

Act No. 450  
Public Acts of 1994  
Approved by the Governor  
January 10, 1995  
Filed with the Secretary of State  
January 10, 1995

**STATE OF MICHIGAN  
87TH LEGISLATURE  
REGULAR SESSION OF 1994**

Introduced by Rep Nye

# **ENROLLED HOUSE BILL No. 5745**

AN ACT to amend sections 625a 625b 625c 625f 625g 625h 625k 625l 625m 732 904 and 910 of Act No 300 of the Public Acts of 1949 entitled as amended An act to provide for the registration titling sale transfer and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles to provide for the licensing of dealers to provide for the examination licensing and control of operators and chauffeurs to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles to provide for the imposition levy and collection of specific taxes on vehicles and the levy and collection of sales and use taxes license fees and permit fees to provide for the regulation and use of streets and highways to create certain funds to provide penalties and sanctions for a violation of this act to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents to provide for the levy of certain assessments to provide for the enforcement of this act to provide for the creation of and to prescribe the powers and duties of certain state and local agencies to repeal all other acts or parts of acts inconsistent with this act or contrary to this act and to repeal certain parts of this act on a specific date sections 625a 625b and 625c as amended by Act No 211 of the Public Acts of 1994 sections 625f and 904 as amended by Act No 100 of the Public Acts of 1991 section 625g as amended by Act No 95 of the Public Acts of 1991 section 625h as amended and section 910 as added by Act No 98 of the Public Acts of 1991 sections 625k and 625l as added by Act No 109 of the Public Acts of 1987 section 625m as added by Act No 94 of the Public Acts of 1991 and section 732 as amended by Act No 359 of the Public Acts of 1993 being sections 257 625a 257 625b 257 625c 257 625f 257 625g 257 625h 257 625k 257 625l 257 625m 257 732 257 904 and 257 910 of the Michigan Compiled Laws

*The People of the State of Michigan enact*

Section 1 Sections 625a 625b 625c 625f 625g 625h 625k 625l 625m 732 904 and 910 of Act No 300 of the Public Acts of 1949 sections 625a 625b and 625c as amended by Act No 211 of the Public Acts of 1994 sections 625f and 904 as amended by Act No 100 of the Public Acts of 1991 section 625g as amended by Act No 95 of the Public Acts of 1991 section 625h as amended and section 910 as added by Act No 98 of the Public Acts of 1991 sections 625k and 625l as added by Act No 109 of the Public Acts of 1987 section 625m as added by Act No 94 of the Public Acts of 1991 section 732 as amended by Act No 359 of the Public Acts of 1993 being sections 257 625a 257 625b 257 625c 257 625f 257 625g 257 625h 257 625k 257 625l 257 625m 257 732 257 904 and 257 910 of the Michigan Compiled Laws are amended to read as follows

Sec 625a (1) A peace officer may arrest a person without a warrant when the peace officer has reasonable cause to believe the person was at the time of an accident in this state the operator of a vehicle involved in the accident and was operating the vehicle in violation of section 625(1) (3) or (6) or a local ordinance substantially corresponding to section 625(1) (3) or (6)

(2) A peace officer who has reasonable cause to believe that a person was operating a vehicle upon a public highway or other place open to the public or generally accessible to motor vehicles including an area designated for the parking of vehicles within this state and that the person by the consumption of intoxicating liquor may have affected his or her ability to operate a vehicle or reasonable cause to believe that a person was operating a commercial motor vehicle within the state while the person's blood, breath, or urine contained any measurable amount of alcohol or while the person had any detectable presence of intoxicating liquor or reasonable cause to believe that a person who is less than 21 years of age was operating a vehicle upon a public highway or other place open to the public or generally accessible to motor vehicles including an area designated for the parking of vehicles within this state while the person had any bodily alcohol content as that term is defined in section 625(6) may require the person to submit to a preliminary chemical breath analysis. The following provisions apply with respect to a preliminary chemical breath analysis administered pursuant to this subsection:

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

(b) The results of a preliminary chemical breath analysis are admissible in a criminal prosecution for a crime enumerated in section 625c(1) or in an administrative hearing for 1 or more of the following purposes:

(i) To assist the court or hearing officer in determining a challenge to the validity of an arrest. This subparagraph does not limit the introduction of other competent evidence offered to establish the validity of an arrest.

(ii) As evidence of the defendant's breath alcohol content if offered by the defendant.

(iii) As evidence of the defendant's breath alcohol content if offered by the prosecution to rebut testimony or other evidence including but not limited to testimony elicited on cross examination of a prosecution witness that is offered or elicited to prove that the defendant's breath alcohol content was lower at the time of the charged offense than when a chemical test was administered pursuant to subsection (6).

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

(d) Except as provided in subsection (5), a person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a peace officer is responsible for a civil infraction.

(3) A peace officer shall use the results of a preliminary chemical breath analysis conducted pursuant to this section to determine whether to order a person out of service under section 319d. A peace officer shall order out of service as required under section 319d a person who was operating a commercial motor vehicle and who refuses to submit to a preliminary chemical breath analysis as provided in this section. This section does not limit use of other competent evidence by the peace officer to determine whether to order a person out of service under section 319d.

(4) A person who was operating a commercial motor vehicle and who is requested to submit to a preliminary chemical breath analysis under this section shall be advised that refusing a peace officer's request to take a test described in this section is a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00 or both and will result in the issuance of a 24-hour out of service order.

(5) A person who was operating a commercial motor vehicle and who refuses to submit to a preliminary chemical breath analysis upon a peace officer's lawful request is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00 or both.

(6) The following provisions apply with respect to chemical tests and analysis of a person's blood, urine, or breath other than preliminary chemical breath analysis:

(a) The amount of alcohol or presence of a controlled substance or both in a driver's blood or urine or the amount of alcohol in a person's breath at the time alleged as shown by chemical analysis of the person's blood, urine, or breath is admissible into evidence in any civil or criminal proceeding.

(b) A person arrested for a crime described in section 625c(1) shall be advised of all of the following:

(i) If he or she takes a chemical test of his or her blood, urine, or breath administered at the request of a peace officer, he or she has the right to demand that a person of his or her own choosing administer 1 of the chemical tests.

(ii) The results of the test are admissible in a judicial proceeding as provided under this act and will be considered with other competent evidence in determining the defendant's innocence or guilt.

(iii) He or she is responsible for obtaining a chemical analysis of a test sample obtained pursuant to his or her own request.

(iv) If he or she refuses the request of a peace officer to take a test described in subparagraph (i), a test shall not be given without a court order, but the peace officer may seek to obtain such a court order.

(v) Refusing a peace officer's request to take a test described in subparagraph (i) will result in the suspension of his or her operator's or chauffeur's license and vehicle group designation or operating privilege and in the addition of 6 points to his or her driver record.

