

SENATE BILL No. 314

May 16, 1991, Introduced by Senators VAN REGENMORTER,
STABENOW, WELBORN and EHLERS and referred to the
Committee on Judiciary.

A bill to amend sections 321a, 625a, 625c, 625d, 625f, and
625g of Act No. 300 of the Public Acts of 1949, entitled as
amended

"Michigan vehicle code,"

section 321a as amended by Act No. 89 of the Public Acts of 1989,
sections 625a, 625c, 625d, and 625f as amended by Act No. 310 of
the Public Acts of 1982 and section 625g as amended by Act
No. 515 of the Public Acts of 1980, being sections 257.321a,
257.625a, 257.625c, 257.625d, 257.625f, and 257.625g of the
Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 321a, 625a, 625c, 625d, 625f, and 625g
2 of Act No. 300 of the Public Acts of 1949, section 321a as
3 amended by Act No. 89 of the Public Acts of 1989, sections 625a,
4 625c, 625d, and 625f as amended by Act No. 310 of the Public Acts

1 of 1982 and section 625g as amended by Act No. 515 of the Public
2 Acts of 1980, being sections 257.321a, 257.625a, 257.625c,
3 257.625d, 257.625f, and 257.625g of the Michigan Compiled Laws,
4 are amended to read as follows:

5 Sec. 321a. (1) A person who fails to answer a citation, or
6 notice to appear in court for violating this act or an ordinance
7 substantially corresponding to this act, or for any matter pend-
8 ing, or who fails to comply with an order or judgment issued pur-
9 suant to section 907 is guilty of a misdemeanor, which shall not
10 be considered a violation for any purpose under section 320a.

11 ~~Twenty-eight~~ UNLESS THE PERSON IS CHARGED WITH A VIOLATION OF
12 SECTION 625(1), (2), (3), (4), OR (5), OR A LOCAL ORDINANCE SUB-
13 STANTIALLY CORRESPONDING TO SECTION 625(1), (2), OR (3), 28 days
14 or more after the date of noncompliance with an order or judg-
15 ment, the court shall give notice by mail at the last known
16 address of the person that if the person fails to appear within
17 14 days after the notice the secretary of state shall suspend the
18 person's operator's or chauffeur's license. If the person fails
19 to appear within the 14-day period, the court shall inform the
20 secretary of state within 14 days and the secretary of state
21 shall suspend the license of the person and notify the person of
22 the suspension by regular mail at the person's last known
23 address. ~~The~~ IF THE PERSON IS CHARGED WITH A VIOLATION OF
24 SECTION 625(1), (2), (3), (4), OR (5), OR A LOCAL ORDINANCE SUB-
25 STANTIALLY CORRESPONDING TO SECTION 625(1), (2), OR (3), AND THE
26 PERSON FAILS TO ANSWER A CITATION OR A NOTICE TO APPEAR IN COURT,
27 OR FOR ANY MATTER PENDING, THE COURT SHALL IMMEDIATELY GIVE

1 NOTICE BY FIRST-CLASS MAIL SENT TO THE PERSON'S LAST KNOWN
2 ADDRESS THAT IF THE PERSON FAILS TO APPEAR WITHIN 7 DAYS AFTER HE
3 OR SHE IS NOTIFIED TO APPEAR, THE SECRETARY OF STATE SHALL SUS-
4 PEND THE PERSON'S OPERATOR'S OR CHAUFFEUR'S LICENSE. IF THE
5 PERSON FAILS TO APPEAR WITHIN THE 7-DAY PERIOD, THE COURT SHALL
6 IMMEDIATELY INFORM THE SECRETARY OF STATE THAT THE PERSON FAILED
7 TO APPEAR AND THE SECRETARY OF STATE SHALL SUSPEND THE PERSON'S
8 OPERATOR'S OR CHAUFFEUR'S LICENSE AND NOTIFY THE PERSON OF THE
9 SUSPENSION BY FIRST-CLASS MAIL SENT TO THE PERSON'S LAST KNOWN
10 ADDRESS. A suspension IMPOSED UNDER THIS SUBSECTION shall remain
11 in effect until both of the following occur:

12 (a) The court informs the secretary of state that the person
13 has appeared before the court and all matters relating to the
14 violation or to the noncompliance with section 907 are resolved.

