625 as amended by Act No. 98 of the Public Acts of 1991 and section 625i as amended by Act No. 99 of the Public Acts of 1991, being sections 257.625 and 257.625i of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 625 and 625i of Act No. 300 of the
2 Public Acts of 1949, section 625 as amended by Act No. 98 of the
3 Public Acts of 1991 and section 625i as amended by Act No. 99 of
4 the Public Acts of 1991, being sections 257.625 and 257.625i of
5 the Michigan Compiled Laws, are amended to read as follows:

6 Sec. 625. (1) A person, whether licensed or not, shall not
7 operate a vehicle upon a highway or other place open to the

1 general public or generally accessible to motor vehicles,
2 including an area designated for the parking of vehicles, within
3 this state if either of the following applies:

4 (a) The person is under the influence of intoxicating liquor
5 or a controlled substance, or a combination of intoxicating
6 liquor and a controlled substance.

7 (b) The person has a blood alcohol content of 0.10% or more
8 by weight of alcohol.

9 (2) The owner of a vehicle or a person in charge or in con-
10 trol of a vehicle shall not authorize or knowingly permit the
11 vehicle to be operated upon a highway or other place open to the
12 general public or generally accessible to motor vehicles, includ-
13 ing an area designated for the parking of motor vehicles, within
14 this state by a person who is under the influence of intoxicating
15 liquor or a controlled substance, or a combination of intoxicat-
16 ing liquor and a controlled substance, or who has a blood alcohol
17 content of 0.10% or more by weight of alcohol.

18 (3) A person, whether licensed or not, shall not operate a
19 vehicle upon a highway or other place open to the general public
20 or generally accessible to motor vehicles, including an area des-
21 ignated for the parking of vehicles within this state when, due
22 to the consumption of an intoxicating liquor, a controlled sub-
23 stance, or a combination of an intoxicating liquor and a con-
24 trolled substance, the person's ability to operate the vehicle is
25 visibly impaired. If a person is charged with violating subsec-
26 tion (1), a finding of guilty under this subsection may be
27 rendered.

1 (4) A person, whether licensed or not, who operates a motor
2 vehicle upon a highway or other place open to the general public
3 or generally accessible to motor vehicles, including an area des-
4 ignated for the parking of vehicles, within this state, under the
5 influence of intoxicating liquor or a controlled substance, or a
6 combination of intoxicating liquor and a controlled substance, or
7 with a blood alcohol content of 0.10% or more by weight of alco-
8 hol, and by the operation of that motor vehicle causes the death
9 of another person is guilty of a felony, punishable by imprison-
10 ment for not more than 15 years, or a fine of not less than
11 \$2,500.00 or more than \$10,000.00, or both.

12 (5) A person, whether licensed or not, who operates a motor
13 vehicle upon a highway or other place open to the general public
14 or generally accessible to motor vehicles, including an area des-
15 ignated for the parking of vehicles, within this state, under the
16 influence of intoxicating liquor or a controlled substance, or a
17 combination of intoxicating liquor and a controlled substance, or
18 with a blood alcohol content of 0.10% or more by weight of alco-
19 hol, and by the operation of that motor vehicle causes a
20 long-term incapacitating injury to another person is guilty of a
21 felony, punishable by imprisonment for not more than 5 years, or
22 a fine of not less than \$1,000.00 or more than \$5,000.00, or
23 both. As used in this subsection, "long-term incapacitating
24 injury" means an injury that has caused a person to be in a coma-
25 tose state, a quadriplegic state, a hemiplegic state, or a para-
26 plegic state, which state is likely to continue for 1 year or
27 more.

1 (6) If a person is convicted of violating subsection (1),
2 the following shall apply:

3 (a) Except as otherwise provided in subdivisions (b) and
4 (d), the person is guilty of a misdemeanor, and may be punished
5 by 1 or more of the following:

6 (i) Service to the community for a period of not more than
7 45 days.

8 (ii) Imprisonment for not more than 90 days.

9 (iii) A fine of not less than \$100.00 or more than \$500.00.

10 (b) If the violation occurs within 7 years of a prior con-
11 viction, the person shall be sentenced to both a fine of not less
12 than \$200.00 or more than \$1,000.00 and either of the following:

13 (i) Performing service to the community for a period of not
14 less than 10 days or more than 90 days and may be imprisoned for
15 not more than 1 year.

16 (ii) Imprisonment for not less than 48 consecutive hours or
17 more than 1 year, and may be sentenced to service to the commu-
18 nity for a period of not more than 90 days.

19 (c) A term of imprisonment imposed under subdivision (b)(ii)
20 shall not be suspended.

21 (d) If the violation occurs within 10 years of 2 or more
22 prior convictions, the person is guilty of a felony, and shall be
23 sentenced to imprisonment for not less than 1 year or more than 5
24 years, or a fine of not less than \$500.00 or more than \$5,000.00,
25 or both.

