

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4576

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending section 625b (MCL 257.625b), as amended by 1994 PA
450.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 625b. (1) A person arrested for a misdemeanor viola-
2 tion of section 625(1), (3), ~~or~~ (6), OR (7) or section 625m or
3 a local ordinance substantially corresponding to section 625(1),
4 (3), or (6) or section 625m shall be arraigned on the citation,
5 complaint, or warrant not more than 14 days after the arrest for
6 the violation or, if an arrest warrant is issued or reissued, not
7 more than 14 days after the issued or reissued arrest warrant is
8 served, whichever is later. The court shall not dismiss a case
9 or impose any other sanction for a failure to comply with this
10 time limit. The time limit does not apply to a violation of

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1 section 625(1) OR (3) OR SECTION 625M punishable ~~under section~~
2 ~~625(7)(d)~~ AS A FELONY or a violation of section 625(1), (3),
3 ~~or~~ (6), OR (7) or section 625m joined with a felony charge.

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

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1 pretrial conference upon the motion of a party for good cause
2 shown. Not more than 1 adjournment shall be granted to a party,
3 and the length of an adjournment shall not exceed 14 days.

4 (3) Except for delay attributable to the unavailability of
5 the defendant, a witness, or material evidence or due to an
6 interlocutory appeal or exceptional circumstances, but not a
7 delay caused by docket congestion, the court shall finally adju-
8 dicate, by a plea of guilty or nolo contendere, entry of a ver-
9 dict, or other final disposition, a case in which the defendant
10 is charged with a misdemeanor violation of section 625(1), (3),
11 ~~or~~ (6), OR (7) or section 625m or a local ordinance substan-
12 tially corresponding to section 625(1), (3), or (6) or
13 section 625m, within 77 days after the person is arrested for the
14 violation or, if an arrest warrant is issued or reissued, not
15 more than 77 days after the date the issued or reissued arrest
16 warrant is served, whichever is later. The court shall not dis-
17 miss a case or impose any other sanction for a failure to comply
18 with this time limit. The 77-day time limit does not apply to a
19 violation of section 625(1) OR (3) OR SECTION 625M punishable
20 ~~under section 625(7)(d)~~ AS A FELONY or a violation of section
21 625(1), (3), ~~or~~ (6), OR (7) or section 625m joined with a
22 felony charge.

23 (4) Before accepting a plea of guilty or nolo contendere
24 under section 625 or a local ordinance substantially correspond-
25 ing to section 625(1), (2), (3), or (6), the court shall advise
26 the accused of the maximum possible term of imprisonment and the
27 maximum possible fine that may be imposed for the violation —

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1 and shall advise the defendant that the maximum possible license
2 sanctions that may be imposed will be based upon the master driv-
3 ing record maintained by the secretary of state ~~pursuant to~~
4 UNDER section 204a.

5 (5) Before imposing sentence ~~, other than court-ordered~~
6 ~~license sanctions,~~ for a violation of section 625(1), (3), (4),
7 (5), ~~or~~ (6), OR (7) or a local ordinance substantially corre-
8 sponding to section 625(1), (3), or (6), the court shall order
9 the person to undergo screening and assessment by a person or
10 agency designated by the office of substance abuse services to
11 determine whether the person is likely to benefit from rehabili-
12 tative services, including alcohol or drug education and alcohol
13 or drug treatment programs. ~~As part of the sentence~~ EXCEPT AS
14 OTHERWISE PROVIDED IN THIS SUBSECTION, the court may order the
15 person to participate in and successfully complete 1 or more
16 appropriate rehabilitative programs AS PART OF THE SENTENCE. IF
17 THE PERSON HAS 1 OR MORE PRIOR CONVICTIONS, THE COURT SHALL ORDER
18 THE PERSON TO PARTICIPATE IN AND SUCCESSFULLY COMPLETE 1 OR MORE
19 APPROPRIATE REHABILITATIVE PROGRAMS AS PART OF THE SENTENCE. The
20 person shall pay for the costs of the screening, ~~reassessment~~
21 ASSESSMENT, and rehabilitative services.

22 ~~(6) 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), whether or not the person is eligible to be~~
27 ~~sentenced as a multiple offender, the court shall consider all~~

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1 ~~prior convictions currently entered upon the person's Michigan~~
2 ~~driving record, except convictions the court determines upon the~~
3 ~~defendant's motion to be constitutionally invalid, and shall~~
4 ~~impose the following licensing sanctions:~~

5 ~~(a) For a conviction under section 625(4) or (5), the court~~
6 ~~shall order the secretary of state to revoke the person's~~
7 ~~operator's or chauffeur's license and shall not order the secre-~~
8 ~~tary of state to issue a restricted license to the person.~~

9 ~~(b) For a conviction under section 625(1) or a local ordi-~~
10 ~~nance substantially corresponding to section 625(1):~~