(c) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician or an individual operating under the delegation of a licensed physician under section 16215 of the Public Health Code Act No. 368 of the Public Acts of 1978, being section 333.16215 of the Michigan Compiled Laws, qualified to withdraw blood and acting in a medical environment may withdraw blood at a peace officer's request to determine the amount of alcohol or presence of a controlled substance or both in the person's blood as provided in this subsection. Liability for a crime or civil damages predicated on the act of withdrawing or analyzing blood and related procedure does not attach to a licensed physician or individual operating under the delegation of a licensed physician who withdraws or analyzes blood or assists in the withdrawal or analysis in accordance with this act unless the withdrawal or analysis is performed in a negligent manner.

(d) A chemical test described in this subsection shall be administered at the request of a peace officer having reasonable grounds to believe the person has committed a crime described in section 625c(1). A person who takes a chemical test administered at a peace officer's request as provided in this section shall be given a reasonable opportunity to have a person of his or her own choosing administer 1 of the chemical tests described in this subsection within a reasonable time after his or her detention. The test results are admissible and shall be considered with other competent evidence in determining the defendant's innocence or guilt. If the person charged is administered a chemical test by a person of his or her own choosing, the person charged is responsible for obtaining a chemical analysis of the test sample.

(e) If after an accident the driver of a vehicle involved in the accident is transported to a medical facility and a sample of the driver's blood is withdrawn at that time for medical treatment, the results of a chemical analysis of that sample are admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance or both in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subdivision. A medical facility or person disclosing information in compliance with this subsection is not civilly or criminally liable for making the disclosure.

(f) If after an accident the driver of a vehicle involved in the accident is deceased, a sample of the decedent's blood shall be withdrawn in a manner directed by the medical examiner to determine the amount of alcohol or the presence of a controlled substance or both in the decedent's blood. The medical examiner shall give the results of the chemical analysis of the sample to the law enforcement agency investigating the accident, and that agency shall forward the results to the department of state police.

(g) The department of state police shall promulgate uniform rules under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, for the administration of chemical tests for the purposes of this section. An instrument used for a preliminary chemical breath analysis may be used for a chemical test described in this subsection if approved pursuant to rules promulgated by the department of state police.

(7) The provisions of subsection (6) relating to chemical testing do not limit the introduction of any other competent evidence bearing upon the question of whether a person was impaired by or under the influence of intoxicating liquor or a controlled substance or a combination of intoxicating liquor and a controlled substance or whether the person had an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or if the person is less than 21 years of age, whether the person had any bodily alcohol content within his or her body. As used in this section, any bodily alcohol content means either of the following:

(a) An alcohol content of not less than 0.02 grams or more than 0.07 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(b) Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor other than consumption of intoxicating liquor as a part of a generally recognized religious service or ceremony.

(8) If a chemical test described in subsection (6) is administered, the test results shall be made available to the person charged or the person's attorney upon written request to the prosecution, with a copy of the request filed with the court. The prosecution shall furnish the results at least 2 days before the day of the trial. The prosecution shall offer the test results as evidence in that trial. Failure to fully comply with the request bars the admission of the results into evidence by the prosecution.

(9) Except in a prosecution relating solely to a violation of section 625(1)(b) or (6), the amount of alcohol in the driver's blood, breath, or urine at the time alleged as shown by chemical analysis of the person's blood, breath, or urine gives rise to the following presumptions:

(a) If there were at the time 0.07 grams or less of alcohol per 100 milliliters of the defendant's blood, per 210 liters of the defendant's breath, or per 67 milliliters of the defendant's urine, it is presumed that the defendant's ability to operate a motor vehicle was not impaired due to the consumption of intoxicating liquor and that the defendant was not under the influence of intoxicating liquor.

(b) If there were at the time more than 0.07 grams but less than 0.10 grams of alcohol per 100 milliliters of the defendant's blood per 210 liters of the defendant's breath or per 67 milliliters of the defendant's urine it is presumed that the defendant's ability to operate a vehicle was impaired within the provisions of section 625(3) due to the consumption of intoxicating liquor

(c) If there were at the time 0.10 grams or more of alcohol per 100 milliliters of the defendant's blood per 210 liters of the defendant's breath or per 67 milliliters of the defendant's urine it is presumed that the defendant was under the influence of intoxicating liquor

(10) A person's refusal to submit to a chemical test as provided in subsection (6) is admissible in a criminal prosecution for a crime described in section 625c(1) only to show that a test was offered to the defendant but not as evidence in determining the defendant's innocence or guilt. The jury shall be instructed accordingly.

Sec. 625b. (1) A person arrested for a misdemeanor violation of section 625(1) (3) or (6) or section 625m or a local ordinance substantially corresponding to section 625(1) (3) or (6) or section 625m shall be arraigned on the citation, complaint, or warrant not more than 14 days after the arrest for the violation or, if an arrest warrant is issued or reissued, not more than 14 days after the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanction for a failure to comply with this time limit. The time limit does not apply to a violation of section 625(1) punishable under section 625(7)(d) or a violation of section 625(1) (3) or (6) or section 625m joined with a felony charge.

(2) The court shall schedule a pretrial conference between the prosecuting attorney, the defendant, and the defendant's attorney in each case in which the defendant is charged with a misdemeanor violation of section 625(1) (3) or (6) or section 625m or a local ordinance substantially corresponding to section 625(1) (3) or (6) or section 625m. The pretrial conference shall be held not more than 35 days after the person's arrest for the violation or, if an arrest warrant is issued or reissued, not more than 35 days after the issued or reissued arrest warrant is served, whichever is later. If the court has only 1 judge who sits in more than 1 location in that district, the pretrial conference shall be held not more than 42 days after the person's arrest for the violation or, if an arrest warrant is issued or reissued, not more than 42 days after the date the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanction for a failure to comply with the applicable time limit. The 35- and 42-day time limits do not apply to a violation of section 625(1) punishable under section 625(7)(d) or a violation of section 625(1) (3) or (6) or section 625m joined with a felony charge. The court shall order the defendant to attend the pretrial conference and may accept a plea by the defendant at the conclusion of the pretrial conference. The court may adjourn the pretrial conference upon the motion of a party for good cause shown. Not more than 1 adjournment shall be granted to a party, and the length of an adjournment shall not exceed 14 days.

(3) Except for delay attributable to the unavailability of the defendant, a witness, or material evidence or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, the court shall finally adjudicate, by a plea of guilty or nolo contendere, entry of a verdict, or other final disposition, a case in which the defendant is charged with a misdemeanor violation of section 625(1) (3) or (6) or section 625m or a local ordinance substantially corresponding to section 625(1) (3) or (6) or section 625m, within 77 days after the person is arrested for the violation or, if an arrest warrant is issued or reissued, not more than 77 days after the date the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanction for a failure to comply with this time limit. The 77-day time limit does not apply to a violation of section 625(1) punishable under section 625(7)(d) or a violation of section 625(1) (3) or (6) or section 625m joined with a felony charge.

