



SENATE BILL No. 348

February 28, 1995, Introduced by Senators VAN REGENMORTER, CISKY and BOUCHARD and referred to the Committee on Judiciary.

A bill to amend the title and sections 625, 625a, 625b, 625c, and 625m of Act No. 300 of the Public Acts of 1949, entitled as amended "Michigan vehicle code," section 625 as amended by Act No. 449 of the Public Acts of 1994 and sections 625a, 625b, 625c, and 625m as amended by Act No. 450 of the Public Acts of 1994, being sections 257.625, 257.625a, 257.625b, 257.625c, and 257.625m of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 625, 625a, 625b, 625c,
2 and 625m of Act No. 300 of the Public Acts of 1949, section 625
3 as amended by Act No. 449 of the Public Acts of 1994 and sections
4 625a, 625b, 625c, and 625m as amended by Act No. 450 of the
5 Public Acts of 1994, being sections 257.625, 257.625a, 257.625b,

1 257.625c, and 257.625m of the Michigan Compiled Laws, are amended
2 to read as follows:

3 TITLE

4 An act to provide for the registration, titling, sale,
5 transfer, and regulation of certain vehicles operated ~~upon the~~
6 ~~public highways of~~ WITHIN this state ~~or any other place open to~~
7 ~~the general public or generally accessible to motor vehicles~~ and
8 distressed vehicles; to provide for the licensing of dealers; to
9 provide for the examination, licensing, and control of operators
10 and chauffeurs; to provide for the giving of proof of financial
11 responsibility and security by owners and operators of vehicles;
12 to provide for the imposition, levy, and collection of specific
13 taxes on vehicles, and the levy and collection of sales and use
14 taxes, license fees, and permit fees; to provide for the regula-
15 tion and use of streets and highways; to create certain funds; to
16 provide penalties and sanctions for a violation of this act; to
17 provide for civil liability of owners and operators of vehicles
18 and service of process on residents and nonresidents; to provide
19 for the levy of certain assessments; to provide for the enforce-
20 ment of this act; to provide for the creation of and to prescribe
21 the powers and duties of certain state and local agencies; to
22 repeal all other acts or parts of acts inconsistent with this act
23 or contrary to this act; and to repeal ~~certain~~ ACTS AND parts
24 of ~~this act on a specific date~~ ACTS.

25 Sec. 625. (1) A person, whether licensed or not, shall not
26 operate a vehicle ~~upon a highway or other place open to the~~
27 ~~general public or generally accessible to motor vehicles,~~

1 ~~including an area designated for the parking of vehicles,~~ within
2 this state if either of the following applies:

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

6 (b) The person has an alcohol content of 0.10 grams or more
7 per 100 milliliters of blood, per 210 liters of breath, or per 67
8 milliliters of urine.

9 (2) The owner of a vehicle or a person in charge or in con-
10 trol of a vehicle shall not authorize or knowingly permit the
11 vehicle to be operated ~~upon a highway or other place open to the~~
12 ~~general public or generally accessible to motor vehicles, includ-~~
13 ~~ing an area designated for the parking of motor vehicles,~~ within
14 this state by a person who is under the influence of intoxicating
15 liquor or a controlled substance, or a combination of intoxicat-
16 ing liquor and a controlled substance, or who has an alcohol con-
17 tent of 0.10 grams or more per 100 milliliters of blood, per 210
18 liters of breath, or per 67 milliliters of urine.

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

1 subsection (1), a finding of guilty under this subsection may be
2 rendered.

3 (4) A person, whether licensed or not, who operates a motor
4 vehicle ~~upon a highway or other place open to the general public~~
5 ~~or generally accessible to motor vehicles, including an area des-~~
6 ~~ignated for the parking of vehicles, within this state,~~ in vio-
7 lation of subsection (1) or (3) ~~—~~ and by the operation of that
8 motor vehicle causes the death of another person is guilty of a
9 felony punishable by imprisonment for not more than 15 years or a
10 fine of not less than \$2,500.00 or more than \$10,000.00, or
11 both.

12 (5) A person, whether licensed or not, who operates a motor
13 vehicle ~~upon a highway or other place open to the general public~~
14 ~~or generally accessible to motor vehicles, including an area des-~~
15 ~~ignated for the parking of vehicles, within this state,~~ in vio-
16 lation of subsection (1) or (3) and by the operation of that
17 motor vehicle causes a serious impairment of a body function of
18 another person is guilty of a felony punishable by imprisonment
19 for not more than 5 years or a fine of not less than \$1,000.00 or
20 more than \$5,000.00, or both. As used in this subsection,
21 "serious impairment of a body function" includes, but is not
22 limited to, 1 or more of the following:

23 (a) Loss of a limb or use of a limb.

