



HOUSE BILL No. 4722

May 6, 1993, Introduced by Reps. Profit and Joe Young, Jr. and referred to the Committee on Judiciary.

A bill to amend section 625b of Act No. 300 of the Public Acts of 1949, entitled as amended
"Michigan vehicle code,"
as amended by Act No. 100 of the Public Acts of 1991, being section 257.625b of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 625b of Act No. 300 of the Public Acts
2 of 1949, as amended by Act No. 100 of the Public Acts of 1991,
3 being section 257.625b of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 625b. (1) A person arrested for a misdemeanor viola-
6 tion of section 625(1) or (3), ~~or~~ section 625m, or a local
7 ordinance substantially corresponding to section 625(1) or (3)
8 ~~—~~ or section 625m, shall be arraigned on the citation,
9 complaint, or warrant not more than 14 days after the ~~date of~~

1 arrest FOR THE VIOLATION or, if an arrest warrant is ISSUED OR
2 reissued, not more than 14 days after the ISSUED OR reissued
3 arrest warrant is served, WHICHEVER IS LATER. THE COURT SHALL
4 NOT DISMISS A CASE FOR A FAILURE TO COMPLY WITH THIS TIME LIMIT.

5 (2) The court shall schedule a pretrial conference between
6 the prosecuting attorney, the defendant, and the defendant's
7 attorney in each case in which the defendant is charged with a
8 misdemeanor violation of section 625(1) or (3), ~~or~~
9 section 625m, or a local ordinance substantially corresponding to
10 section 625(1) or (3) ~~—~~ or section 625m. The pretrial confer-
11 ence shall be held not more than 35 days after ~~the date of~~ the
12 person's arrest for the violation or, if an arrest warrant is
13 ISSUED OR reissued, not more than 35 days after ~~the date~~ the
14 ISSUED OR reissued arrest warrant is served, ~~unless~~ WHICHEVER
15 IS LATER. IF the court has only 1 judge who sits in more than 1
16 location in that district, ~~in which case~~ the pretrial confer-
17 ence shall be held not more than 42 days after the ~~date of the~~
18 person's arrest for the violation or, if an arrest warrant is
19 ISSUED OR reissued, not more than 42 days after ~~the date~~ the
20 ISSUED OR reissued arrest warrant is served, WHICHEVER IS LATER.
21 THE COURT SHALL NOT DISMISS A CASE FOR A FAILURE TO COMPLY WITH
22 THE APPLICABLE TIME LIMIT. The court shall order the defendant to
23 attend the pretrial conference and may accept a plea by the
24 defendant at the conclusion of the pretrial conference. The
25 court may adjourn the pretrial conference upon the motion of a
26 party for good cause shown. Not more than 1 adjournment shall be

1 granted to a party, and the length of an adjournment shall not
2 exceed 14 days. ~~The court shall, except~~

3 (3) EXCEPT for delay attributable to the unavailability of
4 the defendant, a witness, or material evidence ~~—~~ or due to an
5 interlocutory appeal or exceptional circumstances, but not a
6 delay caused by docket congestion, THE COURT SHALL finally adju-
7 dicate, by a plea of guilty or nolo contendere, ~~or the~~ entry of
8 a verdict, or ~~by~~ other final disposition, a case in which the
9 defendant is charged with a misdemeanor violation of
10 section 625(1) or (3), ~~or~~ section 625m, or a local ordinance
11 substantially corresponding to section 625(1) or (3) ~~—~~ or
12 section 625m, within 77 days after the person is arrested for the
13 violation or, if an arrest warrant is ISSUED OR reissued, not
14 more than 77 days after the date the ISSUED OR reissued arrest
15 warrant is served, WHICHEVER IS LATER. THE COURT SHALL NOT DIS-
16 MISS A CASE FOR A FAILURE TO COMPLY WITH THIS TIME LIMIT.

17 (4) ~~(3)~~ Before accepting a plea of guilty or nolo conten-
18 dere under section 625, or a local ordinance substantially corre-
19 sponding to section 625(1), (2), or (3), the court shall advise
20 the accused of the maximum possible term of imprisonment and the
21 maximum possible fine that may be imposed for the violation, and
22 shall advise the defendant that the maximum possible license
23 sanctions that may be imposed will be based upon the master driv-
24 ing record maintained by the secretary of state pursuant to
25 section 204a.