15 (b) The person has paid to the court a \$25.00 driver license
16 reinstatement fee. The increase in the reinstatement fee from
17 \$10.00 to \$25.00 shall be imposed for a license which is sus-
18 pended on or after April 5, 1988 regardless of when the license
19 was suspended.

20 (2) A court shall not notify the secretary of state, and the
21 secretary of state shall not suspend the person's license if the
22 person fails to appear in response to a citation issued for, or
23 fails to comply with a judgment involving 1 or more of the fol-
24 lowing infractions:

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

26 (b) A pedestrian, passenger, or bicycle violation.

1 (3) A court may notify a person who has done either of the
2 following, that if the person does not appear within 10 days
3 after the notice, the court will inform the secretary of state of
4 this failure:

5 (a) Failed to answer 2 or more parking violation notices or
6 citations for violating a provision of this act or an ordinance
7 substantially corresponding to a provision of this act pertaining
8 to handicapper parking issued or served after the effective date
9 of the amendatory act that added this subdivision.

10 (b) Failed to answer 6 or more parking violation notices or
11 citations, issued or served after March 31, 1981, regarding ille-
12 gal parking.

13 (4) The secretary of state, upon being informed of the fail-
14 ure of a person to appear as provided in subsection (3), shall
15 not issue a license to the person until both of the following
16 occur:

17 (a) The court informs the secretary of state that the person
18 has resolved all outstanding matters regarding the notices or
19 citations.

20 (b) The person has paid to the court a \$25.00 driver license
21 reinstatement fee. The increase in the reinstatement fee from
22 \$10.00 to \$25.00 shall be imposed for a license which is sus-
23 pended on or after April 5, 1988 regardless of when the license
24 was suspended. If the court determines that the person is not
25 responsible for any of the parking violations on the basis of
26 which his or her license was suspended under this subsection, the
27 court shall waive payment of this fee.

1 (5) For the purposes of subsections (1)(a) and (4)(a), the
2 court shall give to the person a copy of the information being
3 transmitted to the secretary of state. Upon showing that copy,
4 the person shall not be arrested or issued a citation for driving
5 on a suspended license on the basis of any matter resolved under
6 subsection (1)(a) or (4)(a), even if the information being sent
7 to the secretary of state has not yet been received or recorded
8 by the department.

9 (6) Sixty percent of the driver license reinstatement fees
10 received under subsections (1)(b) and (4)(b) shall be transmitted
11 by the court to the secretary of state on a monthly basis. The
12 funds received by the secretary of state pursuant to this subsec-
13 tion shall be deposited in the state general fund and shall be
14 used to defray the expenses of the secretary of state in process-
15 ing the suspension and reinstatement of driver licenses under
16 this section.

17 Sec. 625a. (1) A PEACE OFFICER, WITHOUT A WARRANT, MAY
18 ARREST A PERSON WHEN THE PEACE OFFICER HAS REASONABLE CAUSE TO
19 BELIEVE THAT THE PERSON WAS, AT THE TIME OF AN ACCIDENT, THE
20 OPERATOR OF A VEHICLE INVOLVED IN THE ACCIDENT IN THIS STATE
21 WHILE IN VIOLATION OF SECTION 625(1), (3), (4), OR (5) OR A LOCAL
22 ORDINANCE SUBSTANTIALLY CORRESPONDING TO SECTION 625(1) OR (3).

23 (2) A PEACE OFFICER WHO HAS REASONABLE CAUSE TO BELIEVE THAT
24 A PERSON WAS OPERATING A VEHICLE UPON A PUBLIC HIGHWAY OR OTHER
25 PLACE GENERALLY ACCESSIBLE TO MOTOR VEHICLES, INCLUDING AN AREA
26 DESIGNATED FOR THE PARKING OF VEHICLES, IN THIS STATE, AND THAT
27 THE PERSON BY THE CONSUMPTION OF INTOXICATING LIQUOR MAY HAVE

1 AFFECTED HIS OR HER ABILITY TO OPERATE A VEHICLE, MAY REQUIRE THE
2 PERSON TO SUBMIT TO A PRELIMINARY CHEMICAL BREATH ANALYSIS. THE
3 FOLLOWING PROVISIONS SHALL APPLY WITH RESPECT TO A PRELIMINARY
4 CHEMICAL BREATH ANALYSIS:

