

**SUBSTITUTE FOR
HOUSE BILL NO. 5956**

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 625, 625i, and 625m (MCL 257.625, 257.625i,
and 257.625m), sections 625 and 625m as amended by 1996 PA 491
and section 625i as amended by 1996 PA 493.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

6 (a) The person is under the influence of intoxicating
7 liquor, a controlled substance, or a combination of intoxicating
8 liquor and a controlled substance.

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

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

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

24 (4) A person, whether licensed or not, who operates a motor
25 vehicle in violation of subsection (1) or (3) and by the opera-
26 tion of that motor vehicle causes the death of another person is
27 guilty of a felony punishable by imprisonment for not more than

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1 15 years or a fine of not less than \$2,500.00 or more than
2 \$10,000.00, or both. The judgment of sentence may impose the
3 sanction permitted under section 625n OR 904D. IF THE VIOLATION
4 OCCURS WITHIN 7 YEARS OF A PRIOR CONVICTION OR WITHIN 10 YEARS OF
5 2 OR MORE PRIOR CONVICTIONS, THE COURT SHALL ORDER VEHICLE IMMO-
6 BILIZATION UNDER SECTION 904D IN THE JUDGMENT OF SENTENCE.

7 (5) A person, whether licensed or not, who operates a motor
8 vehicle in violation of subsection (1) or (3) and by the opera-
9 tion of that motor vehicle causes a serious impairment of a body
10 function of another person is guilty of a felony punishable by
11 imprisonment for not more than 5 years or a fine of not less than
12 \$1,000.00 or more than \$5,000.00, or both. The judgment of sen-
13 tence may impose the sanction permitted under section 625n OR
14 904D. IF THE VIOLATION OCCURS WITHIN 7 YEARS OF A PRIOR CONVIC-
15 TION OR WITHIN 10 YEARS OF 2 OR MORE PRIOR CONVICTIONS, THE COURT
16 SHALL ORDER VEHICLE IMMOBILIZATION UNDER SECTION 904D IN THE
17 JUDGMENT OF SENTENCE. As used in this subsection, "serious
18 impairment of a body function" includes, but is not limited to, 1
19 or more of the following:

- 20 (a) Loss of a limb or use of a limb.
21 (b) Loss of a hand, foot, finger, or thumb or use of a hand,
22 foot, finger, or thumb.
23 (c) Loss of an eye or ear or use of an eye or ear.
24 (d) Loss or substantial impairment of a bodily function.
25 (e) Serious visible disfigurement.
26 (f) A comatose state that lasts for more than 3 days.

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1 (g) Measurable brain damage or mental impairment.

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

3 (i) Subdural hemorrhage or subdural hematoma.

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

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

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

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

20 (a) Except as otherwise provided in subdivisions (b) and
21 ~~(d)~~ (C), the person is guilty of a misdemeanor punishable by 1
22 or more of the following:

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

24 (ii) Imprisonment for not more than ~~90~~ 93 days.

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

26 (b) If the violation occurs within 7 years of a prior
27 conviction, the person shall be sentenced to pay a fine of not

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1 less than \$200.00 or more than \$1,000.00 and either of the
2 following:

3 (i) Community service for not less than 10 days or more than
4 90 days and may be imprisoned for not more than 1 year.

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

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

10 (C) ~~(d)~~ If the violation occurs within 10 years of 2 or
11 more prior convictions, the person is guilty of a felony and
12 shall be sentenced to pay a fine of not less than \$500.00 or more
13 than \$5,000.00 and to either of the following:

14 (i) Imprisonment under the jurisdiction of the department of
15 corrections for not less than 1 year or more than 5 years.

16 (ii) Probation with imprisonment in the county jail for not
17 less than 30 days or more than 1 year. Not less than 48 hours of
18 the imprisonment imposed under this subparagraph shall be served
19 consecutively.

20 (D) ~~(e) The~~ A term of imprisonment imposed under subdivi-
21 sion ~~(d)~~ (B)(ii) OR (C) shall not be suspended.

22 (E) IN THE JUDGMENT OF SENTENCE UNDER SUBDIVISION (A), THE
23 COURT MAY ORDER VEHICLE IMMOBILIZATION AS PROVIDED IN
24 SECTION 904D. IN THE JUDGMENT OF SENTENCE UNDER SUBDIVISION (B)
25 OR (C), THE COURT SHALL ORDER VEHICLE IMMOBILIZATION AS PROVIDED
26 IN SECTION 904D.