11 ~~(i) If the court finds that the person has no prior convic-~~
12 ~~tions within 7 years for a violation of section 625(1), (3), (4),~~
13 ~~or (5), former section 625(1) or (2), or former section 625b, a~~
14 ~~local ordinance substantially corresponding to section 625(1) or~~
15 ~~(3), former section 625(1) or (2) or former section 625b, or a~~
16 ~~law of another state substantially corresponding to section~~
17 ~~625(1), (3), (4), or (5), former section 625(1) or (2), or former~~
18 ~~section 625b, the court shall order the secretary of state to~~
19 ~~suspend the person's operator's or chauffeur's license for not~~
20 ~~less than 6 months or more than 2 years. If the court finds com-~~
21 ~~PELLING circumstances under subsection (10) sufficient to warrant~~
22 ~~the issuance of a restricted license to a person, the court may~~
23 ~~order the secretary of state to issue to the person a restricted~~
24 ~~license during all or a specified portion of the suspension,~~
25 ~~except that a restricted license shall not be issued during the~~
26 ~~first 30 days of the suspension.~~

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

15 ~~(iii) If the court finds that the person has 1 or more prior~~
16 ~~convictions within 7 years for a violation of section 625(1),~~
17 ~~(4), or (5) or former section 625(1) or (2), a local ordinance~~
18 ~~substantially corresponding to section 625(1) or former section~~
19 ~~625(1) or (2), or a law of another state substantially corre-~~
20 ~~sponding to section 625(1), (4), or (5) or former section 625(1)~~
21 ~~or (2), or that the person has 2 or more prior convictions within~~
22 ~~10 years for a violation of section 625(1), (3), (4), or (5),~~
23 ~~former section 625(1) or (2), or former section 625b, a local~~
24 ~~ordinance substantially corresponding to section 625(1) or (3),~~
25 ~~former section 625(1) or (2), or former section 625b, or a law of~~
26 ~~another state substantially corresponding to section 625(1), (3),~~
27 ~~(4), or (5), former section 625(1) or (2), or former section~~

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1 ~~625b, the court shall order the secretary of state to revoke the~~
2 ~~person's operator's or chauffeur's license and shall not order~~
3 ~~the secretary of state to issue a restricted license to the~~
4 ~~person.~~

5 ~~(c) For a conviction under section 625(3) or a local ordi-~~
6 ~~nance substantially corresponding to section 625(3):~~

7 ~~(i) If the court finds that the convicted person has no~~
8 ~~prior conviction within 7 years for a violation of section~~
9 ~~625(1), (3), (4), or (5), former section 625(1) or (2), or former~~
10 ~~section 625b, a local ordinance substantially corresponding to~~
11 ~~section 625(1) or (3), former section 625(1) or (2), or former~~
12 ~~section 625b, or a law of another state substantially correspond-~~
13 ~~ing to section 625(1), (3), (4), or (5), former section 625(1) or~~
14 ~~(2), or former section 625b, the court shall order the secretary~~
15 ~~of state to suspend the person's operator's or chauffeur's~~
16 ~~license for not less than 90 days or more than 1 year. However,~~
17 ~~if the person is convicted of a violation of section 625(3) or a~~
18 ~~local ordinance substantially corresponding to section 625(3) for~~
19 ~~operating a vehicle when, due to the consumption of a controlled~~
20 ~~substance or a combination of intoxicating liquor and a con-~~
21 ~~trolled substance, the person's ability to operate the vehicle~~
22 ~~was visibly impaired, the court shall order the secretary of~~
23 ~~state to suspend the operator's or chauffeur's license of the~~
24 ~~person for not less than 6 months or more than 1 year. If the~~
25 ~~court finds compelling circumstances under subsection (10) suffi-~~
26 ~~cient to warrant the issuance of a restricted license to a~~
27 ~~person, the court may order the secretary of state to issue to~~

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1 the person a restricted license during all or a specified portion
2 of the suspension.

3 ~~(ii) If the court finds that the person has 1 prior convic-~~
4 ~~tion 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 any portion of the suspension, except that~~
17 ~~a restricted license shall not be issued during the first 60 days~~
18 ~~of the suspension.~~

19 ~~(iii) If the court finds that the person has 2 or more prior~~
20 ~~convictions within 10 years for a violation of section 625(1),~~
21 ~~(3), (4), or (5), former section 625(1) or (2), or former section~~
22 ~~625b, a local ordinance substantially corresponding to section~~
23 ~~625(1) or (3), former section 625(1) or (2), or former section~~
24 ~~625b, or a law of another state substantially corresponding to~~
25 ~~section 625(1), (3), (4), or (5), former section 625(1) or (2),~~
26 ~~or former section 625b, the court shall order the secretary of~~
27 ~~state to revoke the person's operator's or chauffeur's license~~

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1 and shall not order the secretary of state to issue a restricted
2 license to the person.