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

7 (B) THE RESULTS OF A PRELIMINARY CHEMICAL BREATH ANALYSIS
8 ARE ADMISSIBLE IN A CRIMINAL PROSECUTION FOR A CRIME ENUMERATED
9 IN SUBSECTION (3) (A) OR IN AN ADMINISTRATIVE HEARING SOLELY TO
10 ASSIST THE COURT OR HEARING OFFICER IN DETERMINING A CHALLENGE TO
11 THE VALIDITY OF AN ARREST. THIS SUBDIVISION DOES NOT LIMIT THE
12 INTRODUCTION OF OTHER COMPETENT EVIDENCE OFFERED TO ESTABLISH THE
13 VALIDITY OF AN ARREST.

14 (C) A PERSON WHO SUBMITS TO A PRELIMINARY CHEMICAL BREATH
15 ANALYSIS SHALL REMAIN SUBJECT TO THE REQUIREMENTS OF SECTIONS
16 625C, 625D, 625E, AND 625F FOR THE PURPOSES OF CHEMICAL TESTS
17 DESCRIBED IN THOSE SECTIONS.

18 (D) A PERSON WHO REFUSES TO SUBMIT TO A PRELIMINARY CHEMICAL
19 BREATH ANALYSIS UPON A LAWFUL REQUEST BY A PEACE OFFICER IS
20 RESPONSIBLE FOR A CIVIL INFRACTION.

21 (3) THE FOLLOWING PROVISIONS APPLY WITH RESPECT TO CHEMICAL
22 TESTS AND ANALYSIS OF A PERSON'S BLOOD, URINE, OR BREATH, OTHER
23 THAN PRELIMINARY CHEMICAL BREATH ANALYSIS:

24 (A) ~~—(1)—~~ The amount of alcohol or presence of a controlled
25 substance or both in ~~the~~ A driver's blood at the time alleged
26 as shown by chemical analysis of the person's blood, urine, or
27 breath ~~shall be~~ IS admissible into evidence in ~~a criminal~~

1 ~~prosecution for~~ any CIVIL OR CRIMINAL PROCEEDING. ~~of the~~
2 ~~following:~~

3 ~~(a) A violation of section 625(1), (2), or (3), or 625b, or~~
4 ~~of a local ordinance substantially corresponding to section~~
5 ~~625(1), (2), or (3), or 625b.~~

6 ~~(b) Felonious driving, negligent homicide, or manslaughter~~
7 ~~resulting from the operation of a motor vehicle while the driver~~
8 ~~is alleged to have been impaired by or under the influence of~~
9 ~~intoxicating liquor or a controlled substance or a combination of~~
10 ~~intoxicating liquor and a controlled substance, or to have had a~~
11 ~~blood alcohol content of 0.10% or more by weight of alcohol.~~

12 ~~(2) If a test is given, the results of the test shall be~~
13 ~~made available to the person charged or the person's attorney~~
14 ~~upon written request to the prosecution, with a copy of the~~
15 ~~request filed with the court. The prosecution shall furnish the~~
16 ~~report at least 2 days before the day of the trial and the~~
17 ~~results shall be offered as evidence by the prosecution in a~~
18 ~~criminal proceeding. Failure to fully comply with the request~~
19 ~~shall bar the admission of the results into evidence by the~~
20 ~~prosecution.~~

21 ~~(3) Except in a prosecution relating solely to a violation~~
22 ~~of section 625(2), the amount of alcohol in the driver's blood at~~
23 ~~the time alleged as shown by chemical analysis of the person's~~
24 ~~blood, urine, or breath shall give rise to the following~~
25 ~~presumptions:~~

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

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

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

12 (B) A PERSON ARRESTED FOR A CRIME DESCRIBED IN SUBDIVISION
13 (A), SHALL BE ADVISED OF ALL OF THE FOLLOWING:

14 (i) THAT IF HE OR SHE TAKES A CHEMICAL TEST OF HIS OR HER
15 BLOOD, URINE, OR BREATH ADMINISTERED AT THE REQUEST OF A PEACE
16 OFFICER, HE OR SHE HAS THE RIGHT TO DEMAND THAT A PERSON OF HIS
17 OR HER OWN CHOOSING ADMINISTER 1 OF THE CHEMICAL TESTS; THAT THE
18 RESULTS OF THE TEST ARE ADMISSIBLE IN A JUDICIAL PROCEEDING AS
19 PROVIDED UNDER THIS ACT AND SHALL BE CONSIDERED WITH OTHER COMPE-
20 TENT EVIDENCE IN DETERMINING THE INNOCENCE OR GUILT OF THE
21 DEFENDANT; AND THAT HE OR SHE IS RESPONSIBLE FOR OBTAINING A
22 CHEMICAL ANALYSIS OF A TEST SAMPLE OBTAINED PURSUANT TO HIS OR
23 HER OWN REQUEST.

24 (ii) THAT IF HE OR SHE REFUSES THE REQUEST OF A PEACE OFFI-
25 CER TO TAKE A TEST DESCRIBED IN SUBPARAGRAPH (i), A TEST SHALL
26 NOT BE GIVEN WITHOUT A COURT ORDER, BUT THE PEACE OFFICER MAY
27 SEEK TO OBTAIN SUCH A COURT ORDER.

1 (iii) THAT HIS OR HER REFUSAL OF THE REQUEST OF A PEACE
2 OFFICER TO TAKE A TEST DESCRIBED IN SUBPARAGRAPH (i) SHALL RESULT
3 IN THE SUSPENSION OF HIS OR HER OPERATOR'S OR CHAUFFEUR'S LICENSE
4 OR OPERATING PRIVILEGE, AND IN THE ADDITION OF 6 POINTS TO HIS OR
5 HER DRIVER RECORD.

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

19 (D) ~~-(5)-The tests-~~ A CHEMICAL TEST DESCRIBED IN THIS
20 SUBSECTION shall be administered at the request of a peace offi-
21 cer having reasonable grounds to believe the person has committed
22 a crime described in ~~subsection (1)-~~ SUBDIVISION (A). A person
23 who takes a chemical test administered at the request of a peace
24 officer, as provided in this section, shall be given a reasonable
25 opportunity to have a person of his or her own choosing adminis-
26 ter 1 of the chemical tests described in this ~~section-~~
27 SUBSECTION within a reasonable time after his or her detention,

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

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

22 ~~(7) This section shall not be construed as limiting the~~
23 ~~introduction of any other competent evidence bearing upon the~~
24 ~~question of whether or not the person was impaired by or under~~
25 ~~the influence of intoxicating liquor or a controlled substance,~~
26 ~~or a combination of intoxicating liquor and a controlled~~

1 ~~substance, or whether the person had a blood alcohol content of~~
2 ~~0.10% or more by weight of alcohol.~~

3 ~~(8) If a jury instruction regarding a defendant's refusal to~~
4 ~~submit to a chemical test under this section is requested by the~~
5 ~~prosecution or the defendant, the jury instruction shall be given~~
6 ~~as follows:~~

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

13 (E) ~~-(9)-~~ If, after an accident, the driver of a vehicle
14 involved in the accident is transported to a medical facility and
15 a sample of the driver's blood is withdrawn at that time for the
16 purpose of medical treatment, the results of a chemical analysis
17 of that sample shall be admissible in a criminal prosecution for
18 a crime described in ~~subsection (1)~~ SUBDIVISION (A) to show the
19 amount of alcohol or presence of a controlled substance or both
20 in the person's blood at the time alleged, regardless of whether
21 the person had been offered or had refused a chemical test. The
22 medical facility or person performing the chemical analysis shall
23 disclose the results of the analysis to a prosecuting attorney
24 who requests the results for use in a criminal prosecution as
25 provided in this ~~subsection~~ SUBDIVISION. A medical facility or
26 person disclosing information in compliance with this subsection

1 shall not be civilly or criminally liable for making the
2 disclosure.

3 (F) ~~—(10)—~~ If, after ~~—a highway—~~ AN accident, the driver of
4 a vehicle involved in the accident is deceased, a sample of the
5 decedent's blood shall be withdrawn in a manner directed by the
6 medical examiner for the purpose of determining ~~—blood—~~ THE
7 AMOUNT OF alcohol ~~—content—~~ or THE presence of a controlled sub-
8 stance, or both, IN THE DECEDENT'S BLOOD. THE MEDICAL EXAMINER
9 SHALL GIVE THE RESULTS OF THE CHEMICAL ANALYSIS OF THE SAMPLE TO
10 THE LAW ENFORCEMENT AGENCY INVESTIGATING THE ACCIDENT, AND THAT
11 AGENCY SHALL FORWARD THE RESULTS TO THE DEPARTMENT OF STATE
12 POLICE.