24 (b) Loss of a hand, foot, finger, or thumb or use of a hand,
25 foot, finger, or thumb.

26 (c) Loss of an eye or ear or use of an eye or ear.

1 (d) Loss or substantial impairment of a bodily function.

2 (e) Serious visible disfigurement.

3 (f) A comatose state that lasts for more than 3 days.

4 (g) Measurable brain damage or mental impairment.

5 (h) A skull fracture or other serious bone fracture.

6 (i) Subdural hemorrhage or subdural hematoma.

7 (6) A person who is less than 21 years of age, whether
8 licensed or not, shall not operate a vehicle ~~upon a highway or~~
9 ~~other place open to the general public or generally accessible to~~
10 ~~motor vehicles, including an area designated for the parking of~~
11 ~~vehicles,~~ within this state if the person has any bodily alcohol
12 content. As used in this subsection, "any bodily alcohol
13 content" means either of the following:

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

17 (b) Any presence of alcohol within a person's body resulting
18 from the consumption of intoxicating liquor, other than consump-
19 tion of intoxicating liquor as a part of a generally recognized
20 religious service or ceremony.

21 (7) If a person is convicted of violating subsection (1),
22 all of the following apply:

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

26 (i) Community service for not more than 45 days.

(ii) Imprisonment for not more than 90 days.

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

(b) If the violation occurs within 7 years of a prior conviction OR A CONVICTION FOR A VIOLATION OF SUBSECTION (3) OR FORMER SECTION 625B, WHETHER THE VIOLATION OF SUBSECTION (3) OR FORMER SECTION 625B OCCURRED UNDER A LAW OF THIS STATE, A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO A LAW OF THIS STATE, OR A LAW OF ANOTHER STATE SUBSTANTIALLY CORRESPONDING TO A LAW OF THIS STATE, the person shall be sentenced to pay a fine of not less than \$200.00 or more than \$1,000.00 and either of the following:

(i) Community service for not less than 10 days or more than 90 days and may be imprisoned for not more than 1 year.

(ii) Imprisonment for not less than 48 consecutive hours or more than 1 year and may be sentenced to community service for not more than 90 days.

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

(d) If the violation occurs within 10 years of ~~2 or more~~ ~~prior convictions~~ ANY OF THE FOLLOWING, the person is guilty of a felony ~~and shall be sentenced to imprisonment for not less than 1 year or more than 5 years or a fine of not less than \$500.00 or more than \$5,000.00, or both.~~ PUNISHABLE AS PROVIDED IN SUBDIVISION (E):

(i) TWO OR MORE PRIOR CONVICTIONS.

(ii) ONE PRIOR CONVICTION AND 2 CONVICTIONS FOR VIOLATIONS OF SUBSECTION (3) OR FORMER SECTION 625B UNDER A LAW OF THIS

1 STATE, A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO A LAW OF
2 THIS STATE, OR A LAW OF ANOTHER STATE SUBSTANTIALLY CORRESPONDING
3 TO A LAW OF THIS STATE.

4 (iii) THREE OR MORE CONVICTIONS FOR VIOLATIONS OF SUBSECTION
5 (3) OR FORMER SECTION 625B UNDER A LAW OF THIS STATE, A LOCAL
6 ORDINANCE SUBSTANTIALLY CORRESPONDING TO A LAW OF THIS STATE, OR
7 A LAW OF ANOTHER STATE SUBSTANTIALLY CORRESPONDING TO A LAW OF
8 THIS STATE.

9 (E) A PERSON CONVICTED OF A FELONY UNDER SUBDIVISION (D)
10 SHALL BE PUNISHED BY 1 OF THE FOLLOWING, AND MAY BE FINED NOT
11 MORE THAN \$5,000.00:

12 (i) IMPRISONMENT UNDER THE JURISDICTION OF THE DEPARTMENT OF
13 CORRECTIONS FOR AN INDETERMINATE SENTENCE OF NOT LESS THAN 1 YEAR
14 OR MORE THAN 5 YEARS.

15 (ii) IMPRISONMENT IN THE COUNTY JAIL FOR NOT LESS THAN 30
16 DAYS OR MORE THAN 1 YEAR.

17 (F) A term of imprisonment imposed under ~~this~~ subdivision
18 (E) shall not be suspended.

19 (G) ~~(e)~~ As used in this subsection, "prior conviction"
20 means a conviction for a violation or attempted violation of sub-
21 section (1), (4), or (5) or former section 625(1) or (2), a local
22 ordinance substantially corresponding to subsection (1) or former
23 section 625(1) or (2), or a law of another state substantially
24 corresponding to subsection (1), (4), or (5) or former section
25 625(1) or (2).