26 (5) ~~(4)~~ Before imposing sentence, other than court-ordered
27 license sanctions, for a violation of section 625(1), (3), (4),

1 or (5) or a local ordinance substantially corresponding to
2 section 625(1) or (3), the court shall order the person to
3 undergo screening and assessment by a person or agency designated
4 by the office of substance abuse services ~~—~~ to determine
5 whether the person is likely to benefit from rehabilitative serv-
6 ices, including alcohol or drug education and alcohol or drug
7 treatment programs. As part of the sentence, the court may order
8 the person to participate in and successfully complete 1 or more
9 appropriate rehabilitative programs. The person shall pay for
10 the costs of the screening, assessment, and rehabilitative
11 services.

12 (6) ~~(5)~~ Immediately upon acceptance by the court of a plea
13 of guilty or nolo contendere or upon entry of a verdict of guilty
14 for a violation of section 625(1), (3), (4), or (5) or a local
15 ordinance substantially corresponding to section 625(1) or (3),
16 whether or not the person is eligible to be sentenced as a multi-
17 ple offender, the court shall consider all prior, convictions
18 currently entered upon the PERSON'S Michigan driving record, ~~of~~
19 ~~the person,~~ except those convictions ~~which,~~ THE COURT
20 DETERMINES upon THE DEFENDANT'S motion ~~by the defendant, are~~
21 ~~determined by the court~~ to be constitutionally invalid, and
22 shall impose the following licensing sanctions:

23 (a) For a conviction under section 625(4) or (5), the court
24 shall order the secretary of state to revoke the PERSON'S
25 operator's or chauffeur's license ~~of the person~~ and shall not
26 order the secretary of state to issue a restricted license to the
27 person.

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

3 (i) If the court finds ~~that~~ the person has no prior con-
4 victions within 7 years for a violation of section 625(1), (3),
5 (4), or (5), ~~or~~ former section 625(1) or (2), or former section
6 625b, a local ordinance substantially corresponding to section
7 625(1) or (3), ~~or~~ former section 625(1) or (2) or former sec-
8 tion 625b, or a law of another state substantially corresponding
9 to section 625(1), (3), (4), or (5), ~~or~~ former section 625(1)
10 or (2), or former section 625b, the court shall order the secre-
11 tary of state to suspend the PERSON'S operator's or chauffeur's
12 license ~~of the person~~ for ~~a period of~~ not less than 6 months
13 or more than 2 years. The court may order the secretary of state
14 to issue to the person a restricted license during all or a spec-
15 ified portion of the ~~period of~~ suspension, except that a
16 restricted license shall not be issued during the first 30 days
17 of the ~~period of~~ suspension.

18 (ii) If the court finds ~~that~~ the person has 1 prior con-
19 viction within 7 years for a violation of section 625(3) or
20 former section 625b, a local ordinance substantially correspond-
21 ing to section 625(3) or former section 625b, or a law of another
22 state substantially corresponding to section 625(3) or former
23 section 625b, the court shall order the secretary of state to
24 suspend the PERSON'S operator's or chauffeur's license ~~of the~~
25 ~~person~~ for ~~a period of~~ not less than 6 months or more than
26 2 years. The court may order the secretary of state to issue to
27 the person a restricted license during all or any portion of the

1 ~~period of~~ suspension, except that a restricted license shall
2 not be issued during the first 60 days of the ~~period of~~
3 suspension.

4 (iii) If the court finds that the person has 1 or more prior
5 convictions within 7 years for a violation of section 625(1),
6 (4), or (5) ~~or~~ former section 625(1) or (2), a local ordi-
7 nance substantially corresponding to section 625(1) or former
8 section 625(1) or (2), or a law of another state substantially
9 corresponding to section 625(1), (4), or (5) ~~or~~ former sec-
10 tion 625(1) or (2), or that the person has 2 or more prior con-
11 victions within 10 years for a violation of section 625(1), (3),
12 (4), or (5), ~~or~~ former section 625(1) or (2), or former section
13 625b, a local ordinance substantially corresponding to section
14 625(1) or (3), ~~or~~ former section 625(1) or (2), or former sec-
15 tion 625b, or a law of another state substantially corresponding
16 to section 625(1), (3), (4), or (5), ~~or~~ former section 625(1)
17 or (2), or former section 625b, the court shall order the secre-
18 tary of state to revoke the PERSON'S operator's or chauffeur's
19 license ~~of the person~~ and shall not order the secretary of
20 state to issue a restricted license to the person.