(4) Before accepting a plea of guilty or nolo contendere under section 625 or a local ordinance substantially corresponding to section 625(1) (2) (3) or (6), the court shall advise the accused of the maximum possible term of imprisonment and the maximum possible fine that may be imposed for the violation, and shall advise the defendant that the maximum possible license sanctions that may be imposed will be based upon the master driving record maintained by the secretary of state pursuant to section 204a.

(5) Before imposing sentence, other than court-ordered license sanctions, for a violation of section 625(1) (3) (4) (5) or (6) or a local ordinance substantially corresponding to section 625(1) (3) or (6), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, reassessment, and rehabilitative services.

(6) Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 625(1) (3) (4) (5) or (6) or a local ordinance substantially corresponding to section 625(1) (3) or (6), whether or not the person is eligible to be sentenced as a multiple offender, the court shall consider all prior convictions currently entered upon the person's Michigan driving record, except convictions the court determines upon the defendant's motion to be constitutionally invalid, and shall impose the following licensing sanctions:

(a) For a conviction under section 625(4) or (5) the court shall order the secretary of state to revoke the person's operator's or chauffeur's license and shall not order the secretary of state to issue a restricted license to the person

(b) For a conviction under section 625(1) or a local ordinance substantially corresponding to section 625(1)

(i) If the court finds that the person has no prior convictions within 7 years for a violation of section 625(1) (3) (4) or (5) former section 625(1) or (2) or former section 625b a local ordinance substantially corresponding to section 625(1) or (3) former section 625(1) or (2) or former section 625b or a law of another state substantially corresponding to section 625(1) (3) (4) or (5) former section 625(1) or (2) or former section 625b the court shall order the secretary of state to suspend the person's operator's or chauffeur's license for not less than 6 months or more than 2 years. If the court finds compelling circumstances under subsection (10) sufficient to warrant the issuance of a restricted license to a person the court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the suspension except that a restricted license shall not be issued during the first 30 days of the suspension

(ii) If the court finds that the person has 1 prior conviction within 7 years for a violation of section 625(3) or former section 625b a local ordinance substantially corresponding to section 625(3) or former section 625b or a law of another state substantially corresponding to section 625(3) or former section 625b the court shall order the secretary of state to suspend the person's operator's or chauffeur's license for not less than 6 months or more than 2 years. If the court finds compelling circumstances under subsection (10) sufficient to warrant the issuance of a restricted license to a person the court may order the secretary of state to issue to the person a restricted license during all or any portion of the suspension except that a restricted license shall not be issued during the first 60 days of the suspension

(iii) If the court finds that the person has 1 or more prior convictions within 7 years for a violation of section 625(1) (4) or (5) or former section 625(1) or (2) a local ordinance substantially corresponding to section 625(1) or former section 625(1) or (2) or a law of another state substantially corresponding to section 625(1) (4) or (5) or former section 625(1) or (2) or that the person has 2 or more prior convictions within 10 years for a violation of section 625(1) (3) (4) or (5) former section 625(1) or (2) or former section 625b a local ordinance substantially corresponding to section 625(1) or (3) former section 625(1) or (2) or former section 625b or a law of another state substantially corresponding to section 625(1) (3) (4) or (5) former section 625(1) or (2) or former section 625b the court shall order the secretary of state to revoke the person's operator's or chauffeur's license and shall not order the secretary of state to issue a restricted license to the person

(c) For a conviction under section 625(3) or a local ordinance substantially corresponding to section 625(3)

(i) If the court finds that the convicted person has no prior conviction within 7 years for a violation of section 625(1) (3) (4) or (5) former section 625(1) or (2) or former section 625b a local ordinance substantially corresponding to section 625(1) or (3) former section 625(1) or (2) or former section 625b or a law of another state substantially corresponding to section 625(1) (3) (4) or (5) former section 625(1) or (2) or former section 625b the court shall order the secretary of state to suspend the person's operator's or chauffeur's license for not less than 90 days or more than 1 year. However if the person is convicted of a violation of section 625(3) or a local ordinance substantially corresponding to section 625(3) for operating a vehicle when due to the consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance the person's ability to operate the vehicle was visibly impaired the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for not less than 6 months or more than 1 year. If the court finds compelling circumstances under subsection (10) sufficient to warrant the issuance of a restricted license to a person the court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the suspension

(ii) If the court finds that the person has 1 prior conviction within 7 years for a violation of section 625(1) (3) (4) or (5) former section 625(1) or (2) or former section 625b a local ordinance substantially corresponding to section 625(1) or (3) former section 625(1) or (2) or former section 625b or a law of another state substantially corresponding to section 625(1) (3) (4) or (5) former section 625(1) or (2) or former section 625b the court shall order the secretary of state to suspend the person's operator's or chauffeur's license for not less than 6 months or more than 2 years. If the court finds compelling circumstances under subsection (10) sufficient to warrant the issuance of a restricted license to a person the court may order the secretary of state to issue to the person a restricted license during all or any portion of the suspension except that a restricted license shall not be issued during the first 60 days of the suspension

(iii) If the court finds that the person has 2 or more prior convictions within 10 years for a violation of section 625(1) (3) (4) or (5) former section 625(1) or (2) or former section 625b a local ordinance substantially corresponding to section 625(1) or (3) former section 625(1) or (2) or former section 625b or a law of another state substantially corresponding to section 625(1) (3) (4) or (5) former section 625(1) or (2) or former section 625b the court shall order the secretary of state to revoke the person's operator's or chauffeur's license and shall not order the secretary of state to issue a restricted license to the person

(d) For a conviction under section 625(6) or a local ordinance substantially corresponding to section 625(6)

(i) If the court finds that the convicted person has no prior conviction within 7 years for a violation of section 625(1) (3) (4) (5) or (6) former section 625(1) or (2) or former section 625b a local ordinance substantially corresponding to section 625(1) (3) or (6) former section 625(1) or (2) or former section 625b or a law of another state substantially

corresponding to section 625(1) (3) (4) (5) or (6) former section 625(1) or (2) or former section 625b the court shall order the secretary of state to suspend the operator s or chauffeur s license of the person for not less than 30 days or more than 90 days The court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the suspension

(u) If the court finds that the person has 1 or more prior convictions within 7 years for a violation of section 625(1) (3) (4) (5) or (6) former section 625(1) or (2) or former section 625b a local ordinance substantially corresponding to section 625(1) (3) or (6) former section 625(1) or (2) or former section 625b or a law of another state substantially corresponding to section 625(1) (3) (4) (5) or (6) former section 625(1) or (2) or former section 625b the court shall order the secretary of state to suspend the operator s or chauffeur s license of the person for not less than 90 days or more than 1 year The court may order the secretary of state to issue to the person a restricted license during all or any portion of the suspension except that a restricted license shall not be issued during the first 90 days of the suspension

(7) A restricted license issued pursuant to an order under subsection (6) shall permit the person to whom it is issued to drive under 1 or more of the following circumstances