13 (G) THE DEPARTMENT OF STATE POLICE SHALL PROMULGATE UNIFORM
14 RULES FOR THE ADMINISTRATION OF CHEMICAL TESTS FOR THE PURPOSES
15 OF THIS SECTION.

16 (4) THE PROVISIONS OF SUBSECTION (3) RELATING TO CHEMICAL
17 TESTING DO NOT LIMIT THE INTRODUCTION OF ANY OTHER COMPETENT EVI-
18 DENCE BEARING UPON THE QUESTION OF WHETHER OR NOT A PERSON WAS
19 IMPAIRED BY, OR UNDER THE INFLUENCE OF, INTOXICATING LIQUOR OR A
20 CONTROLLED SUBSTANCE, OR A COMBINATION OF INTOXICATING LIQUOR AND
21 A CONTROLLED SUBSTANCE, OR WHETHER THE PERSON HAD A BLOOD ALCOHOL
22 CONTENT OF 0.10% OR MORE BY WEIGHT OF ALCOHOL.

23 (5) IF A CHEMICAL TEST DESCRIBED IN SUBSECTION (3) IS ADMIN-
24 ISTERED, THE RESULTS OF THE TEST SHALL BE MADE AVAILABLE TO THE
25 PERSON CHARGED OR THE PERSON'S ATTORNEY UPON WRITTEN REQUEST TO
26 THE PROSECUTION, WITH A COPY OF THE REQUEST FILED WITH THE
27 COURT. THE PROSECUTION SHALL FURNISH THE RESULTS AT LEAST 2 DAYS

1 BEFORE THE DAY OF THE TRIAL. THE RESULTS OF THE TEST SHALL BE
2 OFFERED AS EVIDENCE BY THE PROSECUTION IN THAT TRIAL. FAILURE TO
3 FULLY COMPLY WITH THE REQUEST SHALL BAR THE ADMISSION OF THE
4 RESULTS INTO EVIDENCE BY THE PROSECUTION.

5 (6) EXCEPT IN A PROSECUTION RELATING SOLELY TO A VIOLATION
6 OF SECTION 625(1)(B), THE AMOUNT OF ALCOHOL IN THE DRIVER'S BLOOD
7 AT THE TIME ALLEGED AS SHOWN BY CHEMICAL ANALYSIS OF THE PERSON'S
8 BLOOD, URINE, OR BREATH SHALL GIVE RISE TO THE FOLLOWING
9 PRESUMPTIONS:

10 (A) IF THERE WAS AT THE TIME 0.07% OR LESS BY WEIGHT OF
11 ALCOHOL IN THE DEFENDANT'S BLOOD, IT SHALL BE PRESUMED THAT THE
12 DEFENDANT'S ABILITY TO OPERATE A MOTOR VEHICLE WAS NOT IMPAIRED
13 DUE TO THE CONSUMPTION OF INTOXICATING LIQUOR, AND THAT THE
14 DEFENDANT WAS NOT UNDER THE INFLUENCE OF INTOXICATING LIQUOR.

15 (B) IF THERE WAS AT THE TIME IN EXCESS OF 0.07% BUT LESS
16 THAN 0.10% BY WEIGHT OF ALCOHOL IN THE DEFENDANT'S BLOOD, IT
17 SHALL BE PRESUMED THAT THE DEFENDANT'S ABILITY TO OPERATE A VEHI-
18 CLE WAS IMPAIRED WITHIN THE PROVISIONS OF SECTION 625(3) DUE TO
19 THE CONSUMPTION OF INTOXICATING LIQUOR.

20 (C) IF THERE WAS AT THE TIME 0.10% OR MORE BY WEIGHT OF
21 ALCOHOL IN THE DEFENDANT'S BLOOD, IT SHALL BE PRESUMED THAT THE
22 DEFENDANT WAS UNDER THE INFLUENCE OF INTOXICATING LIQUOR.