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1 (f) ~~The~~ IN THE judgment of sentence under ~~this~~
2 ~~subsection~~ SUBDIVISION (B) OR (C), THE COURT may impose the
3 sanction permitted under section 625n.

4 ~~(g) As used in this subsection, "prior conviction" means a~~
5 ~~conviction for a violation or attempted violation of subsection~~
6 ~~(1), (4), or (5) or former section 625(1) or (2), a local ordi-~~
7 ~~nance substantially corresponding to subsection (1) or former~~
8 ~~section 625(1) or (2), or a law of another state substantially~~
9 ~~corresponding to subsection (1), (4), or (5) or former section~~
10 ~~625(1) or (2).~~

11 [~~(8) A person who is convicted of violating subsection (2) is~~
12 ~~guilty of a misdemeanor punishable by imprisonment for not more~~
13 ~~than 90 93 days or a fine of not less than \$100.00 or more than~~
14 ~~\$500.00, or both.~~

(8) A person who is convicted of violating subsection (2) is guilty of a CRIME AS FOLLOWS:

(A) EXCEPT AS PROVIDED IN SUBDIVISIONS (B) AND (C), A misdemeanor punishable by imprisonment for not more than 90 93 days or a fine of not less than \$100.00 or more than \$500.00, or both.

(B) IF THE PERSON OPERATING THE MOTOR VEHICLE VIOLATED SUBSECTION (4), A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT LESS THAN \$1,500.00 OR MORE THAN \$10,000.00, OR BOTH.

(C) IF THE PERSON OPERATING THE MOTOR VEHICLE VIOLATED SUBSECTION (5), A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR A FINE OF NOT LESS THAN \$1,000.00 OR MORE THAN \$5,000.00, OR BOTH.]

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

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

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

21 (ii) Imprisonment for not more than ~~90~~ 93 days.

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

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

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1 (i) Community service for not less than 10 days or more than
2 90 days and may be sentenced to imprisonment for not more than 1
3 year.

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

6 (c) If the violation occurs within 10 years of 2 or more
7 prior convictions, the person IS GUILTY OF A FELONY AND shall be
8 sentenced to pay a fine of not less than ~~-\$200.00-~~ \$500.00 or
9 more than ~~-\$1,000.00,~~ \$5,000.00 and TO either of the following:

10 (i) ~~Community service for not less than 10 days or more~~
11 ~~than 90 days and may be sentenced to imprisonment~~ IMPRISONMENT
12 UNDER THE JURISDICTION OF THE DEPARTMENT OF CORRECTIONS for not
13 ~~more~~ LESS than 1 year OR MORE THAN 5 YEARS.

14 (ii) ~~Imprisonment~~ PROBATION WITH IMPRISONMENT IN THE
15 COUNTY JAIL for not LESS THAN 30 DAYS OR more than 1 year. ~~and~~
16 ~~may be sentenced to community service for not more than 90 days.~~
17 NOT LESS THAN 48 HOURS OF THE IMPRISONMENT IMPOSED UNDER THIS
18 SUBPARAGRAPH SHALL BE SERVED CONSECUTIVELY.

19 (D) A TERM OF IMPRISONMENT IMPOSED UNDER SUBDIVISION (C)
20 SHALL NOT BE SUSPENDED.

21 (E) IN THE JUDGMENT OF SENTENCE UNDER SUBDIVISION (A), THE
22 COURT MAY ORDER VEHICLE IMMOBILIZATION AS PROVIDED IN
23 SECTION 904D. IN THE JUDGMENT OF SENTENCE UNDER SUBDIVISION (B)
24 OR (C), THE COURT SHALL ORDER VEHICLE IMMOBILIZATION AS PROVIDED
25 IN SECTION 904D.

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1 (F) ~~(d) The~~ IN THE judgment of sentence under subdivision
2 (b) or (c), THE COURT may impose the sanction permitted under
3 section 625n.

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

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

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

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

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

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

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

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

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

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

5 (11) In addition to imposing the sanctions prescribed under
6 ~~subsection (4), (5), (7), (9), or (10)~~ THIS SECTION, the court
7 may order the person to pay the costs of the prosecution under
8 the code of criminal procedure, ~~Act No. 175 of the Public Acts~~
9 ~~of 1927, being sections 760.1 to 776.22 of the Michigan Compiled~~
10 ~~Laws~~ 1927 PA 175, MCL 760.1 TO 776.22.