26 (8) A person who is convicted of violating subsection (2) is
27 guilty of a misdemeanor punishable by imprisonment for not more

1 than 90 days or a fine of not less than \$100.00 or more than
2 \$500.00, or both.

3 (9) If a person is convicted of violating subsection (3),
4 all of the following apply:

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

8 (i) Community service for not more than 45 days.

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

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

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

15 (i) Community service for not less than 10 days or more than
16 90 days and may be sentenced to imprisonment for not more than 1
17 year.

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

20 (c) If the violation occurs within 10 years of 2 or more
21 prior convictions, the person shall be sentenced to pay a fine of
22 not less than \$200.00 or more than \$1,000.00, and either of the
23 following:

24 (i) Community service for not less than 10 days or more than
25 90 days and may be sentenced to imprisonment for not more than 1
26 year.

1 (ii) Imprisonment for not more than 1 year and may be
2 sentenced to community service for not more than 90 days.

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

11 (10) If a person is convicted of violating subsection (6),
12 the following shall apply:

13 (a) Except as otherwise provided in subdivision (b), the
14 person is guilty of a misdemeanor punishable by 1 or both of the
15 following:

16 (i) Community service for not more than 45 days.

17 (ii) A fine of not more than \$250.00.

18 (b) If the violation occurs within 7 years of 1 or more
19 prior convictions, the person may be sentenced to 1 or both of
20 the following:

21 (i) Community service for not more than 60 days.

22 (ii) A fine of not more than \$500.00.

23 (c) As used in this subsection, "prior conviction" means a
24 conviction for a violation or attempted violation of subsection
25 (1), (3), (4), (5), or (6), former section 625(1) or (2), or
26 former section 625b, a local ordinance substantially
27 corresponding to subsection (1), (3), or (6), former section

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

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

9 (12) The court shall impose license sanctions pursuant to
10 section 625b.

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

16 (14) If the prosecuting attorney intends to seek an enhanced
17 sentence under subsection (7)(b) or ~~(d)~~ (E), subsection (9)(b)
18 or (c), or subsection (10)(b) based upon the defendant having 1
19 or more prior convictions, the prosecuting attorney shall include
20 on the complaint and information, or an amended complaint and
21 information, filed in district court, circuit court, recorder's
22 court, municipal court, or probate court a statement listing the
23 defendant's prior convictions.

24 (15) If a person is charged with a violation of subsection
25 (1) or (3), the court shall not permit the defendant to enter a
26 plea of guilty or nolo contendere to a charge of violating
27 subsection (6) in exchange for dismissal of the original charge.

1 This subsection does not prohibit the court from dismissing the
2 charge upon the motion of the prosecuting attorney.

3 (16) A prior conviction shall be established at sentencing
4 by 1 or more of the following:

5 (a) An abstract of conviction.

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

7 (c) An admission by the defendant.

8 (17) A person who is convicted of an attempted violation of
9 subsection (1), (3), (4), (5), or (6) or a local ordinance sub-
10 stantially corresponding to subsection (1), (3), or (6) shall be
11 punished as if the offense had been completed.

12 (18) When assessing points and taking licensing action under
13 this act, the secretary of state and the court shall treat a con-
14 viction of an attempted violation of subsection (1), (3), (4),
15 (5), or (6) or a local ordinance substantially corresponding to
16 subsection (1), (3), or (6) or a law of another state substan-
17 tially corresponding to subsection (1), (3), (4), (5), or (6) the
18 same as if the offense had been completed.

19 (19) Except as otherwise provided in subsection (21), if a
20 person is charged with operating a vehicle while under the influ-
21 ence of a controlled substance or a combination of intoxicating
22 liquor and a controlled substance in violation of subsection (1)
23 or a local ordinance substantially corresponding to
24 subsection (1), the court shall require the jury to return a spe-
25 cial verdict in the form of a written finding or, if the court
26 convicts the person without a jury or accepts a plea of guilty or
27 nolo contendere, the court shall make a finding as to whether the

1 person was under the influence of a controlled substance or a
2 combination of intoxicating liquor and a controlled substance at
3 the time of the violation.

4 (20) Except as otherwise provided in subsection (21), if a
5 person is charged with operating a vehicle while his or her abil-
6 ity to operate the vehicle was visibly impaired due to his or her
7 consumption of a controlled substance or a combination of intoxi-
8 cating liquor and a controlled substance in violation of
9 subsection (3) or a local ordinance substantially corresponding
10 to subsection (3), the court shall require the jury to return a
11 special verdict in the form of a written finding or, if the court
12 convicts the person without a jury or accepts a plea of guilty or
13 nolo contendere, the court shall make a finding as to whether,
14 due to the consumption of a controlled substance or a combination
15 of intoxicating liquor and a controlled substance, the person's
16 ability to operate a motor vehicle was visibly impaired at the
17 time of the violation.