23 (7) A PERSON'S REFUSAL TO SUBMIT TO A CHEMICAL TEST AS PRO-
24 VIDED IN SUBSECTION (3) SHALL BE ADMISSIBLE IN A CRIMINAL PROSE-
25 CUTION FOR A CRIME DESCRIBED IN SUBSECTION(3)(A) ONLY FOR THE
26 PURPOSE OF SHOWING THAT A TEST WAS OFFERED TO THE DEFENDANT, BUT

1 NOT AS EVIDENCE IN DETERMINING INNOCENCE OR GUILT OF THE
2 DEFENDANT. THE JURY SHALL BE INSTRUCTED ACCORDINGLY.

3 Sec. 625c. (1) A person who operates a vehicle upon a
4 public highway or other place ~~open to the general public~~
5 GENERALLY ACCESSIBLE TO MOTOR VEHICLES, including an area desig-
6 nated for the parking of vehicles, ~~in the~~ WITHIN THIS state is
7 considered to have given consent to chemical tests of his or her
8 blood, breath, or urine for the purpose of determining the amount
9 of alcohol or presence of a controlled substance or both in his
10 or her blood, ~~if~~ IN ALL OF THE FOLLOWING CIRCUMSTANCES:

11 (a) ~~The~~ IF THE person is arrested for a violation of sec-
12 tion 625(1), ~~or (2) or 625b~~ (3), (4), OR (5), or a local ordi-
13 nance substantially corresponding to section 625(1) or ~~(2) or~~
14 ~~625b~~ (3).

15 (b) ~~The~~ IF THE person is arrested for felonious driving,
16 negligent homicide, ~~or~~ manslaughter, OR MURDER resulting from
17 the operation of a motor vehicle, and the peace officer had rea-
18 sonable grounds to believe that the person was operating the
19 vehicle while impaired by or under the influence of intoxicating
20 liquor or a controlled substance or a combination of intoxicating
21 liquor and a controlled substance, or while having a blood alco-
22 hol content of 0.10% or more by weight of alcohol.

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

1 (3) The tests shall be administered as provided in section
2 ~~625a~~ 625A(3).

3 Sec. 625d. (1) If a person refuses the request of a peace
4 officer to submit to a chemical test offered pursuant to section
5 ~~625a~~ 625A(3), a test shall not be given without a court order,
6 BUT THE OFFICER MAY SEEK TO OBTAIN THE COURT ORDER.

7 (2) A written report shall IMMEDIATELY be forwarded to the
8 secretary of state by the peace officer. The report shall state
9 that the officer had reasonable grounds to believe that the
10 person had committed a crime described in section 625c(1), and
11 that the person had refused to submit to the test upon the
12 request of the peace officer and had been advised of the conse-
13 quences of the refusal. The form of the report shall be pre-
14 scribed and furnished by the secretary of state.

15 Sec. 625f. (1) If ~~the~~ A person who refuses to submit to a
16 chemical test pursuant to section 625d does not request a hearing
17 within 14 days of the date of notice pursuant to section 625e,
18 the secretary of state shall suspend OR DENY the person's
19 operator's or chauffeur's license or permit to drive, or nonresi-
20 dent operating privilege, for a period of 6 months, or for a
21 second or subsequent refusal within a period of 7 years, for 1
22 year. If the person is a resident without a license or permit to
23 operate a vehicle in the state, the secretary OF STATE shall deny
24 to the person the issuance of a license or permit for a period of
25 6 months, or ~~—~~ for a second or subsequent refusal within a
26 period of 7 years, for 1 year.