(a) To and from the person s residence and work location

(b) In the course of the person s employment or occupation

(c) To and from the person s residence and an alcohol or drug education or treatment program as ordered by the court

(d) To and from the person s residence and the court probation department or a court ordered community service program or both

(e) To and from the person s residence and an educational institution at which the person is enrolled as a student

(f) To and from the person s residence or work location and a place of regularly occurring medical treatment for a serious condition for the person or a member of the person s household or immediate family

(8) The court may order that the restricted license issued pursuant to subsection (6) include the requirement that the person shall not operate a motor vehicle unless the vehicle is equipped with a functioning ignition interlock device The device shall be set to render the motor vehicle inoperable if the device detects an alcohol content of 0.02 grams or more per 210 liters of breath of the person who offers a breath sample The court may order installation of an ignition interlock device on any motor vehicle that the person owns or operates the costs of which the person whose license is restricted shall bear

(9) The court shall not order the secretary of state under subsection (6) to issue a restricted license that would permit a person to operate a commercial motor vehicle that hauls hazardous materials

(10) The court shall not order the secretary of state to issue a restricted license unless the person states under oath and the court finds pursuant to testimony taken in open court or pursuant to statements contained in a sworn affidavit on a form prescribed by the state court administrator that both of the following are true

(a) The person needs vehicular transportation to and from his or her work location place of alcohol or drug education treatment court probation department court ordered community service program or educational institution or a place of regularly occurring medical treatment for a serious condition or in the course of the person s employment or occupation

(b) The person is unable to take public transportation and does not have any family members or other individuals able to provide transportation to a destination or for a purpose described in subdivision (a)

(11) The court order issued under subsection (6) and the restricted license shall indicate the permitted destinations of the person or the permitted purposes for which the person may operate a vehicle the approved route or routes if specified by the court and permitted times of travel

(12) Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 625(1) (3) (4) (5) or (6) or a local ordinance substantially corresponding to section 625(1) (3) or (6) the person shall surrender to the court his or her operator s or chauffeur s license or permit The court shall immediately destroy the license or permit and forward an abstract of conviction with court ordered license sanctions to the secretary of state Upon receipt of and pursuant to the abstract of conviction with court ordered license sanctions the secretary of state shall suspend or revoke the person s license and if ordered by the court and the person is otherwise eligible for a license issue to the person a restricted license stating the limited driving privileges indicated on the abstract If the judgment and sentence is appealed to circuit court the court may ex parte order the secretary of state to stay the suspension revocation or restricted license issued pursuant to this section pending the outcome of the appeal

(13) In addition to any other suspension or revocation ordered under this section and as part of the sentence imposed upon a person who violates section 625(1) (3) (4) or (5) or a local ordinance substantially corresponding to section 625(1) or (3) while operating a commercial motor vehicle the court shall order the secretary of state to suspend the vehicle group designations on the person s operator s or chauffeur s license in accordance with section 319b(1)(c) If the vehicle

was transporting hazardous material required to have a placard pursuant to 49 C.F.R. parts 100 to 199 the court shall order the secretary of state to suspend the vehicle group designations on the person's operator's or chauffeur's license in accordance with section 319b(1)(d). The court shall not order the secretary of state to issue a restricted license that would permit the person to operate a commercial motor vehicle.

(14) In addition to any other suspension or revocation ordered under this section and as part of the sentence imposed upon a person who is convicted of a violation of section 625(1) (3) (4) or (5) or a local ordinance substantially corresponding to section 625(1) or (3) while operating a commercial motor vehicle within 10 years of a prior conviction the court shall order the secretary of state to revoke the vehicle group designations on the person's operator's or chauffeur's license in accordance with section 319b(1)(e). The court shall not order the secretary of state to issue a restricted license that would permit the person to operate a commercial motor vehicle. As used in this subsection prior conviction means a conviction under section 625(1) (3) (4) or (5) former section 625(1) or (2) or former section 625b a local ordinance substantially corresponding to section 625(1) or (3) former section 625(1) or (2) or former section 625b or a law of another state substantially corresponding to section 625(1) (3) (4) or (5) former section 625(1) or (2) or former section 625b involving the operation of a commercial motor vehicle or a conviction under section 625m a local ordinance substantially corresponding to section 625m or a law of another state substantially corresponding to section 625m.

(15) As used in this section work location means as applicable the specific place or places of employment or the territory or territories regularly visited by the person in pursuance of the person's occupation or both.

Sec 625c (1) A person who operates a vehicle upon a public highway or other place open to the general public or generally accessible to motor vehicles including an area designated for the parking of vehicles within this state is considered to have given consent to chemical tests of his or her blood breath or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood or urine or the amount of alcohol in his or her breath in all of the following circumstances:

(a) If the person is arrested for a violation of section 625(1) (3) (4) (5) or (6) section 625a(5) or section 625m or a local ordinance substantially corresponding to section 625(1) (3) or (6) section 625a(5) or section 625m.

(b) If the person is arrested for felonious driving negligent homicide manslaughter or murder resulting from the operation of a motor vehicle and the peace officer had reasonable grounds to believe the person was operating the vehicle while impaired by or under the influence of intoxicating liquor or a controlled substance or a combination of intoxicating liquor and a controlled substance or while having an alcohol content of 0.10 grams or more per 100 milliliters of blood per 210 liters of breath or per 67 milliliters of urine or if the person is less than 21 years of age while having any bodily alcohol content. As used in this subdivision any bodily alcohol content means either of the following:

(i) An alcohol content of not less than 0.02 grams or more than 0.07 grams per 100 milliliters of blood per 210 liters of breath or per 67 milliliters of urine.

(ii) Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor other than consumption of intoxicating liquor as part of a generally recognized religious service or ceremony.

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

(3) The tests shall be administered as provided in section 625a(6).

Sec 625f (1) If a person who refuses to submit to a chemical test pursuant to section 625d does not request a hearing within 14 days after the date of notice pursuant to section 625e the secretary of state shall impose the following license sanctions:

(a) If the person was operating a vehicle other than a commercial motor vehicle suspend or deny the person's operator's or chauffeur's license or permit to drive or nonresident operating privilege for 6 months or for a second or subsequent refusal within 7 years for 1 year. If the person is a resident without a license or permit to operate a vehicle in the state the secretary of state shall not issue the person a license or permit for 6 months or for a second or subsequent refusal within 7 years for 1 year.

(b) If the person was operating a commercial motor vehicle for the first refusal suspend all vehicle group designations on the person's operator's or chauffeur's license or permit or nonresident privilege to operate a commercial motor vehicle or if the person is a resident without a license or permit to operate a commercial motor vehicle in the state not issue the person an operator's or chauffeur's license with vehicle group designations for 1 year.