11 ~~(12) The court shall impose licensing sanctions pursuant to~~
12 ~~section 625b.~~

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

18 (13) ~~(14)~~ If the prosecuting attorney intends to seek an
19 enhanced sentence under ~~subsection (7)(b) or (d),~~
20 ~~subsection (9)(b) or (c), or subsection (10)(b)~~ THIS SECTION OR
21 A SANCTION UNDER SECTION 625N OR 904D based upon the defendant
22 having 1 or more prior convictions, the prosecuting attorney
23 shall include on the complaint and information, or an amended
24 complaint and information, filed in district court, circuit
25 court, ~~recorder's court,~~ municipal court, or ~~probate~~ FAMILY
26 DIVISION OF CIRCUIT court, a statement listing the defendant's
27 prior convictions.

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1 (14) ~~(15)~~ If a person is charged with a violation of
2 subsection (1) [, ~~or~~] (3), [(4), OR (5) OR SECTION 625M,] the court
3 shall not permit the defendant
4 to enter a plea of guilty or nolo contendere to a charge of vio-
5 lating subsection (6) in exchange for dismissal of the original
6 charge. This subsection does not prohibit the court from dis-

7 (15) ~~(16)~~ A prior conviction shall be established at sen-
8 tencing by 1 or more of the following:

- 9 (a) An abstract of conviction.
10 (b) A copy of the defendant's driving record.
11 (c) An admission by the defendant.

12 (16) ~~(17)~~ A person who is convicted of an attempted viola-
13 tion of subsection (1), (3), (4), (5), or (6) or a local ordi-
14 nance substantially corresponding to subsection (1), (3), or (6)
15 shall be punished as if the offense had been completed.

16 (17) ~~(18)~~ When assessing points and taking licensing
17 action under this act, the secretary of state ~~and the court~~
18 shall treat a conviction of an attempted violation of subsection
19 (1), (3), (4), (5), or (6) or a local ordinance substantially
20 corresponding to subsection (1), (3), or (6) or a law of another
21 state substantially corresponding to subsection (1), (3), (4),
22 (5), or (6) the same as if the offense had been completed.

23 (18) ~~(19)~~ Except as otherwise provided in subsection
24 ~~(21)~~ (20), if a person is charged with operating a vehicle
25 while under the influence of a controlled substance or a combina-
26 tion of intoxicating liquor and a controlled substance in
27 violation of subsection (1) or a local ordinance substantially

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1 corresponding to subsection (1), the court shall require the jury
2 to return a special verdict in the form of a written finding or,
3 if the court convicts the person without a jury or accepts a plea
4 of guilty or nolo contendere, the court shall make a finding as
5 to whether the person was under the influence of a controlled
6 substance or a combination of intoxicating liquor and a con-
7 trolled substance at the time of the violation.

8 (19) ~~-(20)-~~ Except as otherwise provided in subsection
9 ~~-(21)-~~ (20), if a person is charged with operating a vehicle
10 while his or her ability to operate the vehicle was visibly
11 impaired due to his or her consumption of a controlled substance
12 or a combination of intoxicating liquor and a controlled sub-
13 stance in violation of subsection (3) or a local ordinance sub-
14 stantially corresponding to subsection (3), the court shall
15 require the jury to return a special verdict in the form of a
16 written finding or, if the court convicts the person without a
17 jury or accepts a plea of guilty or nolo contendere, the court
18 shall make a finding as to whether, due to the consumption of a
19 controlled substance or a combination of intoxicating liquor and
20 a controlled substance, the person's ability to operate a motor
21 vehicle was visibly impaired at the time of the violation.

22 (20) ~~-(21)-~~ A special verdict described in subsections (18)
23 AND (19) ~~and (20)-~~ is not required if a jury is instructed to
24 make a finding solely as to either of the following:

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

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1 (b) Whether the defendant was visibly impaired due to his or
2 her consumption of a controlled substance or a combination of
3 intoxicating liquor and a controlled substance at the time of the
4 violation.