18 (21) A special verdict described in subsections (19) and
19 (20) is not required if a jury is instructed to make a finding
20 solely as to either of the following:

21 (a) Whether the defendant was under the influence of a con-
22 trolled substance or of a combination of intoxicating liquor and
23 a controlled substance at the time of the violation.

24 (b) Whether the defendant was visibly impaired due to his or
25 her consumption of a controlled substance or a combination of
26 intoxicating liquor and a controlled substance at the time of the
27 violation.

1 (22) If a jury or court makes a finding under subsection
2 (19), (20), or (21) that the defendant operated a motor vehicle
3 under the influence of or while impaired due to the consumption
4 of a controlled substance, or combination of a controlled sub-
5 stance and an intoxicating liquor, the court shall do both of the
6 following:

7 (a) Report the finding to the secretary of state.

8 (b) Forward to the department of state police, on a form or
9 forms prescribed by the state court administrator, a record that
10 specifies the penalties imposed by the court, including any term
11 of imprisonment and any licensing sanction imposed under
12 section 625b.

13 (23) Except as otherwise provided by law, a record described
14 in subsection (22)(b) is a public record, and the department of
15 state police shall retain the information contained on that
16 record for a period of not less than 7 years.

17 (24) In a prosecution for a violation of subsection (6), the
18 defendant shall bear the burden of proving that the consumption
19 of intoxicating liquor was a part of a generally recognized reli-
20 gious service or ceremony by a preponderance of the evidence.

21 Sec. 625a. (1) A peace officer may arrest a person without
22 a warrant ~~when the~~ UNDER EITHER OF THE FOLLOWING
23 CIRCUMSTANCES:

24 (A) THE peace officer has reasonable cause to believe the
25 person was, at the time of an accident in this state, the opera-
26 tor of a vehicle involved in the accident and was operating the
27 vehicle in violation of section 625(1), (3), or (6) or a local

1 ordinance substantially corresponding to section 625(1), (3), or
2 (6).

3 (B) THE PERSON IS FOUND IN THE DRIVER'S SEAT OF A VEHICLE
4 PARKED OR STOPPED ON A HIGHWAY OR STREET WITHIN THIS STATE AND
5 THE PEACE OFFICER HAS REASONABLE CAUSE TO BELIEVE THE PERSON WAS
6 OPERATING THE VEHICLE IN VIOLATION OF SECTION 625(1), (3), OR (6)
7 OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO SECTION
8 625(1), (3), OR (6).

9 (2) A peace officer who has reasonable cause to believe that
10 a person was operating a vehicle ~~upon a public highway or other~~
11 ~~place open to the public or generally accessible to motor vehi-~~
12 ~~cles, including an area designated for the parking of vehicles,~~
13 within this state and that the person by the consumption of
14 intoxicating liquor may have affected his or her ability to oper-
15 ate a vehicle, or reasonable cause to believe that a person was
16 operating a commercial motor vehicle within the state while the
17 person's blood, breath, or urine contained any measurable amount
18 of alcohol or while the person had any detectable presence of
19 intoxicating liquor, or reasonable cause to believe that a person
20 who is less than 21 years of age was operating a vehicle ~~upon a~~
21 ~~public highway or other place open to the public or generally~~
22 ~~accessible to motor vehicles, including an area designated for~~
23 ~~the parking of vehicles,~~ within this state ~~,~~ while the person
24 had any bodily alcohol content as that term is defined in section
25 625(6), may require the person to submit to a preliminary chemi-
26 cal breath analysis. The following provisions apply with respect

1 to a preliminary chemical breath analysis administered pursuant
2 to this subsection:

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

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

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

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

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

22 (c) A person who submits to a preliminary chemical breath
23 analysis remains subject to the requirements of sections 625c,
24 625d, 625e, and 625f for purposes of chemical tests described in
25 those sections.

26 (d) Except as provided in subsection (5), a person who
27 refuses to submit to a preliminary chemical breath analysis upon

1 a lawful request by a peace officer is responsible for a civil
2 infraction.

3 (3) A peace officer shall use the results of a preliminary
4 chemical breath analysis conducted pursuant to this section to
5 determine whether to order a person out-of-service under
6 section 319d. A peace officer shall order out-of-service as
7 required under section 319d a person who was operating a commer-
8 cial motor vehicle and who refuses to submit to a preliminary
9 chemical breath analysis as provided in this section. This sec-
10 tion does not limit use of other competent evidence by the peace
11 officer to determine whether to order a person out-of-service
12 under section 319d.