(c) If the person was operating a commercial motor vehicle for a second or subsequent refusal that occurred in a separate incident from and within 10 years of a prior refusal revoke all vehicle group designations on the person's operator's or chauffeur's license or permit or nonresident privilege to operate a commercial motor vehicle or if the person is a resident without a license or permit to operate a commercial motor vehicle in the state not issue the person

an operator's or chauffeur's license with vehicle group designations for not less than 10 years and until the person is approved for the issuance of a vehicle group designation

(d) If the person was operating a commercial motor vehicle and was arrested for an offense enumerated in section 625c other than a violation of section 625a(5) or 625m impose the license sanction described in subdivision (a) and the license sanction described in subdivision (b) or (c) as applicable

(2) If a hearing is requested the secretary of state shall hold the hearing in the same manner and under the same conditions as provided in section 322. Not less than 5 days notice of the hearing shall be mailed to the person requesting the hearing to the peace officer who filed the report under section 625d and if the prosecuting attorney requests receipt of the notice to the prosecuting attorney of the county where the arrest was made. The hearing officer may administer oaths issue subpoenas for the attendance of necessary witnesses and grant a reasonable request for an adjournment. Not more than 1 adjournment shall be granted to a party and the length of an adjournment shall not exceed 14 days. A hearing under this subsection shall be scheduled to be held within 45 days after the date of arrest for the violation. The hearing officer shall not impose any sanction for a failure to comply with these time limits

(3) Except for delay attributable to the unavailability of the defendant a witness or material evidence or due to an interlocutory appeal or exceptional circumstances but not a delay caused by docket congestion a hearing shall be finally adjudicated within 77 days after the date of arrest. The hearing officer shall not impose any sanction for a failure to comply with this time limit

(4) The hearing shall cover only the following issues

(a) Whether the peace officer had reasonable grounds to believe that the person had committed a crime described in section 625c(1)

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

(c) If the person refused to submit to the test upon the request of the officer whether the refusal was reasonable

(d) Whether the person was advised of the rights under section 625a(6)

(5) A person shall not order a hearing officer to make a particular finding on any issue enumerated in subsection (4)(a) to (d)

(6) The hearing officer shall make a record of a hearing held pursuant to this section. The record shall be prepared and transcribed in accordance with section 86 of the administrative procedures act of 1969 Act No. 306 of the Public Acts of 1969 being section 24.286 of the Michigan Compiled Laws. Upon notification of the filing of a petition for judicial review pursuant to section 323 and not less than 10 days before the matter is set for review the hearing officer shall transmit to the court in which the petition was filed the original or a certified copy of the official record of the proceedings. Proceedings at which evidence was presented need not be transcribed and transmitted if the sole reason for review is to determine whether the court will order the issuance of a restricted license. The parties to the proceedings for judicial review may stipulate that the record be shortened. A party unreasonably refusing to stipulate to a shortened record may be taxed by the court in which the petition is filed for the additional costs. The court may permit subsequent corrections to the record

(7) If the person who requested a hearing does not prevail the secretary of state shall impose the following license sanctions after the hearing

(a) If the person was operating a vehicle other than a commercial motor vehicle suspend or deny issuance of a license or driving permit or a nonresident operating privilege of the person for 6 months or for a second or subsequent refusal within 7 years for 1 year. If the person is a resident without a license or permit to operate a vehicle in the state the secretary of state shall not issue the person a license or permit for 6 months or for a second or subsequent refusal within 7 years for 1 year. The person may file a petition in the circuit court of the county in which the arrest was made to review the suspension or denial as provided in section 323

(b) If the person was operating a commercial motor vehicle impose the sanction prescribed under subsection (1)(b) or (1)(c) as applicable. The person may file a petition in the circuit court of the county in which the arrest was made to review the suspension or denial as provided in section 323

(c) If the person was operating a commercial motor vehicle and was arrested for an offense enumerated in section 625c other than a violation of section 625a(5) or 625m impose the license sanctions described in subdivisions (a) and (b)

(8) If the person who requested the hearing prevails the peace officer who filed the report under section 625d may with the consent of the prosecuting attorney file a petition in the circuit court of the county in which the arrest was made to review the determination of the hearing officer as provided in section 323

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



Sec 625g (1) If a person refuses a chemical test offered pursuant to section 625a(6) or submits to the chemical test or a chemical test is performed pursuant to a court order and the test reveals an unlawful alcohol content the peace officer who requested the person to submit to the test shall do all of the following

(a) On behalf of the secretary of state immediately confiscate the person's license or permit to operate a motor vehicle and if the person is otherwise eligible for a license or permit issue a temporary license or permit to the person The temporary license or permit shall be on a form provided by the secretary of state

(b) Except as provided in subsection (2) immediately do all of the following

(i) Forward a copy of the written report of the person's refusal to submit to a chemical test required under section 625d to the secretary of state

(ii) Notify the secretary of state by means of the law enforcement information network that a temporary license or permit was issued to the person

(iii) Destroy the person's driver's license or permit

(2) If a person submits to a chemical test offered pursuant to section 625a(6) that requires an analysis of blood or urine and a report of the results of that chemical test is not immediately available the peace officer who requested the person to submit to the test shall comply with subsection (1)(a) pending receipt of the test report If the report reveals an unlawful alcohol content the peace officer who requested the person to submit to the test shall immediately comply with subsection (1)(b) If the report does not reveal an unlawful alcohol content the peace officer who requested the person to submit to the test shall immediately notify the person of the test results and immediately return the person's license or permit by first class mail to the address given at the time of arrest

(3) A temporary license or permit issued under this section is valid for 1 of the following time periods

(a) If the case is not prosecuted for 90 days after issuance or until the person's license or permit is suspended pursuant to section 625f whichever occurs earlier The prosecuting attorney shall notify the secretary of state if a case referred to the prosecuting attorney is not prosecuted The arresting law enforcement agency shall notify the secretary of state if a case is not referred to the prosecuting attorney for prosecution

(b) If the case is prosecuted until the criminal charges against the person are dismissed the person pleads guilty or nolo contendere to or is found guilty of or acquitted of those charges or the person's license or permit is suspended pursuant to section 625f whichever occurs earlier

(4) As used in this section unlawful alcohol content means any of the following as applicable

(a) If the person tested is less than 21 years of age 0.02 grams or more of alcohol per 100 milliliters of blood per 210 liters of breath or per 67 milliliters of urine

(b) If the person tested was operating a commercial motor vehicle within this state 0.04 grams or more of alcohol per 100 milliliters of blood per 210 liters of breath or per 67 milliliters of urine

(c) If the person tested is not a person described in subdivision (a) or (b) 0.10 grams or more of alcohol per 100 milliliters of blood per 210 liters of breath or per 67 milliliters of urine

Sec 625h (1) The drunk driving prevention equipment and training fund is created as a separate fund in the state treasury Money in the fund shall be expended only as provided in subsection (2) The state treasurer shall credit to the fund all money received for that purpose under section 320e and as otherwise provided by law The state treasurer shall invest money in the fund in the same manner as surplus funds are invested under section 143 of Act No 105 of the Public Acts of 1985 being section 21.143 of the Michigan Compiled Laws Earnings from the fund shall be credited to the fund Money in the fund at the end of the fiscal year shall remain in the fund and shall not revert to the general fund

