

SENATE BILL NO. 953

February 26, 1998, Introduced by Senator VAN REGENMORTER
and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 303, 625a, and 625b (MCL 257.303, 257.625a,
and 257.625b), section 303 as amended by 1996 PA 587, section
625a as amended by 1996 PA 491, and section 625b as amended by
1994 PA 450.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 303. (1) The secretary of state shall not issue a
2 license under this act to any of the following:

3 (a) A person, as an operator, who is less than 18 years of
4 age, except as otherwise provided in this act.

5 (b) A person, as a chauffeur, who is less than 18 years of
6 age, except as otherwise provided in this act.

7 (c) A person whose license has been suspended during the
8 period for which the license was suspended.

1 (d) A person who has been convicted of or received a
2 ~~probate court~~ JUVENILE disposition for a violation of section
3 625(4) or (5).

4 (e) A person who has been convicted of or received a
5 ~~probate court~~ JUVENILE disposition for negligent homicide, man-
6 slaughter, or murder resulting from the operation of a motor
7 vehicle.

8 (f) A person who is an habitual violator of the criminal
9 laws relating to operating a vehicle while impaired by or under
10 the influence of intoxicating liquor, a controlled substance, or
11 a combination of intoxicating liquor and a controlled substance
12 or with an alcohol content of 0.10 grams or more per 100 millili-
13 ters of blood, per 210 liters of breath, or per 67 milliliters of
14 urine. Convictions of any of the following, whether under a law
15 of this state, a local ordinance substantially corresponding to a
16 law of this state, or a law of another state substantially corre-
17 sponding to a law of this state, are prima facie evidence that
18 the person is an habitual violator as described in this
19 subdivision:

20 (i) Any combination of 2 convictions within 7 years for any
21 of the following:

22 (A) A violation of section 625(1), (3), (4), or (5).

23 (B) A violation of former section 625(1) or (2) OR FORMER
24 SECTION 625B.

25 (C) A VIOLATION OF SECTION 625M.

1 (D) NEGLIGENT HOMICIDE, MANSLAUGHTER, OR MURDER RESULTING
2 FROM THE OPERATION OF A VEHICLE OR AN ATTEMPT TO COMMIT 1 OF
3 THOSE CRIMES.

4 (ii) Any combination of 3 convictions within 10 years for
5 any of the following if any of the convictions resulted from an
6 arrest on or after January 1, 1992:

7 (A) A violation of section 625(1), (3), (4), or (5).

8 (B) A violation of former section 625(1) or (2) or former
9 section 625b.

10 (C) A VIOLATION OF SECTION 625M.

11 (D) NEGLIGENT HOMICIDE, MANSLAUGHTER, OR MURDER RESULTING
12 FROM THE OPERATION OF A VEHICLE OR AN ATTEMPT TO COMMIT 1 OF
13 THOSE CRIMES.

14 (g) A person who in the opinion of the secretary of state is
15 afflicted with or suffering from a physical or mental disability
16 or disease preventing that person from exercising reasonable and
17 ordinary control over a motor vehicle while operating the motor
18 vehicle upon the highways.

19 (h) A person who is unable to understand highway warning or
20 direction signs in the English language.

21 (i) A person who is an habitually reckless driver. Two con-
22 victions within 7 years of reckless driving under this act or any
23 other law of this state relating to reckless driving or under a
24 local ordinance of this state or a law of another state that
25 defines the term "reckless driving" substantially similarly to
26 the law of this state are prima facie evidence that the person is
27 an habitually reckless driver.

1 (j) A person who is an habitual criminal. Two convictions
2 of a felony in which a motor vehicle was used in this or another
3 state are prima facie evidence that the person is an habitual
4 criminal.

5 (k) A person who is unable to pass a knowledge, skill, or
6 ability test administered by the secretary of state in connection
7 with the issuance of an original operator's or chauffeur's
8 license, original motorcycle indorsement, or an original or
9 renewal of a vehicle group designation or vehicle indorsement.