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

20 (5) A person who was operating a commercial motor vehicle
21 and who refuses to submit to a preliminary chemical breath analy-
22 sis upon a peace officer's lawful request is guilty of a misde-
23 meanor punishable by imprisonment for not more than 90 days or a
24 fine of not more than \$100.00, or both.

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

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

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

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

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

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

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

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

1 (c) A sample or specimen of urine or breath shall be taken
2 and collected in a reasonable manner. Only a licensed physician,
3 or an individual operating under the delegation of a licensed
4 physician under section 16215 of the ~~Public~~ PUBLIC health code,
5 Act No. 368 of the Public Acts of 1978, being section 333.16215
6 of the Michigan Compiled Laws, qualified to withdraw blood and
7 acting in a medical environment, may withdraw blood at a peace
8 officer's request to determine the amount of alcohol or presence
9 of a controlled substance or both in the person's blood, as pro-
10 vided in this subsection. Liability for a crime or civil damages
11 predicated on the act of withdrawing or analyzing blood and
12 related procedures does not attach to a licensed physician or
13 individual operating under the delegation of a licensed physician
14 who withdraws or analyzes blood or assists in the withdrawal or
15 analysis in accordance with this act unless the withdrawal or
16 analysis is performed in a negligent manner.

17 (d) A chemical test described in this subsection shall be
18 administered at the request of a peace officer having reasonable
19 grounds to believe the person has committed a crime described in
20 section 625c(1). A person who takes a chemical test administered
21 at a peace officer's request as provided in this section shall be
22 given a reasonable opportunity to have a person of his or her own
23 choosing administer 1 of the chemical tests described in this
24 subsection within a reasonable time after his or her detention.
25 The test results are admissible and shall be considered with
26 other competent evidence in determining the defendant's innocence
27 or guilt. If the person charged is administered a chemical test

1 by a person of his or her own choosing, the person charged is
2 responsible for obtaining a chemical analysis of the test
3 sample.

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

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

1 (g) The department of state police shall promulgate uniform
2 rules under the administrative procedures act of 1969, Act
3 No. 306 of the Public Acts of 1969, being sections 24.201 to
4 24.328 of the Michigan Compiled Laws, for the administration of
5 chemical tests for the purposes of this section. An instrument
6 used for a preliminary chemical breath analysis may be used for a
7 chemical test described in this subsection if approved pursuant
8 to rules promulgated by the department of state police.

9 (7) The provisions of subsection (6) relating to chemical
10 testing do not limit the introduction of any other competent evi-
11 dence bearing upon the question of whether a person was impaired
12 by, or under the influence of, intoxicating liquor or a con-
13 trolled substance, or a combination of intoxicating liquor and a
14 controlled substance, or whether the person had an alcohol con-
15 tent of 0.10 grams or more per 100 milliliters of blood, per 210
16 liters of breath, or per 67 milliliters of urine, or if the
17 person is less than 21 years of age, whether the person had any
18 bodily alcohol content within his or her body. As used in this
19 section, "any bodily alcohol content" means either of the
20 following:

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

24 (b) Any presence of alcohol within a person's body resulting
25 from the consumption of intoxicating liquor, other than consump-
26 tion of intoxicating liquor as a part of a generally recognized
27 religious service or ceremony.

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

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

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

22 (A) ~~(b)~~ If there were at the time more than 0.07 grams but
23 less than 0.10 grams of alcohol per 100 milliliters of the
24 defendant's blood, per 210 liters of the defendant's breath, or
25 per 67 milliliters of the defendant's urine, it is presumed that
26 the defendant's ability to operate a vehicle was impaired within

1 the provisions of section 625(3) due to the consumption of
2 intoxicating liquor.

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

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

14 Sec. 625b. (1) A person arrested for a misdemeanor viola-
15 tion of section 625(1), (3), or (6) or section 625m or a local
16 ordinance substantially corresponding to section 625(1), (3), or
17 (6) or section 625m shall be arraigned on the citation, com-
18 plaint, or warrant not more than 14 days after the arrest for the
19 violation or, if an arrest warrant is issued or reissued, not
20 more than 14 days after the issued or reissued arrest warrant is
21 served, whichever is later. The court shall not dismiss a case
22 or impose any other sanction for a failure to comply with this
23 time limit. The time limit does not apply to a violation of
24 section 625(1) punishable under section ~~625(7)(d)~~ 625(7)(E) or
25 a violation of section 625(1), (3), or (6) or section 625m joined
26 with a felony charge.