(2) The department of state police shall administer the fund Money in the fund shall be used only to administer the fund to purchase and maintain breath alcohol testing equipment and to provide training to law enforcement personnel of this state in the use of that breath alcohol testing equipment

(3) The department of treasury shall before November 1 of each year notify the department of state police of the balance in the fund at the close of the preceding fiscal year

(4) The department of state police shall promulgate rules to implement subsection (2)

(5) The drunk driving caseload assistance fund is created as a separate fund in the state treasury The purpose of the fund is to promote the timely disposition of cases in which the defendant is charged with a violation of section 625(1) or (3) of this act section 15a(1) or (3) of the Michigan snowmobile act Act No 74 of the Public Acts of 1968 being section 257.1515a of the Michigan Compiled Laws or section 171(1) or (3) of the marine safety act Act No 303 of the Public Acts of 1967 being section 281.1171 of the Michigan Compiled Laws or a local ordinance substantially corresponding to section 625(1) or (3) of this act section 15a(1) or (3) of Act No 74 of the Public Acts of 1968 or section 171(1) or (3) of Act No 303 of the Public Acts of 1967 Money in the fund shall be expended only as provided in subsection (7)

(6) The state treasurer shall credit the drunk driving caseload assistance fund with deposits of proceeds from the collection of revenue from license reinstatement fees as provided for in section 320e and all income from investment credited to the fund by the state treasurer. The state treasurer may invest money contained in the drunk driving caseload assistance fund in any manner authorized by law for the investment of state money. However, an investment shall not interfere with any apportionment, allocation, or payment of money as required by this section. The state treasurer shall credit to the fund all income earned as a result of an investment. Money in the fund at the end of the fiscal year shall remain in the fund and shall not revert to the general fund.

(7) The state court administrator, at the direction of the supreme court and upon confirmation of the amount by the state treasurer, shall distribute from the drunk driving caseload assistance fund the total amount available in a fiscal year to each district of the district court and each municipal court as provided in this section. The state court administrator, after reimbursement of costs as provided in this subsection, shall distribute the balance of the drunk driving caseload assistance fund annually to each district of the district court and each municipal court in an amount determined by multiplying the amount available for distribution by a fraction, the numerator of which is the number of cases in which the defendant was charged with a violation of section 625(1) or (3) of this act, section 15a(1) or (3) of Act No. 74 of the Public Acts of 1968, or section 171(1) or (3) of Act No. 303 of the Public Acts of 1967 or a local ordinance substantially corresponding to section 625(1) or (3) of this act, section 15a(1) or (3) of Act No. 74 of the Public Acts of 1968, or section 171(1) or (3) of Act No. 303 of the Public Acts of 1967 in the prior calendar year in that district of the district court or that municipal court as certified by the state court administrator and the denominator of which is the total number of cases in all districts of the district court and all municipal courts in which the defendant was charged with a violation of section 625(1) or (3) of this act, section 15a(1) or (3) of Act No. 74 of the Public Acts of 1968, or section 171(1) or (3) of Act No. 303 of the Public Acts of 1967 or a local ordinance substantially corresponding to section 625(1) or (3) of this act, section 15a(1) or (3) of Act No. 74 of the Public Acts of 1968, or section 171(1) or (3) of Act No. 303 of the Public Acts of 1967 in the calendar year. The state court administrative office shall be reimbursed annually from the drunk driving caseload assistance fund for all reasonable costs associated with the administration of this section, including judicial and staff training, on-site management assistance, and software development and conversion.

Sec. 625k. (1) The department shall approve an ignition interlock device certified by a department approved laboratory as complying with the national highway traffic safety administration's model specifications for breath alcohol ignition interlock devices (BAIID), 57 F.R.P. 11772 (April 7, 1992). Subject to subsection (4), the department shall publish a list of all manufacturers of approved certified devices.

(2) The manufacturer of an ignition interlock device shall bear the cost of that device's certification.

(3) A laboratory that certifies an ignition interlock device as provided in this section shall immediately notify the department of that certification.

(4) The department shall not include the manufacturer of a certified ignition interlock device on the list of manufacturers published pursuant to subsection (1) unless the manufacturer has filed with the department copies of an affidavit that the ignition interlock device is both of the following:

(a) An alcohol concentration measuring device that prevents a motor vehicle from being started at any time without first determining through a deep lung sample the operator's breath alcohol level.

(b) Calibrated to prevent the motor vehicle from starting if the operator's breath alcohol level reaches a level of 0.02 grams per 210 liters of breath as measured by the test.

(5) A manufacturer that has made a filing under subsection (4) shall immediately notify the department if the device no longer meets the requirements of subsection (4).

(6) The department shall notify the courts of a notice received under subsection (5). If a court receives the notification required by this subsection, the court shall not order installation of the ignition interlock device described in the notice and shall order the replacement or removal of any of those ignition interlock devices installed pursuant to a previous order.

Sec. 625l. (1) The manufacturer of an ignition interlock device shall design a warning label, and the person who has a court-ordered ignition interlock device shall promptly affix that label to each ignition interlock device upon installation. The label shall contain a warning that any person tampering, circumventing, or otherwise misusing the device is guilty of a misdemeanor punishable as provided by law.

(2) A person who has a court-ordered ignition interlock device installed and whose driving privilege is restricted pursuant to section 625b shall not request or solicit any other person to blow into an ignition interlock device or to start a vehicle equipped with the device for the purpose of providing the person whose driving privilege is restricted with an operable vehicle.

(3) A person shall not blow into an ignition interlock device or start a motor vehicle equipped with the device for the purpose of providing an operable vehicle to a person who has a court-ordered interlock device installed and whose driving privilege is restricted pursuant to section 625b.

(4) A person shall not tamper with or circumvent the operation of an ignition interlock device

(5) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$5 000 00 or both

(6) As used in this section and sections 625b and 625k ignition interlock device or device means an alcohol concentration measuring device that prevents a motor vehicle from being started at any time without first determining through a deep lung sample the operator's breath alcohol level. The system shall be calibrated so that the motor vehicle may not be started if the breath alcohol level of the operator as measured by the test reaches a level of 0.02 grams per 210 liters of breath

Sec 625m (1) A person whether licensed or not who has an alcohol content of 0.04 grams or more but not more than 0.07 grams per 100 milliliters of blood per 210 liters of breath or per 67 milliliters of urine shall not operate a commercial motor vehicle within this state

(2) A peace officer may arrest a person without a warrant if the peace officer has reasonable cause to believe that the person was at the time of an accident the driver of a commercial motor vehicle involved in the accident and was operating the vehicle in violation of this section or of a local ordinance substantially corresponding to this section