26 (e) A person sentenced to perform service to the community
27 under this subsection shall not receive compensation, and shall

1 reimburse the state or appropriate local unit of government for
2 the cost of supervision incurred by the state or local unit of
3 government as a result of the person's activities in that
4 service.

5 (f) As used in this subsection, "prior conviction" means a
6 conviction for a violation of section 625(1), (4), or (5), or
7 former section 625(1) or (2), a local ordinance substantially
8 corresponding to section 625(1), or former section 625(1) or (2),
9 or a law of another state substantially corresponding to section
10 625(1), (4), or (5), or former section 625(1) or (2).

11 (7) In addition to imposing the sanctions prescribed under
12 subsections (4), (5), and (6), the court may, pursuant to the
13 code of criminal procedure, Act No. 175 of the Public Acts of
14 1927, being sections 760.1 to 776.21 of the Michigan Compiled
15 Laws, order the person to pay the costs of the prosecution.

16 (8) The court shall impose license sanctions pursuant to
17 section 625b.

18 (9) A person who is convicted of violating subsection (2) is
19 guilty of a misdemeanor, punishable by imprisonment for not more
20 than 90 days, or a fine of not less than \$100.00 or more than
21 \$500.00, or both.

22 (10) If a person is convicted of violating subsection (3),
23 the following shall apply:

24 (a) Except as otherwise provided in subdivisions (b) and
25 (c), the person is guilty of a misdemeanor punishable by 1 or
26 more of the following:

1 (i) Service to the community for a period of not more than
2 45 days.

3 (ii) Imprisonment for not more than 90 days.

4 (iii) A fine of not more than \$300.00.

5 (b) If the violation occurs within 7 years of 1 prior con-
6 viction, the person shall be sentenced to both a fine of not less
7 than \$200.00 or more than \$1,000.00, and either of the
8 following:

9 (i) Performing service to the community for a period of not
10 less than 10 days or more than 90 days and may be sentenced to
11 imprisonment for not more than 1 year.

12 (ii) Imprisonment for not more than 1 year and may be sen-
13 tenced to community service for not more than 90 days.

14 (c) If the violation occurs within 10 years of 2 or more
15 prior convictions, the person shall be sentenced to both a fine
16 of not less than \$200.00 or more than \$1,000.00, and either of
17 the following:

18 (i) Performing service to the community for a period of not
19 less than 10 days or more than 90 days and may be sentenced to
20 imprisonment for not more than 1 year.

21 (ii) Imprisonment for not more than 1 year and may be sen-
22 tenced to community service for not more than 90 days.

23 (d) As used in subdivisions (b) and (c), "prior conviction"
24 means a conviction for a violation of section 625(1), (3), (4),
25 or (5), or former section 625(1) or (2), or former section 625b
26 or a local ordinance substantially corresponding to section
27 625(1) OR (3), or former section 625(1) or (2), or former section

1 625b, or a law of another state substantially corresponding to
2 section 625(1), (3), (4), or (5), or former section 625(1) or
3 (2), or former section 625b.

4 (e) In addition to imposing the sanctions prescribed in sub-
5 division (a), (b), or (c), the court may, pursuant to the code of
6 criminal procedure, Act No. 175 of the Public Acts of 1927, order
7 the person to pay the costs of the prosecution.

8 (f) The court shall order the secretary of state to impose
9 license sanctions pursuant to section 625b.

10 (g) A person sentenced to perform service to the community
11 under this subsection shall not receive compensation, and shall
12 reimburse the state or appropriate local unit of government for
13 the cost of supervision incurred by the state or local unit of
14 government as a result of the person's activities in that
15 service.

16 (11) If the prosecuting attorney intends to seek an enhanced
17 sentence under subsection (6)(b) or (d) or (10)(b) or (c) based
18 upon the defendant having 1 or more prior convictions, the prose-
19 cuting attorney shall include on the complaint and information
20 filed in district court, circuit court, recorder's court, municipi-
21 pal court, or probate court a statement listing the defendant's
22 prior convictions.

23 (12) A prior conviction shall be established at sentencing
24 by 1 or more of the following:

25 (a) An abstract of conviction.

26 (b) A copy of the defendant's driving record.

1 (c) An admission by the defendant.

2 (13) A person who is convicted of an attempted violation of
3 subsection (1) or (3), or a local ordinance substantially corre-
4 sponding to subsection (1) or (3) shall be punished as if the
5 offense had been completed.

6 (14) When assessing points and taking licensing action under
7 this act, the secretary of state and the court shall treat a con-
8 viction of an attempted violation of subsection (1) or (3) or a
9 local ordinance substantially corresponding to subsection (1) or
10 (3), or a law of another state substantially corresponding to
11 subsection (1) or (3) the same as if the offense had been
12 completed.