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

1 (3) Except for delay attributable to the unavailability of
2 the defendant, a witness, or material evidence or due to an
3 interlocutory appeal or exceptional circumstances, but not a
4 delay caused by docket congestion, the court shall finally adju-
5 dicate, by a plea of guilty or nolo contendere, entry of a ver-
6 dict, or other final disposition, a case in which the defendant
7 is charged with a misdemeanor violation of section 625(1), (3),
8 or (6) or section 625m or a local ordinance substantially corre-
9 sponding to section 625(1), (3), or (6) or section 625m, within
10 77 days after the person is arrested for the violation or, if an
11 arrest warrant is issued or reissued, not more than 77 days after
12 the date the issued or reissued arrest warrant is served, which-
13 ever is later. The court shall not dismiss a case or impose any
14 other sanction for a failure to comply with this time limit. The
15 77-day time limit does not apply to a violation of section 625(1)
16 punishable under section ~~625(7)(d)~~ 625(7)(E) or a violation of
17 section 625(1), (3), or (6) or section 625m joined with a felony
18 charge.

19 (4) Before accepting a plea of guilty or nolo contendere
20 under section 625 or a local ordinance substantially correspond-
21 ing to section 625(1), (2), (3), or (6), the court shall advise
22 the accused of the maximum possible term of imprisonment and the
23 maximum possible fine that may be imposed for the violation, and
24 shall advise the defendant that the maximum possible license
25 sanctions that may be imposed will be based upon the master driv-
26 ing record maintained by the secretary of state pursuant to
27 section 204a.

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

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

24 (a) For a conviction under section 625(4) or (5), the court
25 shall order the secretary of state to revoke the person's
26 operator's or chauffeur's license and shall not order the
27 secretary of state to issue a restricted license to the 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 convic-
4 tions within 7 years for a violation of section 625(1), (3), (4),
5 or (5), former section 625(1) or (2), or former section 625b, a
6 local ordinance substantially corresponding to section 625(1) or
7 (3), former section 625(1) or (2) or former section 625b, or a
8 law of another state substantially corresponding to section
9 625(1), (3), (4), or (5), former section 625(1) or (2), or former
10 section 625b, the court shall order the secretary of state to
11 suspend the person's operator's or chauffeur's license for not
12 less than 6 months or more than 2 years. If the court finds com-
13 pelling circumstances under subsection (10) sufficient to warrant
14 the issuance of a restricted license to a person, the court may
15 order the secretary of state to issue to the person a restricted
16 license during all or a specified portion of the suspension,
17 except that a restricted license shall not be issued during the
18 first 30 days of the suspension.

19 (ii) If the court finds that the person has 1 prior convic-
20 tion within 7 years for a violation of section 625(3) or former
21 section 625b, a local ordinance substantially corresponding to
22 section 625(3) or former section 625b, or a law of another state
23 substantially corresponding to section 625(3) or former
24 section 625b, the court shall order the secretary of state to
25 suspend the person's operator's or chauffeur's license for not
26 less than 6 months or more than 2 years. If the court finds
27 compelling circumstances under subsection (10) sufficient to

1 warrant the issuance of a restricted license to a person, the
2 court may order the secretary of state to issue to the person a
3 restricted license during all or any portion of the suspension,
4 except that a restricted license shall not be issued during the
5 first 60 days of the suspension.

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

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

25 (i) If the court finds that the convicted person has no
26 prior conviction within 7 years for a violation of section
27 625(1), (3), (4), or (5), former section 625(1) or (2), or former

1 section 625b, a local ordinance substantially corresponding to
2 section 625(1) or (3), former section 625(1) or (2), or former
3 section 625b, or a law of another state substantially correspond-
4 ing to section 625(1), (3), (4), or (5), former section 625(1) or
5 (2), or former section 625b, the court shall order the secretary
6 of state to suspend the person's operator's or chauffeur's
7 license for not less than 90 days or more than 1 year. However,
8 if the person is convicted of a violation of section 625(3) or a
9 local ordinance substantially corresponding to section 625(3) for
10 operating a vehicle when, due to the consumption of a controlled
11 substance or a combination of intoxicating liquor and a con-
12 trolled substance, the person's ability to operate the vehicle
13 was visibly impaired, the court shall order the secretary of
14 state to suspend the operator's or chauffeur's license of the
15 person for not less than 6 months or more than 1 year. If the
16 court finds compelling circumstances under subsection (10) suffi-
17 cient to warrant the issuance of a restricted license to a
18 person, the court may order the secretary of state to issue to
19 the person a restricted license during all or a specified portion
20 of the suspension.