(3) A person who is convicted of a violation of this section or a local ordinance substantially corresponding to this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$300 00 or both together with costs of the prosecution. As part of the sentence the court shall order the secretary of state to suspend the vehicle group designations on the person's operator's or chauffeur's license pursuant to section 319b(1)(c) or if the vehicle was carrying hazardous material required to have a placard pursuant to 49 C.F.R. parts 100 to 199 in accordance with section 319b(1)(d). The court shall not order the secretary of state to issue a restricted license that would permit the person to operate a commercial motor vehicle

(4) A person who violates this section or a local ordinance substantially corresponding to this section within 10 years of a prior conviction may be sentenced to imprisonment for not more than 1 year or a fine of not more than \$1 000 00 or both. As part of the sentence the court shall order the secretary of state to revoke the vehicle group designations on the person's operator's or chauffeur's license pursuant to section 319b(1)(e). The court shall not order the secretary of state to issue a restricted license that would permit the person to operate a commercial motor vehicle. As used in this subsection prior conviction means a conviction for a violation of this section section 625(1) (3) (4) or (5) former section 625(1) or (2) or former section 625b a local ordinance substantially corresponding to this section section 625(1) or (3) former section 625(1) or (2) or former section 625b or a law of another state substantially corresponding to this section section 625(1) (3) (4) or (5) former section 625(1) or (2) or former section 625b while operating a commercial motor vehicle

(5) When assessing points and taking license actions under this act the secretary of state and the court shall treat a conviction for an attempted violation of subsection (1) a local ordinance substantially corresponding to subsection (1) or a law of another state substantially corresponding to subsection (1) the same as if the offense had been completed

Sec 732 (1) Each municipal judge and each clerk of a court of record shall keep a full record of every case in which a person is charged with or cited for a violation of this act or a local ordinance substantially corresponding to this act regulating the operation of vehicles on highways. Except as provided in subsection (15) the municipal judge or clerk of the court of record shall prepare and forward to the secretary of state an abstract of the court record as follows

(a) Within 14 days after a conviction forfeiture of bail or entry of a civil infraction determination or default judgment upon a charge of or citation for violating this act or a local ordinance corresponding to this act regulating the operation of vehicles on highways

(b) Immediately for each case charging a violation of section 625(1) (3) (4) (5) or (6) or a local ordinance substantially corresponding to section 625(1) (3) or (6) in which the charge is dismissed or the defendant is acquitted

(2) If a city or village department bureau or person is authorized to accept a payment of money as a settlement for a violation of a local ordinance corresponding to this act the city or village department bureau or person shall send a full report of each case in which a person pays any amount of money to the city or village department bureau or person to the secretary of state upon a form prescribed by the secretary of state

(3) The abstract or report required under this section shall be made upon a form furnished by the secretary of state. An abstract shall be certified by signature stamp or facsimile signature of the person required to prepare the abstract as correct. An abstract or report shall include all of the following

(a) The name address and date of birth of the person charged or cited

(b) The number of the person's operator's or chauffeur's license if any

(c) The date and nature of the violation

(d) The type of vehicle driven at the time of the violation and if the vehicle is a commercial motor vehicle that vehicle's group designation and endorsement classification

- (e) The date of the conviction finding forfeiture judgment or civil infraction determination
- (f) Whether bail was forfeited
- (g) Any license revocation restriction suspension or denial ordered by the court pursuant to this act
- (h) Other information considered necessary to the secretary of state

(4) The clerk of the court also shall forward an abstract of the court record to the secretary of state upon a person's conviction or civil infraction determination involving any of the following

(a) A violation of section 413 414 or 479a of the Michigan penal code Act No 328 of the Public Acts of 1931 being sections 750 413 750 414 and 750 479a of the Michigan Compiled Laws

(b) A violation of section 1 of Act No 214 of the Public Acts of 1931 being section 752 191 of the Michigan Compiled Laws

(c) Negligent homicide manslaughter or murder resulting from the operation of a motor vehicle

(d) A violation of section 33b of the Michigan liquor control act Act No 8 of the Public Acts of the Extra Session of 1933 being section 436 33b of the Michigan Compiled Laws

(e) An attempt to violate a conspiracy to violate or a violation of part 74 or section 17766a of the public health code Act No 368 of the Public Acts of 1978 being sections 333 7401 to 333 7461 and 333 17766a of the Michigan Compiled Laws or a local ordinance that prohibits conduct prohibited under part 74 or section 17766a of Act No 368 of the Public Acts of 1978 unless the convicted person is sentenced to life imprisonment or a minimum term of imprisonment that exceeds 1 year for the offense

(f) An attempt to commit any of the offenses described in subdivisions (a) to (d)

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

- (a) The vehicle was used as an instrument of the felony
- (b) The vehicle was used to transport a victim of the felony
- (c) The vehicle was used to flee the scene of the felony
- (d) The vehicle was necessary for the commission of the felony

(6) If a person is charged with a felony in which a motor vehicle was used other than a felony specified in subsection (4) or section 319(1)(a) to (e) the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court

You are charged with the commission of a felony in which a motor vehicle was used If you are convicted and the judge finds that the conviction is for a felony in which a motor vehicle was used as defined in section 319 of the Michigan vehicle code Act No 300 of the Public Acts of 1949 being section 257 319 of the Michigan Compiled Laws your driver's license shall be suspended by the secretary of state

(7) If a juvenile is accused of an act the nature of which constitutes a felony in which a motor vehicle was used other than a felony specified in subsection (4) or section 319(1)(a) to (e) the prosecuting attorney or juvenile division of the probate court shall include the following statement on the petition filed in the probate court

You are accused of an act the nature of which constitutes a felony in which a motor vehicle was used If the accusation is found to be true and the judge or referee finds that the nature of the act constitutes a felony in which a motor vehicle was used as defined in section 319 of the Michigan vehicle code Act No 300 of the Public Acts of 1949 being section 257 319 of the Michigan Compiled Laws your driver's license shall be suspended by the secretary of state

(8) If the judge or juvenile court referee determines as part of the sentence or disposition that the felony for which the defendant was convicted or adjudicated and with respect to which notice was given pursuant to subsection (6) or (7) is a felony in which a motor vehicle was used the clerk of the court shall forward an abstract of the court record of that conviction to the secretary of state

(9) As used in subsections (10) and (11) felony in which a commercial motor vehicle was used means a felony during the commission of which the person operated a commercial motor vehicle and while the person was operating the vehicle 1 or more of the following circumstances existed

- (a) The vehicle was used as an instrument of the felony
- (b) The vehicle was used to transport a victim of the felony
- (c) The vehicle was used to flee the scene of the felony
- (d) The vehicle was necessary for the commission of the felony

(10) If a person is charged with a felony in which a commercial motor vehicle was used and for which a vehicle group designation on a license is subject to suspension or revocation under section 319b(1)(c)(*vi*) 319b(1)(d) or 319b(1)(e)(*vi*) or (*vi*) the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court