10 (l) A person who has been convicted of, has received a
11 ~~probate court~~ JUVENILE disposition for, or has been determined
12 responsible for 2 or more moving violations under a law of this
13 state, a local ordinance substantially corresponding to a law of
14 this state, or a law of another state substantially corresponding
15 to a law of this state within the preceding 3 years, if the vio-
16 lations occurred before issuance of an original license to the
17 person in this or another state.

18 (m) A nonresident including a foreign exchange student.

19 (N) A PERSON WHO HAS FAILED TO ANSWER A CITATION OR NOTICE
20 TO APPEAR IN COURT, OR FOR ANY MATTER PENDING OR FAILS TO COMPLY
21 WITH AN ORDER OR JUDGMENT OF THE COURT, INCLUDING, BUT NOT
22 LIMITED TO, PAYING ALL FINES, COSTS, FEES, AND ASSESSMENTS, IN
23 VIOLATION OF SECTION 321A, UNTIL THAT PERSON ANSWERS THE CITATION
24 OR NOTICE TO APPEAR IN COURT, OR FOR ANY MATTER PENDING OR FAILS
25 TO COMPLY WITH AN ORDER OR JUDGMENT OF THE COURT, INCLUDING, BUT
26 NOT LIMITED TO, PAYING ALL FINES, COSTS, FEES, AND ASSESSMENTS,
27 AS PROVIDED UNDER SECTION 321A.

1 (O) ~~(n)~~ A person not licensed under this act who has been
2 convicted of, has received a ~~probate court~~ JUVENILE disposition
3 for, or has been determined responsible for a crime or civil
4 infraction described in section 319, 324, or 904. A person shall
5 be denied a license under this subdivision for the length of time
6 corresponding to the period of the licensing sanction that would
7 have been imposed under section 319, 324, or 904 if the person
8 had been licensed at the time of the violation.

9 (P) ~~(o)~~ A person not licensed under this act who has been
10 convicted of or received a ~~probate court~~ JUVENILE disposition
11 for committing a crime described in section 319e. A person shall
12 be denied a license under this subdivision for the length of time
13 that corresponds to the period of the licensing sanction that
14 would have been imposed under section 319e if the person had been
15 licensed at the time of the violation.

16 (Q) ~~(p)~~ A person not licensed under this act who is deter-
17 mined to have violated section 33b(1) of the Michigan liquor con-
18 trol act, ~~Act No. 8 of the Public Acts of the Extra Session of~~
19 ~~1933, being section 436.33b of the Michigan Compiled Laws 1933~~
20 (EX SESS) PA 8, MCL 436.33B, or section 624a or 624b. The person
21 shall be denied a license under this subdivision for a period of
22 time that corresponds to the period of the licensing sanction
23 that would have been imposed under those sections had the person
24 been licensed at the time of the violation.

25 (R) ~~(q)~~ A person who has been convicted of a violation of
26 section 602a(4) or (5) or a violation of section 479a(4) or (5)
27 of the Michigan penal code, ~~Act No. 328 of the Public Acts of~~

1 ~~1931, being section 750.479a of the Michigan Compiled Laws~~ 1931
2 PA 328, MCL 750.479A.

3 (2) Upon receiving the appropriate records of conviction,
4 the secretary of state shall revoke the operator's or chauffeur's
5 license of a person having any of the following, whether under a
6 law of this state, a local ordinance substantially corresponding
7 to a law of this state, or a law of another state substantially
8 corresponding to a law of this state:

9 (a) Two convictions of reckless driving in violation of sec-
10 tion 626 within 7 years.

11 (b) Two convictions of a felony in which a motor vehicle was
12 used within 7 years.

13 (c) ~~Any combination of 2 convictions~~ A CONVICTION FOR A
14 VIOLATION OF SECTION 625(1) OR (3) within 7 years AFTER A
15 CONVICTION for any of the following:

16 (i) A violation of section 625(1), (3), (4), OR (5).

17 (ii) A violation of former section 625(1) or (2) OR FORMER
18 SECTION 625B.

19 (iii) A violation of section ~~625(4) or (5)~~ 625M.