21 (c) For a conviction under section 625(3) or a local ordi-
22 nance substantially corresponding to section 625(3):

23 (i) If the court finds that the convicted person has no
24 prior conviction within 7 years for a violation of section
25 625(1), (3), (4), or (5), ~~or~~ former section 625(1) or (2), or
26 former section 625b, a local ordinance substantially
27 corresponding to section 625(1) or (3), ~~or~~ former section

1 625(1) or (2), or former section 625b, or a law of another state
2 substantially corresponding to section 625(1), (3), (4), or (5),
3 ~~or~~ former section 625(1) or (2), or former section 625b, the
4 court shall order the secretary of state to suspend the PERSON'S
5 operator's or chauffeur's license ~~of the person~~ for ~~a period~~
6 ~~of~~ not less than 90 days or more than 1 year. The court may
7 order the secretary of state to issue to the person a restricted
8 license during all or a specified portion of the ~~period of~~
9 suspension.

10 (ii) If the court finds that the person has 1 prior convic-
11 tion within 7 years for a violation of section 625(1), (3), (4),
12 or (5), ~~or~~ former section 625(1) or (2), or former section
13 625b, a local ordinance substantially corresponding to section
14 625(1) or (3), ~~or~~ former section 625(1) or (2), or former sec-
15 tion 625b, or a law of another state substantially corresponding
16 to section 625(1), (3), (4), or (5), ~~or~~ former section 625(1)
17 or (2), or FORMER section 625b, the court shall order the secre-
18 tary of state to suspend the PERSON'S operator's or chauffeur's
19 license ~~of the person~~ for a period of not less than 6 months or
20 more than 2 years. The court may order the secretary of state to
21 issue to the person a restricted license during all or any por-
22 tion of the suspension, ~~period,~~ except that a restricted
23 license shall not be issued during the first 60 days of the
24 ~~period of~~ suspension.

25 (iii) If the court finds that the person has 2 or more prior
26 convictions within 10 years for a violation of section 625(1),
27 (3), (4), or (5), ~~or~~ former section 625(1) or (2), or former

1 section 625b, a local ordinance substantially corresponding to
2 section 625(1) or (3), ~~or~~ former section 625(1) or (2), or
3 former section 625b, or a law of another state substantially cor-
4 responding to section 625(1), (3), (4), or (5), ~~or~~ former sec-
5 tion 625(1) or (2), or former section 625b, the court shall order
6 the secretary of state to revoke the PERSON'S operator's or
7 chauffeur's license ~~of the person~~ and shall not order the sec-
8 retary of state to issue a restricted license to the person.

9 (7) ~~(6)~~ A restricted license issued pursuant to an order
10 under subsection ~~(5)~~ (6) shall permit the person to whom it is
11 issued to do 1 or more of the following:

12 (a) Drive to and from the person's residence and work
13 location.

14 (b) Drive in the course of the person's employment or
15 occupation.

16 (c) Drive to and from the person's residence and an alcohol
17 or drug education or treatment program as ordered by the court.

18 (d) Drive to and from the person's residence and the court
19 probation department ~~or~~ or a court-ordered community service
20 program, or both.

21 (e) Drive to and from the person's residence and an educa-
22 tional institution at which the person is enrolled as a student.

23 (8) ~~(7)~~ The court may order that the restricted license
24 issued pursuant to subsection ~~(5)~~ (6) include the requirement
25 that the person shall not operate a motor vehicle unless the
26 vehicle is equipped with a functioning ignition interlock
27 device. The device shall be set to render the motor vehicle

1 inoperable if the device detects a blood alcohol content of 0.02%
2 or more by weight of alcohol in the person who offers a breath
3 sample. The court may order installation of an ignition inter-
4 lock device on any motor vehicle that the person owns or oper-
5 ates, the costs of which shall be borne by the person whose
6 license is restricted.

7 (9) ~~(8)~~ The court shall not order the secretary of state
8 under subsection ~~(5)~~ (6) to issue a restricted license that
9 would permit a person to operate a ~~truck or truck tractor,~~
10 ~~including a trailer,~~ COMMERCIAL MOTOR VEHICLE that hauls hazard-
11 ous materials.

12 (10) ~~(9)~~ The court shall not order the secretary of state
13 to issue a restricted license unless the person states under
14 oath, and the court finds pursuant to testimony taken in open
15 court or pursuant to statements contained in a sworn affidavit on
16 a form prescribed by the state court administrator, that the
17 person is unable to take public transportation to and from his or
18 her work location, place of alcohol or drug education treatment,
19 court-ordered community service program, or educational institu-
20 tion, and does not have any family members or other individuals
21 able to provide transportation.