3 ~~(d) For a conviction under section 625(6) or a local ordi-~~
4 ~~nance substantially corresponding to section 625(6):~~

5 ~~(i) If the court finds that the convicted person has no~~
6 ~~prior conviction within 7 years for a violation of section~~
7 ~~625(1), (3), (4), (5), or (6), former section 625(1) or (2), or~~
8 ~~former section 625b, a local ordinance substantially correspond-~~
9 ~~ing to section 625(1), (3), or (6), former section 625(1) or (2),~~
10 ~~or former section 625b, or a law of another state substantially~~
11 ~~corresponding to section 625(1), (3), (4), (5), or (6), former~~
12 ~~section 625(1) or (2), or former section 625b, the court shall~~
13 ~~order the secretary of state to suspend the operator's or~~
14 ~~chauffeur's license of the person for not less than 30 days or~~
15 ~~more than 90 days. The court may order the secretary of state to~~
16 ~~issue to the person a restricted license during all or a speci-~~
17 ~~fied portion of the suspension.~~

18 ~~(ii) If the court finds that the person has 1 or more prior~~
19 ~~convictions within 7 years for a violation of section 625(1),~~
20 ~~(3), (4), (5), or (6), former section 625(1) or (2), or former~~
21 ~~section 625b, a local ordinance substantially corresponding to~~
22 ~~section 625(1), (3), or (6), former section 625(1) or (2), or~~
23 ~~former section 625b, or a law of another state substantially cor-~~
24 ~~responding to section 625(1), (3), (4), (5), or (6), former sec-~~
25 ~~tion 625(1) or (2), or former section 625b, the court shall order~~
26 ~~the secretary of state to suspend the operator's or chauffeur's~~
27 ~~license of the person for not less than 90 days or more than~~

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1 ~~1 year. The court may order the secretary of state to issue to~~
2 ~~the person a restricted license during all or any portion of the~~
3 ~~suspension, except that a restricted license shall not be issued~~
4 ~~during the first 90 days of the suspension.~~

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

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

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

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

12 ~~(d) To and from the person's residence and the court proba-~~
13 ~~tion department or a court-ordered community service program, or~~
14 ~~both.~~

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

17 ~~(f) To and from the person's residence or work location and~~
18 ~~a place of regularly occurring medical treatment for a serious~~
19 ~~condition for the person or a member of the person's household or~~
20 ~~immediate family.~~

21 ~~(8) The court may order that the restricted license issued~~
22 ~~pursuant to subsection (6) include the requirement that the~~
23 ~~person shall not operate a motor vehicle unless the vehicle is~~
24 ~~equipped with a functioning ignition interlock device. The device~~
25 ~~shall be set to render the motor vehicle inoperable if the device~~
26 ~~detects an alcohol content of 0.02 grams or more per 210 liters~~
27 ~~of breath of the person who offers a breath sample. The court~~

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1 ~~may order installation of an ignition interlock device on any~~
2 ~~motor vehicle that the person owns or operates, the costs of~~
3 ~~which the person whose license is restricted shall bear.~~

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

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

14 ~~(a) The person needs vehicular transportation to and from~~
15 ~~his or her work location, place of alcohol or drug education~~
16 ~~treatment, court probation department, court-ordered community~~
17 ~~service program, or educational institution, or a place of regu-~~
18 ~~larly occurring medical treatment for a serious condition, or in~~
19 ~~the course of the person's employment or occupation.~~

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

24 ~~(11) The court order issued under subsection (6) and the~~
25 ~~restricted license shall indicate the permitted destinations of~~
26 ~~the person or the permitted purposes for which the person may~~

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1 ~~operate a vehicle, the approved route or routes if specified by~~
2 ~~the court, and permitted times of travel.~~

3 (6) ~~—(12) Immediately upon acceptance by the court of a plea~~
4 ~~of guilty or nolo contendere or upon entry of a verdict of guilty~~
5 ~~for a violation of section 625(1), (3), (4), (5), or (6) or a~~
6 ~~local ordinance substantially corresponding to section 625(1),~~
7 ~~(3), or (6), 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~~
12 ~~of conviction with court-ordered license sanctions, the secretary~~
13 ~~of 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 ARE appealed to circuit court, the~~
18 ~~court may ex parte order the secretary of state to stay the sus-~~
19 ~~pension, revocation, or restricted license issued pursuant to~~
20 ~~this section~~ BY THE SECRETARY OF STATE pending the outcome of
21 the appeal.

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

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

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

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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.~~

9 Enacting section 1. This amendatory act takes effect
10 October 1, 1999.

11 Enacting section 2. This amendatory act does not take
12 effect unless all of the following bills of the 89th Legislature
13 are enacted into law:

- 14 (a) Senate Bill No. 268.
- 15 (b) Senate Bill No. 269.
- 16 (c) Senate Bill No. 625.
- 17 (d) Senate Bill No. 627.
- 18 (e) Senate Bill No. 869.
- 19 (f) Senate Bill No. 870.
- 20 (g) Senate Bill No. 953.
- 21 (h) House Bill No. 4210.
- 22 (i) House Bill No. 4959.
- 23 (j) House Bill No. 4960.
- 24 (k) House Bill No. 4961.
- 25 (l) House Bill No. 5122.
- 26 (m) House Bill No. 5123.

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- 1 (n) House Bill No. 5951.
- 2 (o) House Bill No. 5952.
- 3 (p) House Bill No. 5953.
- 4 (q) House Bill No. 5954.
- 5 (r) House Bill No. 5955.
- 6 (s) House Bill No. 5956.