20 (iv) Negligent homicide, manslaughter, or murder resulting
21 from the operation of a ~~motor~~ vehicle OR AN ATTEMPT TO COMMIT 1
22 OF THOSE CRIMES.

23 (d) One conviction under section 625(4) or (5).

24 (e) One conviction of negligent homicide, manslaughter, or
25 murder resulting from the operation of a ~~motor~~ vehicle OR AN
26 ATTEMPT TO COMMIT 1 OF THOSE CRIMES.

1 (f) Any combination of 3 convictions within 10 years for any
2 of the following if any of the convictions resulted from an
3 arrest on or after January 1, 1992:

4 (i) A violation of section 625(1), (3), (4), or (5).

5 (ii) A violation of former section 625(1) or (2) or former
6 section 625b.

7 (iii) A VIOLATION OF SECTION 625M.

8 (iv) ~~(iii)~~ Negligent homicide, manslaughter, or murder
9 resulting from the operation of a ~~motor~~ vehicle OR AN ATTEMPT
10 TO COMMIT 1 OF THOSE CRIMES.

11 (g) A violation of section 602a(4) or (5) of this act or
12 section 479a(4) or (5) of the Michigan penal code, ~~Act No. 328~~
13 ~~of the Public Acts of 1931, being section 750.479a of the~~
14 ~~Michigan Compiled Laws~~ 1931 PA 328, MCL 750.479A.

15 (3) The secretary of state shall revoke a license under sub-
16 section (2) notwithstanding a court order. ~~issued under section~~
17 ~~625, section 625b, former section 625(1) or (2), or former sec-~~
18 ~~tion 625b or a local ordinance substantially corresponding to~~
19 ~~section 625, section 625b, former section 625(1) or (2), or~~
20 ~~former section 625b.~~

21 (4) The secretary of state shall not issue a license under
22 this act to a person whose license has been revoked under this
23 act or denied under subsection (1)(d), (e), (f), (i), ~~or~~ (j),
24 OR (R) until both of the following occur:

25 (a) The later of the following:

26 (i) The expiration of not less than 1 year after the license
27 was revoked or denied.

1 (ii) The expiration of not less than 5 years after the date
2 of a subsequent revocation or denial occurring within 7 years
3 after the date of any prior revocation or denial.

4 (b) The person meets the requirements of the department.

5 (5) Multiple convictions or civil infraction determinations
6 resulting from the same incident shall be treated as a single
7 violation for purposes of denial or revocation of a license under
8 this section.

9 (6) As used in this section, "felony in which a motor vehi-
10 cle was used" means a felony during the commission of which the
11 person operated a motor vehicle and while operating the vehicle
12 presented real or potential harm to persons or property and 1 or
13 more of the following circumstances existed:

14 (a) The vehicle was used as an instrument of the felony.

15 (b) The vehicle was used to transport a victim of the
16 felony.

17 (c) The vehicle was used to flee the scene of the felony.

18 (d) The vehicle was necessary for the commission of the
19 felony.

20 Sec. 625a. (1) A peace officer may arrest a person without
21 a warrant under either of the following circumstances:

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

1 (b) The person is found in the driver's seat of a vehicle
2 parked or stopped on a highway or street within this state if any
3 part of the vehicle intrudes into the roadway and the peace offi-
4 cer has reasonable cause to believe the person was operating the
5 vehicle in violation of section 625(1), (3), or (6) or a local
6 ordinance substantially corresponding to section 625(1), (3), or
7 (6).

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

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

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

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

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

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

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

24 (d) Except as provided in subsection (5), a person who
25 refuses to submit to a preliminary chemical breath analysis upon
26 a lawful request by a peace officer is responsible for a civil
27 infraction.

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

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

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

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

26 (a) The amount of alcohol or presence of a controlled
27 substance or both in a driver's blood or urine or the amount of

1 alcohol in a person's breath at the time alleged as shown by
2 chemical analysis of the person's blood, urine, or breath is
3 admissible into evidence in any civil or criminal proceeding.