22 (11) ~~(10)~~ The court order issued under subsection ~~(5)~~
23 (6) and the restricted license shall indicate the permitted
24 destination of the person, the approved route or routes if speci-
25 fied by the court, and permitted times of travel.

26 ~~(11) As used in this section, "work location" means, as~~
27 ~~applicable, either the specific place or places of employment, or~~

~~1 the territory or territories regularly visited by the person in~~
~~2 pursuance of the person's occupation, or both.~~

3 (12) Immediately upon acceptance by the court of a plea of
4 guilty or nolo contendere or upon entry of a verdict of guilty
5 for a violation of section 625(1), (3), (4), or (5) — or a
6 local ordinance substantially corresponding to section 625(1) or
7 (3), the person shall surrender to the court his or her
8 operator's or chauffeur's license or permit. The court shall
9 immediately destroy the license or permit and forward an abstract
10 of conviction with court-ordered license sanctions to the secre-
11 tary of state. Upon receipt of, and pursuant to, the abstract of
12 conviction with court-ordered license sanctions, the secretary of
13 state shall suspend or revoke the person's license and, if
14 ordered by the court and the person is otherwise eligible for a
15 license, issue to the person a restricted license stating the
16 limited driving privileges indicated on the abstract. If the
17 judgment and sentence is appealed to circuit court, the court
18 may, ex parte, order the secretary of state to stay the suspen-
19 sion, revocation, or restricted license issued pursuant to this
20 section pending the outcome of the appeal.

21 (13) In addition to any other suspension or revocation
22 ordered under this section and as part of the sentence imposed
23 upon a person who violates section 625(1), (3), (4), or (5) or a
24 local ordinance substantially corresponding to section 625(1) or
25 (3) while operating a commercial motor vehicle, the court shall
26 order the secretary of state to suspend the vehicle group
27 designations on the person's operator's or chauffeur's license in

1 accordance with section 319b(1)(c). ~~, except that if~~ IF the
 2 vehicle was transporting hazardous material required to have a
 3 placard pursuant to 49 C.F.R. parts 100 to 199, the court shall
 4 order the secretary of state to suspend the vehicle group design-
 5 nations on the person's operator's or chauffeur's license in
 6 accordance with section 319b(1)(d). The court shall not order
 7 the secretary of state to issue a restricted license that would
 8 permit the person to operate a commercial motor vehicle.

9 (14) In addition to any other suspension or revocation
 10 ordered under this section and as part of the sentence imposed
 11 upon a person who is convicted of a violation of section 625(1),
 12 (3), (4), or (5) or a local ordinance substantially corresponding
 13 to section 625(1) or (3) while operating a commercial motor vehi-
 14 cle within 10 years of a prior conviction, the court shall order
 15 the secretary of state to revoke the vehicle group designations
 16 on the person's operator's or chauffeur's license in accordance
 17 with section 319b(1)(e). The court shall not order the secretary
 18 of state to issue a restricted license that would permit the
 19 person to operate a commercial motor vehicle. As used in this
 20 ~~section~~ SUBSECTION, "prior conviction" means a conviction under
 21 ~~subsection~~ SECTION 625(1), (3), (4), or (5), ~~or~~ former sec-
 22 tion 625(1) or (2), or former section 625b, a local ordinance
 23 substantially corresponding to section 625(1) or (3), ~~or~~ former
 24 section 625(1) or (2), or former section 625b, or a law of
 25 another state substantially corresponding to section 625(1), (3),
 26 (4), or (5), ~~or~~ former section 625(1) or (2), or former section
 27 625b ~~involving~~ IF THE CONVICTION INVOLVED the operation of a

1 commercial motor vehicle, or a conviction under section 625m, a
2 local ordinance substantially corresponding to section 625m, or a
3 law of another state substantially corresponding to section
4 625m.

5 (15) AS USED IN THIS SECTION, "WORK LOCATION" MEANS, AS
6 APPLICABLE, THE SPECIFIC PLACE OR PLACES OF EMPLOYMENT OR THE
7 TERRITORY OR TERRITORIES REGULARLY VISITED BY THE PERSON IN PUR-
8 SUANCE OF THE PERSON'S OCCUPATION, OR BOTH.