You are charged with the commission of a felony in which a commercial motor vehicle was used If you are convicted and the judge finds that the conviction is for a felony in which a commercial motor vehicle was used as defined in section 319b of the Michigan vehicle code Act No 300 of the Public Acts of 1949 being section 257 319b of the Michigan Compiled Laws all vehicle group designations on your driver s license shall be suspended or revoked by the secretary of state

(11) If the judge determines as part of the sentence that the felony for which the defendant was convicted and with respect to which notice was given pursuant to subsection (10) is a felony in which a commercial motor vehicle was used the clerk of the court shall forward an abstract of the court record of that conviction to the secretary of state

(12) Every person required to forward abstracts to the secretary of state under this section shall certify for the period from January 1 through June 30 and for the period from July 1 through December 31 that all abstracts required to be forwarded during the period have been forwarded The certification shall be filed with the secretary of state not later than 28 days after the end of the period covered by the certification The certification shall be made upon a form furnished by the secretary of state and shall include all of the following

- (a) The name and title of the person required to forward abstracts
- (b) The court for which the certification is filed
- (c) The time period covered by the certification
- (d) The following statement

I certify that all abstracts required by section 732 of the Michigan vehicle code MCL 257 732 MSA 9 2432 for the period \_\_\_\_\_ through \_\_\_\_\_ have been forwarded to the secretary of state

- (e) Other information the secretary of state considers necessary
- (f) The signature of the person required to forward abstracts

(13) The failure refusal or neglect of a person to comply with this section constitutes misconduct in office and is grounds for removal from office

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

(15) Except for controlled substance offenses described in subsection (4) the court shall not submit and the secretary of state shall discard and not enter on the master driving record an abstract for a conviction or civil infraction determination for any of the following offenses

- (a) The parking or standing of a vehicle
- (b) A nonmoving violation that is not the basis for the secretary of state s suspension revocation or denial of an operator s or chauffeur s license
- (c) A violation of chapter II that is not the basis for the secretary of state s suspension revocation or denial of an operator s or chauffeur s license
- (d) Except for a violation of section 33b of Act No 8 of the Public Acts of the Extra Session of 1933 and section 624b a pedestrian passenger or bicycle violation
- (e) A violation of section 710e

(16) The secretary of state shall discard and not enter on the master driving record an abstract for a bond forfeiture that occurred outside this state However the secretary of state shall retain and enter on the master driving record an abstract of an out of state bond forfeiture for an offense that occurred after January 1 1990 in connection with the operation of a commercial motor vehicle

(17) The secretary of state shall inform the courts of this state of the nonmoving violations and violations of chapter II that are used by the secretary of state as the basis for the suspension restriction revocation or denial of an operator s or chauffeur s license

(18) If a conviction or civil infraction determination is reversed upon appeal the person whose conviction or determination has been reversed may serve on the secretary of state a certified copy of the order of reversal The secretary of state shall enter the order in the proper book or index in connection with the record of the conviction or civil infraction determination

(19) The secretary of state may permit a city or village department bureau person or court to modify the requirement as to the time and manner of reporting a conviction civil infraction determination or settlement to the secretary of state if the modification will increase the economy and efficiency of collecting and utilizing the records. If the permitted abstract of court record reporting a conviction civil infraction determination or settlement originates as a part of the written notice to appear authorized in section 728(1) or 742(1) the form of the written notice and report shall be as prescribed by the secretary of state.

(20) Except as provided in this act and notwithstanding any other provision of law a court shall not order expungement of any violation reportable to the secretary of state under this section.

Sec 904 (1) A person whose operator's or chauffeur's license or registration certificate has been suspended or revoked and who has been notified as provided in section 212 of that suspension or revocation whose application for license has been denied or who has never applied for a license shall not operate a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles including an area designated for the parking of motor vehicles within this state. A person shall not knowingly permit a motor vehicle owned by the person to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles including an area designated for the parking of vehicles within this state by a person whose license or registration certificate is suspended or revoked whose application for license has been denied or who has never applied for a license except as permitted under this act. A person who violates this subsection is guilty of a misdemeanor punishable as follows:

(a) For a first violation by imprisonment for not more than 90 days or a fine of not more than \$500.00 or both. Unless the vehicle was stolen or used with the permission of a person who did not knowingly permit an unlicensed driver to operate the vehicle the registration plates of the vehicle shall be cancelled by the secretary of state upon notification by a court.

(b) For a second or subsequent violation by imprisonment for not more than 1 year or a fine of not more than \$1,000.00 or both. Unless the vehicle was stolen the registration plates of the vehicle shall be cancelled by the secretary of state upon notification by a court.

(2) Upon receiving a record of a person's conviction for unlawful operation of a motor vehicle while the person's license is suspended or revoked or of a person's conviction or civil infraction determination for a moving violation of the vehicle laws of this state or a political subdivision of this state while the person's license is suspended or revoked the secretary of state immediately shall extend the period of the first suspension or revocation for an additional like period. This subsection applies only if the violation occurs during a suspension of definite length or if the violation occurs before the person is approved for a license following a revocation.

(3) Upon receiving a record of the conviction bond forfeiture or a civil infraction determination of a person for unlawful operation of a motor vehicle requiring a class 1, class 2, or class 3 endorsement or vehicle group designation while the endorsement or designation is suspended pursuant to section 319a or 319b or revoked the secretary of state immediately shall extend the period of suspension or revocation for an additional like period. This subsection applies only if the violation occurs during a suspension of definite length if the violation occurs before the person is approved for a license following a revocation or if the person operates a commercial vehicle while disqualified under the commercial motor vehicle safety act of 1986 title XII of Public Law 99-570 100 Stat. 3207-170.

(4) If the secretary of state receives records of more than 1 conviction or civil infraction determination resulting from the same incident all of the convictions or civil infraction determinations shall be treated as a single violation for purposes of extending the period of suspension or revocation under subsection (2) or (3).

(5) Before a person is arraigned before a district court magistrate or judge on a charge of violating this section the arresting officer shall obtain the person's driving record from the secretary of state and shall furnish the record to the court. The driving record of the person may be obtained from the secretary of state's computer information network.

(6) This section does not apply to a person who operates a vehicle solely for the purpose of protecting human life or property if the life or property is endangered and summoning prompt aid is essential.

(7) A person whose vehicle group designation is suspended or revoked and who has been notified as provided in section 212 of that suspension or revocation or whose application for a vehicle group designation has been denied as provided in this act or who has never applied for a vehicle group designation and who operates a commercial motor vehicle within this state except as permitted under this act while any of those conditions exist is guilty of a misdemeanor punishable except as otherwise provided in this section by imprisonment for not less than 3 days or more than 90 days or a fine of not more than \$100.00 or both.

Sec 910 A conviction based on a plea of nolo contendere shall be treated in the same manner as a conviction based on a plea of guilty.

Section 2 This amendatory act shall take effect May 1, 1995.

Section 3 This amendatory act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law

(a) Senate Bill No 631

(b) House Bill No 4586

Co Clerk of the House of Representatives

Secretary of the Senate

Approved

Governor