1 (2) If a hearing is requested, the secretary of state shall
2 hold the hearing in the same manner and under the same conditions
3 as provided in section 322. ~~At least 10~~ A PERSON SHALL NOT
4 ORDER A HEARING OFFICER TO MAKE A PARTICULAR FINDING ON ANY ISSUE
5 ENUMERATED UNDER SUBDIVISIONS (A) TO (D). NOT LESS THAN 5 days'
6 notice of the hearing shall be mailed to the person requesting
7 the hearing, to the peace officer who filed the report under sec-
8 tion 625d, and ~~—~~ if the prosecuting attorney requests receipt
9 of the notice, to the prosecuting attorney of the county where
10 the arrest was made. The hearing officer ~~shall be authorized~~
11 ~~to~~ MAY administer oaths, issue subpoenas for the attendance of
12 necessary witnesses, and ~~may~~ grant a reasonable request for an
13 adjournment. NOT MORE THAN 1 ADJOURNMENT SHALL BE GRANTED TO A
14 PARTY AND THE LENGTH OF AN ADJOURNMENT SHALL NOT EXCEED 14 DAYS.
15 A HEARING UNDER THIS SUBSECTION SHALL BE SCHEDULED TO BE HELD
16 WITHIN 45 DAYS AFTER THE DATE OF ARREST AND SHALL, EXCEPT FOR
17 DELAY ATTRIBUTABLE TO THE UNAVAILABILITY OF THE DEFENDANT, A WIT-
18 NESS, OR MATERIAL EVIDENCE, OR DUE TO AN INTERLOCUTORY APPEAL OR
19 EXCEPTIONAL CIRCUMSTANCES, BUT NOT A DELAY CAUSED BY DOCKET CON-
20 GESTION, BE FINALLY ADJUDICATED WITHIN 77 DAYS AFTER THE DATE OF
21 ARREST. The hearing shall cover only the following issues:

22 (a) Whether the peace officer had reasonable grounds to
23 believe that the person had committed a crime described in sec-
24 tion 625c(1).

25 (b) Whether the person was placed under arrest for a crime
26 described in section 625c(1).

1 (c) ~~Whether~~ IF the person ~~reasonably~~ refused to submit
2 to the test upon the request of the officer, WHETHER THE REFUSAL
3 WAS REASONABLE.

4 (d) Whether the person was advised of the rights under
5 ~~sections 625a and 625e~~ SECTION 625A(3).

6 (3) The hearing officer shall make a record of proceedings
7 held pursuant to subsection (2). The record shall be prepared
8 and transcribed in accordance with section 86 of the administra-
9 tive procedures act of 1969, Act No. 306 of the Public Acts of
10 1969, being section 24.286 of the Michigan Compiled Laws. Upon
11 notification of the filing of a petition for judicial review pur-
12 suant to section 323, the hearing officer shall transmit to the
13 court in which the petition was filed, not less than 10 days
14 before the matter is set for review, the original or a certified
15 copy of the official record of the proceedings. Proceedings at
16 which evidence was presented need not be transcribed and trans-
17 mitted if the sole reason for review is to determine whether or
18 not the court will order the issuance of a restricted license.
19 The parties to the proceedings for judicial review may stipulate
20 that the record be shortened. A party unreasonably refusing to
21 stipulate to a shortened record may be taxed by the court in
22 which the petition is filed for the additional costs. The court
23 may permit subsequent corrections to the record.

24 (4) After ~~the~~ A hearing, IF THE PERSON WHO REQUESTED THE
25 HEARING DOES NOT PREVAIL, the secretary of state ~~may~~ SHALL sus-
26 pend or deny issuance of a license or driving permit or a
27 nonresident operating privilege of the person ~~involved~~ for a

1 period of 6 months, or ~~—~~ for a second or subsequent refusal
2 within 7 years, for 1 year. If the person ~~involved~~ is a resi-
3 dent without a license or permit to operate a vehicle in the
4 state, the secretary of state ~~may~~ SHALL deny to the person the
5 issuance of a license or permit for a period of 6 months, or ~~—~~
6 for a second or subsequent refusal within 7 years, for 1 year.
7 The person ~~involved~~ may file a petition in the circuit court of
8 the county in which the arrest was made to review the suspension
9 or denial as provided in section 323. IF AFTER THE HEARING THE
10 PERSON WHO REQUESTED THE HEARING PREVAILS, THE PEACE OFFICER WHO
11 FILED THE REPORT UNDER SECTION 625D MAY, WITH THE CONSENT OF THE
12 PROSECUTING ATTORNEY, FILE A PETITION IN THE CIRCUIT COURT OF THE
13 COUNTY IN WHICH THE ARREST WAS MADE TO REVIEW THE DETERMINATION
14 OF THE HEARING OFFICER AS PROVIDED IN SECTION 323.

15 (5) When it has been finally determined that a nonresident's
16 privilege to operate a vehicle in the state has been suspended or
17 denied, the department shall give notice in writing of the action
18 taken to the motor vehicle administrator of the state of the
19 person's residence and of each state in which he or she has a
20 license to operate a motor vehicle.