21 (ii) If the court finds that the person has 1 prior convic-
22 tion within 7 years for a violation of section 625(1), (3), (4),
23 or (5), former section 625(1) or (2), or former section 625b, a
24 local ordinance substantially corresponding to section 625(1) or
25 (3), former section 625(1) or (2), or former section 625b, or a
26 law of another state substantially corresponding to section
27 625(1), (3), (4), or (5), former section 625(1) or (2), or former

1 section 625b, the court shall order the secretary of state to
2 suspend the person's operator's or chauffeur's license for not
3 less than 6 months or more than 2 years. If the court finds com-
4 pelling circumstances under subsection (10) sufficient to warrant
5 the issuance of a restricted license to a person, the court may
6 order the secretary of state to issue to the person a restricted
7 license during all or any portion of the suspension, except that
8 a restricted license shall not be issued during the first 60 days
9 of the suspension.

10 (iii) If the court finds that the person has 2 or more prior
11 convictions within 10 years for a violation of section 625(1),
12 (3), (4), or (5), former section 625(1) or (2), or former section
13 625b, a local ordinance substantially corresponding to section
14 625(1) or (3), former section 625(1) or (2), or former section
15 625b, or a law of another state substantially corresponding to
16 section 625(1), (3), (4), or (5), former section 625(1) or (2),
17 or former section 625b, the court shall order the secretary of
18 state to revoke the person's operator's or chauffeur's license
19 and shall not order the secretary of state to issue a restricted
20 license to the person.

21 (d) For a conviction under section 625(6) or a local ordi-
22 nance substantially corresponding to section 625(6):

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

9 (ii) If the court finds that the person has 1 or more prior
10 convictions within 7 years for a violation of section 625(1),
11 (3), (4), (5), or (6), former section 625(1) or (2), or former
12 section 625b, a local ordinance substantially corresponding to
13 section 625(1), (3), or (6), former section 625(1) or (2), or
14 former section 625b, or a law of another state substantially cor-
15 responding to section 625(1), (3), (4), (5), or (6), former sec-
16 tion 625(1) or (2), or former section 625b, the court shall order
17 the secretary of state to suspend the operator's or chauffeur's
18 license of the person for not less than 90 days or more than
19 1 year. The court may order the secretary of state to issue to
20 the person a restricted license during all or any portion of the
21 suspension, except that a restricted license shall not be issued
22 during the first 90 days of the suspension.

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

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

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

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

4 (d) To and from the person's residence and the court proba-
5 tion department or a court-ordered community service program, or
6 both.

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

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

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

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

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

7 (a) The person needs vehicular transportation to and from
8 his or her work location, place of alcohol or drug education
9 treatment, court probation department, court-ordered community
10 service program, or educational institution, or a place of regu-
11 larly occurring medical treatment for a serious condition, or in
12 the course of the person's employment or occupation.

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

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

22 (12) Immediately upon acceptance by the court of a plea of
23 guilty or nolo contendere or upon entry of a verdict of guilty
24 for a violation of section 625(1), (3), (4), (5), or (6) or a
25 local ordinance substantially corresponding to section 625(1),
26 (3), or (6), the person shall surrender to the court his or her
27 operator's or chauffeur's license or permit. The court shall

1 immediately destroy the license or permit and forward an abstract
2 of conviction with court-ordered license sanctions to the secre-
3 tary of state. Upon receipt of, and pursuant to, the abstract of
4 conviction with court-ordered license sanctions, the secretary of
5 state shall suspend or revoke the person's license and, if
6 ordered by the court and the person is otherwise eligible for a
7 license, issue to the person a restricted license stating the
8 limited driving privileges indicated on the abstract. If the
9 judgment and sentence is appealed to circuit court, the court may
10 ex parte order the secretary of state to stay the suspension,
11 revocation, or restricted license issued pursuant to this section
12 pending the outcome of the appeal.

13 (13) In addition to any other suspension or revocation
14 ordered under this section and as part of the sentence imposed
15 upon a person who violates section 625(1), (3), (4), or (5) or a
16 local ordinance substantially corresponding to section 625(1) or
17 (3) while operating a commercial motor vehicle, the court shall
18 order the secretary of state to suspend the vehicle group design-
19 nations on the person's operator's or chauffeur's license in
20 accordance with section 319b(1)(c). If the vehicle was trans-
21 porting hazardous material required to have a placard pursuant to
22 49 C.F.R. parts 100 to 199, the court shall order the secretary
23 of state to suspend the vehicle group designations on the
24 person's operator's or chauffeur's license in accordance with
25 section 319b(1)(d). The court shall not order the secretary of
26 state to issue a restricted license that would permit the person
27 to operate a commercial motor vehicle.

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

22 (15) As used in this section, "work location" means, as
23 applicable, the specific place or places of employment or the
24 territory or territories regularly visited by the person in pur-
25 suance of the person's occupation, or both.