13 (15) IF A COURT IMPOSES COMMUNITY SERVICE PURSUANT TO THIS
14 SECTION, THE COURT MAY PERMIT THE PERSON REQUIRED TO PERFORM COM-
15 MUNITY SERVICE TO FULFILL PART OR ALL OF THAT OBLIGATION THROUGH
16 PAYMENT TO A COMMUNITY RESTITUTION PROGRAM ESTABLISHED BY THE
17 LOCAL UNIT OF GOVERNMENT IN WHICH THE VIOLATION OCCURRED, IF SUCH
18 A PROGRAM HAS BEEN ESTABLISHED BY THAT LOCAL UNIT OF GOVERNMENT.
19 A PERSON WHO AGREES TO FULFILL HIS OR HER OBLIGATION THROUGH A
20 COMMUNITY RESTITUTION PROGRAM SHALL PAY TO THE COURT NOT LESS
21 THAN \$5.00 PER HOUR OF COMMUNITY SERVICE EXCUSED UNDER THIS
22 SUBSECTION. AS USED IN THIS SUBSECTION, "COMMUNITY RESTITUTION
23 PROGRAM" MEANS A PROGRAM THAT DESIGNATES 1 OR MORE LOCAL CHARITA-
24 BLE ORGANIZATIONS TO RECEIVE FUNDS PAID IN LIEU OF COMMUNITY
25 SERVICE PURSUANT TO THIS SUBSECTION AND THAT PROVIDES FOR THE
26 DISTRIBUTION OF THOSE FUNDS TO THOSE ORGANIZATIONS.

1 Sec. 625i. (1) The department of state police shall prepare
2 an annual report ~~which shall be~~ designated AS the Michigan
3 annual drunk driving audit. The secretary of state, circuit
4 court, district court, probate court, municipal courts, and local
5 units of government in this state shall cooperate with the
6 department of state police to provide information necessary for
7 the preparation of the report. A copy of the report prepared
8 under this subsection shall be submitted to the governor, the
9 secretary of the senate, the clerk of the house of representa-
10 tives, and the secretary of state on June 1 of each year. The
11 report shall contain for each county in the state all of the fol-
12 lowing information applicable to the immediately preceding calen-
13 dar year:

14 (a) The number of alcohol related motor vehicle accidents
15 resulting in bodily injury, including a breakdown of the number
16 of those injuries occurring per capita of population and per road
17 mile in the county.

18 (b) The number of alcohol related motor vehicle accidents
19 resulting in death, including the breakdown described in subdivi-
20 sion (a).

21 (c) The number of alcohol related motor vehicle accidents,
22 other than those enumerated in subdivisions (a) and (b), includ-
23 ing the breakdown described in subdivision (a).

24 (d) The number of arrests made for violations of section
25 625(1)(a) or (b) or local ordinances substantially corresponding
26 to section 625(1)(a) or (b).

1 (e) The number of arrests made for violations of section
2 625(3) or local ordinances substantially corresponding to section
3 625(3).

4 (f) The number of arrests made for violations of
5 section 625(4) or (5).

6 (g) The number of operator's or chauffeur's licenses sus-
7 pended pursuant to section 625f.

8 (h) The number of arrests made for violations of
9 section 625m or local ordinances substantially corresponding to
10 section 625m. This subdivision ~~shall apply~~ APPLIES after
11 December 31, 1992.

12 (2) The secretary of state shall compile a report of dispo-
13 sitions of charges for violations of section 625(1), (3), (4), or
14 (5), or local ordinances substantially corresponding to
15 section 625(1) or (3) or, AFTER DECEMBER 31, 1992, section 625m
16 or local ordinances substantially corresponding to section 625m
17 by each judge for inclusion in the annual report. The report
18 compiled by the secretary of state shall include information
19 regarding all of the following:

20 (a) The number of dismissals granted.

21 (b) The number of convictions entered.

22 (c) The number of acquittals entered.

23 (d) The number of licenses suspended, revoked, or
24 restricted.

25 (e) The average length of imprisonment imposed.

26 (f) The average length of community service imposed in lieu
27 of imprisonment.

1 (G) THE AVERAGE AMOUNT OF COMMUNITY SERVICE FULFILLED BY
2 PAYMENT TO A COMMUNITY RESTITUTION PROGRAM UNDER SECTION 625.

3 (H) ~~(g)~~ The average fine imposed.

4 (3) The secretary of state shall enter into a contract with
5 the university of Michigan transportation research institute, in
6 which the university of Michigan transportation research insti-
7 tute shall evaluate the effect and impact of the 1991 legislation
8 addressing drunk and impaired driving in this state and report
9 its findings to the governor and the legislature not later than
10 October 1, 1994.