5 (21) ~~(22)~~ If a jury or court ~~makes a finding~~ FINDS under
6 subsection (18), (19), OR (20) ~~, or (21)~~ that the defendant
7 operated a motor vehicle under the influence of or while impaired
8 due to the consumption of a controlled substance or a combination
9 of a controlled substance and an intoxicating liquor, the court
10 shall do both of the following:

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

12 (b) On a form or forms prescribed by the state court admin-
13 istrator, forward to the department of state police a record that
14 specifies the penalties imposed by the court, including any term
15 of imprisonment, ~~any licensing sanction imposed under~~
16 ~~section 625b,~~ and any sanction imposed under section 625n OR
17 904D.

18 (22) ~~(23)~~ Except as otherwise provided by law, a record
19 described in subsection ~~(22)(b)~~ (21)(B) is a public record and
20 the department of state police shall retain the information con-
21 tained on that record for not less than 7 years.

22 (23) ~~(24)~~ In a prosecution for a violation of subsection
23 (6), the defendant bears the burden of proving that the consump-
24 tion of intoxicating liquor was a part of a generally recognized
25 religious service or ceremony by a preponderance of the
26 evidence.

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1 (24) AS USED IN THIS SECTION, "PRIOR CONVICTION" MEANS A
2 CONVICTION FOR ANY OF THE FOLLOWING, WHETHER UNDER A LAW OF THIS
3 STATE, A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO A LAW OF
4 THIS STATE, OR A LAW OF ANOTHER STATE SUBSTANTIALLY CORRESPONDING
5 TO A LAW OF THIS STATE:

6 (A) EXCEPT AS PROVIDED IN SUBSECTION (25), A VIOLATION OR
7 ATTEMPTED VIOLATION OF SUBSECTION (1), (3), (4), (5), OR (6),
8 SECTION 625M, FORMER SECTION 625(1) OR (2), OR FORMER SECTION
9 625B.

10 (B) NEGLIGENT HOMICIDE, MANSLAUGHTER, OR MURDER RESULTING
11 FROM THE OPERATION OF A VEHICLE.

12 (25) EXCEPT FOR PURPOSES OF THE ENHANCEMENT DESCRIBED IN
13 SUBSECTION (10)(B), ONLY 1 VIOLATION OR ATTEMPTED VIOLATION OF
14 SUBSECTION (6), A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO
15 SUBSECTION (6), OR A LAW OF ANOTHER STATE SUBSTANTIALLY CORRE-
16 SPONDING TO SUBSECTION (6) MAY BE USED AS A PRIOR CONVICTION.

17 Sec. 625i. (1) The department of state police shall prepare
18 an annual report which shall be designated the Michigan annual
19 drunk driving audit. The secretary of state, circuit court, dis-
20 trict court, ~~probate~~ FAMILY DIVISION OF CIRCUIT court, munici-
21 pal courts, and local units of government in this state shall
22 cooperate with the department of state police to provide informa-
23 tion necessary for the preparation of the report. A copy of the
24 report prepared under this subsection shall be submitted to the
25 governor, the secretary of the senate, the clerk of the house of
26 representatives, and the secretary of state on ~~June~~ JULY 1 of
27 each year. The report shall contain for each county in the state

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1 all of the following information applicable to the immediately
2 preceding calendar year:

3 (a) The number of alcohol related motor vehicle ~~accidents~~
4 [CRASHES] resulting in bodily injury, including a breakdown of
5 the number of those injuries occurring per capita of population
6 and per road mile in the county.

7 (b) The number of alcohol related motor vehicle ~~accidents~~
8 [CRASHES] resulting in death, including the breakdown described
9 in subdivision (a).

10 (c) The number of alcohol related motor vehicle ~~accidents~~
11 [CRASHES], other than those enumerated in subdivisions (a) and
12 (b), including the breakdown described in subdivision (a).

13 (d) The number of arrests made for violations of section
14 625(1)(a) or (b) or local ordinances substantially corresponding
15 to section 625(1)(a) or (b).

16 (e) The number of arrests made for violations of section
17 625(3) or local ordinances substantially corresponding to section
18 625(3).

19 (f) The number of arrests made for violations of
20 section 625(6) or local ordinances substantially corresponding to
21 section 625(6).

22 (g) The number of arrests made for violations of
23 section 625(4) or (5).

24 (h) The number of operator's or chauffeur's licenses sus-
25 pended pursuant to section 625f.