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

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

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

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

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

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

26 (c) A sample or specimen of urine or breath shall be taken
27 and collected in a reasonable manner. Only a licensed physician,

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

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

1 responsible for obtaining a chemical analysis of the test
2 sample.

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

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

26 (g) The department of state police shall promulgate uniform
27 rules ~~pursuant to~~ IN COMPLIANCE WITH the administrative

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

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

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

23 (b) Any presence of alcohol within a person's body resulting
24 from the consumption of intoxicating liquor, other than consump-
25 tion of intoxicating liquor as a part of a generally recognized
26 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 (b) If there were at the time more than 0.07 grams but less
23 than 0.10 grams of alcohol per 100 milliliters of the defendant's
24 blood, per 210 liters of the defendant's breath, or per 67 milli-
25 liters of the defendant's urine, it is presumed that the
26 defendant's ability to operate a vehicle was impaired within the

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

3 (c) If there were at the time 0.10 grams or more of alcohol
4 per 100 milliliters of the defendant's blood, per 210 liters of
5 the breath, or per 67 milliliters of the defendant's urine, it is
6 presumed that the defendant was under the influence of intoxicat-
7 ing 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 (11) IF A PERSON IS ARRESTED UNDER THIS SECTION AND HAS PRE-
15 VIOUSLY BEEN CONVICTED OF OR RECEIVED A JUVENILE DISPOSITION FOR
16 A VIOLATION OR ATTEMPTED VIOLATION DESCRIBED IN SUBSECTION (12)
17 WITHIN THE PAST 7 YEARS, WHETHER THAT PRIOR CONVICTION WAS UNDER
18 A LAW OF THIS STATE, A LOCAL ORDINANCE SUBSTANTIALLY CORRESPOND-
19 ING TO A LAW OF THIS STATE, OR A LAW OF ANOTHER STATE SUBSTAN-
20 Tially corresponding to a law of this state, the arresting offi-
21 cer shall, on behalf of the secretary of state, immediately con-
22 fiscate the registration plate of the vehicle operated by that
23 person and issue a temporary vehicle registration plate for the
24 vehicle. The arresting officer shall place the temporary vehicle
25 registration plate on the vehicle in the manner required by the
26 secretary of state, and shall notify the secretary of state
27 through the law enforcement information network that the

1 REGISTRATION PLATE FOR THE VEHICLE WAS CONFISCATED AND DESTROYED
2 AND THAT A TEMPORARY VEHICLE REGISTRATION PLATE WAS ISSUED. A
3 TEMPORARY VEHICLE REGISTRATION PLATE ISSUED UNDER THIS SECTION IS
4 VALID FOR 1 OF THE FOLLOWING TIME PERIODS:

5 (A) IF THE CASE IS NOT PROSECUTED, FOR 90 DAYS. THE PROSE-
6 CUTING ATTORNEY SHALL NOTIFY THE SECRETARY OF STATE IF A CASE
7 REFERRED TO THE PROSECUTING ATTORNEY IS NOT PROSECUTED. THE
8 ARRESTING LAW ENFORCEMENT AGENCY SHALL NOTIFY THE SECRETARY OF
9 STATE IF A CASE IS NOT REFERRED TO THE PROSECUTING ATTORNEY FOR
10 PROSECUTION.

11 (B) IF THE CASE IS PROSECUTED, UNTIL 5 DAYS AFTER THE CRIMI-
12 NAL CHARGES AGAINST THE PERSON ARE DISMISSED, THE PERSON PLEADS
13 GUILTY OR NOLO CONTENDERE TO OR IS FOUND GUILTY OF OR ACQUITTED
14 OF THOSE CHARGES, OR THE PERSON'S VEHICLE REGISTRATION IS ORDERED
15 CANCELED BY THE COURT, WHICHEVER OCCURS EARLIEST.

16 (12) SUBSECTION (11) APPLIES TO ALL OF THE FOLLOWING:

17 (A) A VIOLATION OF SECTION 625(1) OR (3) OR SECTION 625M OR
18 A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO SECTION 625(1)
19 OR (3) OR SECTION 625M.