21 Sec. 625g. (1) ~~The department of state police may promul-~~
22 ~~gate uniform rules for the administration of chemical tests for~~
23 ~~the purposes of this act.~~ IF A PERSON REFUSES A CHEMICAL TEST
24 OFFERED PURSUANT TO SECTION 625A(3), OR SUBMITS TO THE CHEMICAL
25 TEST AND THE TEST REVEALS A BLOOD ALCOHOL CONTENT OF 0.10% OR
26 MORE BY WEIGHT OF ALCOHOL, THE PEACE OFFICER WHO REQUESTED THE
27 PERSON TO SUBMIT TO THE TEST SHALL DO ALL OF THE FOLLOWING:

1 (A) ON BEHALF OF THE SECRETARY OF STATE, IMMEDIATELY
2 CONFISCATE THE PERSON'S LICENSE OR PERMIT TO OPERATE A MOTOR
3 VEHICLE, AND, IF THE PERSON IS OTHERWISE ELIGIBLE FOR A LICENSE
4 OR PERMIT, ISSUE A TEMPORARY LICENSE OR PERMIT TO THE PERSON THAT
5 IS VALID FOR 77 DAYS. THE TEMPORARY LICENSE OR PERMIT SHALL BE
6 ON A FORM PROVIDED BY THE SECRETARY OF STATE.

7 (B) EXCEPT AS PROVIDED IN SUBSECTION (2), IMMEDIATELY DO ALL
8 OF THE FOLLOWING:

9 (i) FORWARD A COPY OF THE WRITTEN REPORT OF THE PERSON'S
10 REFUSAL TO SUBMIT TO A CHEMICAL TEST TO THE SECRETARY OF STATE.

11 (ii) NOTIFY THE SECRETARY OF STATE BY MEANS OF THE LAW
12 ENFORCEMENT INFORMATION NETWORK THAT A TEMPORARY LICENSE OR
13 PERMIT WAS ISSUED TO THE PERSON.

14 (iii) EXCEPT AS PROVIDED IN SUBSECTION (2), DESTROY THE
15 PERSON'S DRIVER'S LICENSE OR PERMIT.

16 (2) IF A PERSON SUBMITS TO A CHEMICAL TEST OFFERED PURSUANT
17 TO SECTION 625A(3) THAT REQUIRES THE WITHDRAWAL OF BLOOD AND A
18 REPORT OF THE RESULTS OF THAT CHEMICAL TEST IS NOT IMMEDIATELY
19 AVAILABLE, THE PEACE OFFICER WHO REQUESTED THE PERSON TO SUBMIT
20 TO THE TEST SHALL COMPLY WITH SUBSECTION (1)(A) PENDING RECEIPT
21 OF THE TEST REPORT. IF, UPON RECEIPT, THE REPORT REVEALS A BLOOD
22 ALCOHOL CONTENT OF 0.10% OR MORE BY WEIGHT OF ALCOHOL, THE PEACE
23 OFFICER WHO REQUESTED THE PERSON TO SUBMIT TO THE TEST SHALL
24 IMMEDIATELY COMPLY WITH SUBSECTION (1)(B). IF, UPON RECEIPT, THE
25 REPORT REVEALS A BLOOD ALCOHOL CONTENT OF LESS THAN 0.10% BY
26 WEIGHT OF ALCOHOL, THE PEACE OFFICER WHO REQUESTED THE PERSON TO
27 SUBMIT TO THE TEST SHALL IMMEDIATELY NOTIFY THE PERSON OF THE

1 TEST RESULTS, AND IMMEDIATELY RETURN THE PERSON'S LICENSE OR
2 PERMIT BY FIRST-CLASS MAIL TO THE ADDRESS GIVEN AT THE TIME OF
3 ARREST.

4 Section 2. This amendatory act shall take effect October 1,
5 1991.

6 Section 3. This amendatory act shall not take effect unless
7 all of the following bills of the 86th Legislature are enacted
8 into law:

9 (a) Senate Bill No. 315.

10

11 (b) Senate Bill No. ____ or House Bill No. ____ (request
12 no. 01458'91 ***).

13 (c) Senate Bill No. ____ or House Bill No. ____ (request
14 no. 01459'91 ***).