26 (i) The number of arrests made for violations of
27 section 625m or local ordinances substantially corresponding to

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1 section 625m. ~~This subdivision shall apply after December 31,~~
2 ~~1992.~~

3 (2) The secretary of state shall compile a report of dispo-
4 sitions of charges for violations of section 625(1), (3), (4),
5 (5), or (6) or section 625m or section 33b(1) or (2) of ~~the~~
6 ~~Michigan liquor control act, Act No. 8 of the Public Acts of the~~
7 ~~Extra Session of 1933, being section 436.33b of the Michigan~~
8 ~~Compiled Laws~~ FORMER 1933 (EX SESS) PA 8, SECTION 703(1) OR (2)
9 OF THE MICHIGAN LIQUOR CONTROL CODE OF 1998, 1998 PA 58,
10 MCL 436.1703, or local ordinances substantially corresponding to
11 section 625(1), (3), or (6) or section 625m or section 33b(1) or
12 (2) of ~~Act No. 8 of the Public Acts of the Extra Session of~~
13 ~~1933~~ FORMER 1933 (EX SESS) PA 8, OR SECTION 703(1) OR (2) OF THE
14 MICHIGAN LIQUOR CONTROL CODE OF 1998, 1998 PA 58, MCL 436.1703,
15 by each judge for inclusion in the annual report. The report
16 compiled by the secretary of state shall include information
17 regarding all of the following:

18 (a) The number of dismissals granted.

19 (b) The number of convictions entered.

20 (c) The number of acquittals entered.

21 ~~(d) The number of licenses suspended, revoked, or~~
22 ~~restricted.~~

23 (D) ~~(e)~~ The average length of imprisonment imposed.

24 (E) ~~(f)~~ The average length of community service imposed in
25 lieu of imprisonment.

26 (F) ~~(g)~~ The average fine imposed.

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1 (G) THE NUMBER OF VEHICLES ORDERED IMMOBILIZED UNDER SECTION
2 904D.

3 (H) THE NUMBER OF VEHICLES ORDERED FORFEITED UNDER SECTION
4 625N.

5 (3) THE SECRETARY OF STATE SHALL INCLUDE IN THE COMPILATION
6 UNDER SUBSECTION (2) THE NUMBER OF LICENSES SUSPENDED, REVOKED,
7 OR RESTRICTED FOR THOSE VIOLATIONS.

8 (4) ~~(3)~~ The secretary of state shall enter into a contract
9 with the university of Michigan transportation research insti-
10 tute, in which the university of Michigan transportation research
11 institute shall evaluate the effect and impact of the ~~1991~~ 1998
12 legislation addressing drunk and impaired driving in this state
13 and report its findings to the governor and the legislature not
14 later than October 1, ~~1994~~ 2002.

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

20 (2) A peace officer may arrest a person without a warrant
21 under either of the following circumstances:

22 (a) The peace officer has reasonable cause to believe that
23 the person was, at the time of an accident, the driver of a com-
24 mercial motor vehicle involved in the accident and was operating
25 the vehicle in violation of this section or a local ordinance
26 substantially corresponding to this section.

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1 (b) The person is found in the driver's seat of a commercial
2 motor vehicle parked or stopped on a highway or street within
3 this state if any part of the vehicle intrudes into the roadway
4 and the peace officer has reasonable cause to believe the person
5 was operating the vehicle in violation of this section or a local
6 ordinance substantially corresponding to this section.

7 (3) ~~A~~ EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (4) AND
8 (5), A person who is convicted of a violation of this section or
9 a local ordinance substantially corresponding to this section is
10 guilty of a misdemeanor punishable by imprisonment for not more
11 than ~~90~~ 93 days or a fine of not more than \$300.00, or both,
12 together with costs of the prosecution. ~~As part of the sen-~~
13 ~~tence, the court shall order the secretary of state to suspend~~
14 ~~the vehicle group designations on the person's operator's or~~
15 ~~chauffeur's license pursuant to section 319b(1)(c) or, if the~~
16 ~~vehicle was carrying hazardous material required to have a plac-~~
17 ~~ard pursuant to 49 C.F.R. parts 100 to 199, pursuant to section~~
18 ~~319b(1)(d). The court shall not order the secretary of state to~~
19 ~~issue a restricted license that would permit the person to oper-~~
20 ~~ate a commercial motor vehicle.~~

