



SENATE BILL No. 559

March 31, 1993, Introduced by Senators BOUCHARD,
GOUGEON and MCMANUS and referred to the Committee
on Judiciary.

A bill to amend section 625 of Act No. 300 of the Public
Acts of 1949, entitled as amended
"Michigan vehicle code,"
as amended by Act No. 98 of the Public Acts of 1991, being sec-
tion 257.625 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 625 of Act No. 300 of the Public Acts of
2 1949, as amended by Act No. 98 of the Public Acts of 1991, being
3 section 257.625 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 625. (1) A person, whether licensed or not, shall not
6 operate a vehicle upon a highway or other place open to the gen-
7 eral public or generally accessible to motor vehicles, including
8 an area designated for the parking of vehicles, within this state
9 if either of the following applies:

1 (a) The person is under the influence of intoxicating liquor
2 or a controlled substance, or a combination of intoxicating
3 liquor and a controlled substance.

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

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

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

25 (4) A person, whether licensed or not, who operates a motor
26 vehicle upon a highway or other place open to the general public
27 or generally accessible to motor vehicles, including an area

1 designated for the parking of vehicles, within this state, under
2 the influence of intoxicating liquor or a controlled substance,
3 or a combination of intoxicating liquor and a controlled sub-
4 stance, or with a blood alcohol content of 0.10% or more by
5 weight of alcohol, and by the operation of that motor vehicle
6 causes the death of another person is guilty of a felony, punish-
7 able by imprisonment for not more than 15 years, or a fine of not
8 less than \$2,500.00 or more than \$10,000.00, or both.

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

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

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

4 (i) Service to the community for a period of not more than
5 45 days.

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

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

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

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

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

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

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

24 (e) A person sentenced to perform service to the community
25 under this subsection shall not receive compensation, and shall
26 reimburse the state or appropriate local unit of government for
27 the cost of supervision incurred by the state or local unit of

1 government as a result of the person's activities in that
2 service.

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

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

14 (8) The court shall impose license sanctions pursuant to
15 section 625b.

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

20 (10) If a person is convicted of violating subsection (3),
21 the following ~~shall~~ apply:

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

25 (i) Service to the community for a period of not more than
26 45 days.

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

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

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

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

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

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

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

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

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

1 section 625(1), (3), (4), or (5), or former section 625(1) or
2 (2), or former section 625b.

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

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

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

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

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

24 (a) An abstract of conviction.

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

26 (c) An admission by the defendant.

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

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

12 (15) IF A PERSON IS CONVICTED OF VIOLATING SUBSECTION (4) OR
13 (5), THE COURT MAY ORDER THAT PERSON TO PAY CHILD SUPPORT FOR ANY
14 MINOR CHILD OF A PERSON WHO DIED OR SUFFERED A LONG-TERM INCAPAC-
15 ITATING INJURY BECAUSE OF THE VIOLATION. THE COURT SHALL GIVE
16 NOTICE AND AN OPPORTUNITY FOR A HEARING TO THE PERSON CONVICTED
17 OF VIOLATING SUBSECTION (4) OR (5). THE COURT SHALL DETERMINE
18 THE AMOUNT OF CHILD SUPPORT ORDERED THROUGH USE OF THE CHILD SUP-
19 PORT FORMULA DEVELOPED UNDER SECTION 19 OF THE FRIEND OF THE
20 COURT ACT, ACT NO. 294 OF THE PUBLIC ACTS OF 1982, BEING
21 SECTION 552.519 OF THE MICHIGAN COMPILED LAWS.