26 Sec. 625c. (1) A person who operates a vehicle ~~upon a~~
27 ~~public highway or other place open to the general public or~~

1 ~~generally accessible to motor vehicles, including an area~~
2 ~~designated for the parking of vehicles,~~ within this state is
3 considered to have given consent to chemical tests of his or her
4 blood, breath, or urine for the purpose of determining the amount
5 of alcohol or presence of a controlled substance or both in his
6 or her blood or urine or the amount of alcohol in his or her
7 breath in all of the following circumstances:

8 (a) If the person is arrested for a violation of section
9 625(1), (3), (4), (5), or (6), section 625a(5), or section 625m,
10 or a local ordinance substantially corresponding to section
11 625(1), (3), or (6), section 625a(5), or section 625m.

12 (b) If the person is arrested for felonious driving, negli-
13 gent homicide, manslaughter, or murder resulting from the opera-
14 tion of a motor vehicle, and the peace officer had reasonable
15 grounds to believe the person was operating the vehicle while
16 impaired by or under the influence of intoxicating liquor or a
17 controlled substance or a combination of intoxicating liquor and
18 a controlled substance, or while having an alcohol content of
19 0.10 grams or more per 100 milliliters of blood, per 210 liters
20 of breath, or per 67 milliliters of urine, or if the person is
21 less than 21 years of age while having any bodily alcohol
22 content. As used in this subdivision, "any bodily alcohol
23 content" means either of the following:

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

1 (ii) Any presence of alcohol within a person's body
2 resulting from the consumption of intoxicating liquor, other than
3 consumption of intoxicating liquor as part of a generally recog-
4 nized religious service or ceremony.

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

9 (3) The tests shall be administered as provided in section
10 625a(6).

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

16 (2) A peace officer may arrest a person without a warrant
17 ~~if the~~ UNDER EITHER OF THE FOLLOWING CIRCUMSTANCES:

18 (A) THE peace officer has reasonable cause to believe that
19 the person was, at the time of an accident, the driver of a com-
20 mercial motor vehicle involved in the accident and was operating
21 the vehicle in violation of this section or of a local ordinance
22 substantially corresponding to this section.

23 (B) THE PERSON IS FOUND IN THE DRIVER'S SEAT OF A COMMERCIAL
24 MOTOR VEHICLE PARKED OR STOPPED ON A HIGHWAY OR STREET WITHIN
25 THIS STATE AND THE PEACE OFFICER HAS REASONABLE CAUSE TO BELIEVE
26 THE PERSON WAS OPERATING THE VEHICLE IN VIOLATION OF THIS SECTION
27 OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO THIS SECTION.

1 (3) A person who is convicted of a violation of this section
2 or a local ordinance substantially corresponding to this section
3 is guilty of a misdemeanor punishable by imprisonment for not
4 more than 90 days or a fine of not more than \$300.00, or both,
5 together with costs of the prosecution. As part of the sentence,
6 the court shall order the secretary of state to suspend the vehi-
7 cle group designations on the person's operator's or chauffeur's
8 license pursuant to section 319b(1)(c) or, if the vehicle was
9 carrying hazardous material required to have a placard pursuant
10 to 49 C.F.R. parts 100 to 199, in accordance with section
11 319b(1)(d). The court shall not order the secretary of state to
12 issue a restricted license that would permit the person to oper-
13 ate a commercial motor vehicle.

14 (4) A person who violates this section or a local ordinance
15 substantially corresponding to this section within 10 years of a
16 prior conviction may be sentenced to imprisonment for not more
17 than 1 year or a fine of not more than \$1,000.00, or both. As
18 part of the sentence, the court shall order the secretary of
19 state to revoke the vehicle group designations on the person's
20 operator's or chauffeur's license pursuant to section
21 319b(1)(e). The court shall not order the secretary of state to
22 issue a restricted license that would permit the person to oper-
23 ate a commercial motor vehicle. As used in this subsection,
24 "prior conviction" means a conviction for a violation of this
25 section, section 625(1), (3), (4), or (5), former section 625(1)
26 or (2), or former section 625b, a local ordinance substantially
27 corresponding to this section, section 625(1) or (3), former

1 section 625(1) or (2), or former section 625b, or a law of
2 another state substantially corresponding to this section, sec-
3 tion 625(1), (3), (4), or (5), former section 625(1) or (2), or
4 former section 625b, while operating a commercial motor vehicle.

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

11 Section 2. This amendatory act shall take effect January 1,
12 1996.

13 Section 3. This amendatory act shall not take effect unless
14 Senate Bill No. 347
15 of the 88th Legislature is enacted into law.