21 (4) A person who violates this section or a local ordinance
22 substantially corresponding to this section within 10 years of
23 ~~a~~ 1 prior conviction INVOLVING THE OPERATION OF A COMMERCIAL
24 MOTOR VEHICLE may be sentenced to imprisonment for not more than
25 1 year or a fine of not more than \$1,000.00, or both. ~~As part~~
26 ~~of the sentence, the court shall order the secretary of state to~~
27 ~~revoke the vehicle group designations on the person's operator's~~

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1 ~~or chauffeur's license pursuant to section 319b(1)(e). The court~~
2 ~~shall not order the secretary of state to issue a restricted~~
3 ~~license that would permit the person to operate a commercial~~
4 ~~motor vehicle. As used in this subsection, "prior conviction"~~
5 ~~means a conviction for a violation of this section, section~~
6 ~~625(1), (3), (4), or (5), former section 625(1) or (2), or former~~
7 ~~section 625b, a local ordinance substantially corresponding to~~
8 ~~this section, section 625(1) or (3), former section 625(1) or~~
9 ~~(2), or former section 625b, or a law of another state substan-~~
10 ~~tially corresponding to this section, section 625(1), (3), (4),~~
11 ~~or (5), former section 625(1) or (2), or former section 625b,~~
12 ~~while operating a commercial motor vehicle.~~

13 (5) A PERSON WHO VIOLATES THIS SECTION OR A LOCAL ORDINANCE
14 SUBSTANTIALLY CORRESPONDING TO THIS SECTION WITHIN 10 YEARS OF 2
15 OR MORE PRIOR CONVICTIONS IS GUILTY OF A FELONY AND SHALL BE SEN-
16 TENCED TO PAY A FINE OF NOT LESS THAN \$500.00 OR MORE THAN
17 \$5,000.00 AND TO EITHER OF THE FOLLOWING:

18 (A) IMPRISONMENT UNDER THE JURISDICTION OF THE DEPARTMENT OF
19 CORRECTIONS FOR NOT LESS THAN 1 YEAR OR MORE THAN 5 YEARS.

20 (B) PROBATION WITH IMPRISONMENT IN THE COUNTY JAIL FOR NOT
21 LESS THAN 30 DAYS OR MORE THAN 1 YEAR. NOT LESS THAN 48 HOURS OF
22 THE IMPRISONMENT IMPOSED UNDER THIS SUBDIVISION SHALL BE SERVED
23 CONSECUTIVELY.

24 (6) A TERM OF IMPRISONMENT IMPOSED UNDER SUBSECTION (5)
25 SHALL NOT BE SUSPENDED.

26 (7) ~~(5)~~ When assessing points and taking license actions
27 under this act, the secretary of state ~~and the court~~ shall

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1 treat a conviction for an attempted violation of subsection (1),
2 a local ordinance substantially corresponding to subsection (1),
3 or a law of another state substantially corresponding to
4 subsection (1) the same as if the offense had been completed.

5 (8) AS USED IN THIS SECTION, "PRIOR CONVICTION" MEANS A CON-
6 VICTION FOR ANY OF THE FOLLOWING, WHETHER UNDER A LAW OF THIS
7 STATE, A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO A LAW OF
8 THIS STATE, OR A LAW OF ANOTHER STATE SUBSTANTIALLY CORRESPONDING
9 TO A LAW OF THIS STATE:

10 (A) A VIOLATION OR ATTEMPTED VIOLATION OF THIS SECTION,
11 SECTION 625(1), (3), (4), OR (5), FORMER SECTION 625(1) OR (2),
12 OR FORMER SECTION 625B.

13 (B) NEGLIGENT HOMICIDE, MANSLAUGHTER, OR MURDER RESULTING
14 FROM THE OPERATION OF A VEHICLE.

15 Enacting section 1. This amendatory act takes effect
16 October 1, 1999.

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

20 (a) House Bill No. 4210.

21 (b) House Bill No. 4576.

22 (c) House Bill No. 4959.

23 (d) House Bill No. 4960.

24 (e) House Bill No. 4961.

25 (f) House Bill No. 5122.

26 (g) House Bill No. 5123.

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- 1 (h) House Bill No. 5951.
- 2 (i) House Bill No. 5952.
- 3 (j) House Bill No. 5953.
- 4 (k) House Bill No. 5954.
- 5 (l) House Bill No. 5955.