20 (B) A VIOLATION OF SECTION 625(4) OR (5).

21 (C) NEGLIGENT HOMICIDE, MANSLAUGHTER, OR MURDER RESULTING
22 FROM THE OPERATION OF A VEHICLE OR AN ATTEMPT TO COMMIT 1 OF
23 THOSE CRIMES.

24 Sec. 625b. (1) A person arrested for a misdemeanor viola-
25 tion of section 625(1), (3), or (6) or section 625m or a local
26 ordinance substantially corresponding to section 625(1), (3), or
27 (6) or section 625m shall be arraigned on the citation,

1 complaint, or warrant not more than 14 days after the arrest for
2 the violation or, if an arrest warrant is issued or reissued, not
3 more than 14 days after the issued or reissued arrest warrant is
4 served, whichever is later. The court shall not dismiss a case
5 or impose any other sanction for a failure to comply with this
6 time limit. The time limit does not apply to a violation of
7 section 625(1) OR (3) OR SECTION 625M punishable ~~under section~~
8 ~~625(7)(d)~~ AS A FELONY or a violation of section 625(1), (3), or
9 (6) or section 625m joined with a felony charge.

10 (2) The court shall schedule a pretrial conference between
11 the prosecuting attorney, the defendant, and the defendant's
12 attorney in each case in which the defendant is charged with a
13 misdemeanor violation of section 625(1), (3), or (6) or
14 section 625m or a local ordinance substantially corresponding to
15 section 625(1), (3), or (6) or section 625m. The pretrial con-
16 ference shall be held not more than 35 days after the person's
17 arrest for the violation or, if an arrest warrant is issued or
18 reissued, not more than 35 days after the issued or reissued
19 arrest warrant is served, whichever is later. If the court has
20 only 1 judge who sits in more than 1 location in that district,
21 the pretrial conference shall be held not more than 42 days after
22 the person's arrest for the violation or, if an arrest warrant is
23 issued or reissued, not more than 42 days after the date the
24 issued or reissued arrest warrant is served, whichever is later.
25 The court shall not dismiss a case or impose any other sanction
26 for a failure to comply with the applicable time limit. The 35-
27 and 42-day time limits do not apply to a violation of

1 section 625(1) OR (3) OR SECTION 625M punishable ~~under~~
2 ~~section 625(7)(d)~~ AS A FELONY or a violation of section 625(1),
3 (3), or (6) or section 625m joined with a felony charge. The
4 court shall order the defendant to attend the pretrial conference
5 and may accept a plea by the defendant at the conclusion of the
6 pretrial conference. The court may adjourn the pretrial confer-
7 ence upon the motion of a party for good cause shown. Not more
8 than 1 adjournment shall be granted to a party, and the length of
9 an adjournment shall not exceed 14 days.

10 (3) Except for delay attributable to the unavailability of
11 the defendant, a witness, or material evidence or due to an
12 interlocutory appeal or exceptional circumstances, but not a
13 delay caused by docket congestion, the court shall finally adju-
14 dicate, by a plea of guilty or nolo contendere, entry of a ver-
15 dict, or other final disposition, a case in which the defendant
16 is charged with a misdemeanor violation of section 625(1), (3),
17 or (6) or section 625m or a local ordinance substantially corre-
18 sponding to section 625(1), (3), or (6) or section 625m, within
19 77 days after the person is arrested for the violation or, if an
20 arrest warrant is issued or reissued, not more than 77 days after
21 the date the issued or reissued arrest warrant is served, which-
22 ever is later. The court shall not dismiss a case or impose any
23 other sanction for a failure to comply with this time limit. The
24 77-day time limit does not apply to a violation of section 625(1)
25 OR (3) OR SECTION 625M punishable ~~under section 625(7)(d)~~ AS A
26 FELONY or a violation of section 625(1), (3), or (6) or
27 section 625m joined with a felony charge.

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

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

23 ~~(6) Immediately upon acceptance by the court of a plea of~~
24 ~~guilty or nolo contendere or upon entry of a verdict of guilty~~
25 ~~for a violation of section 625(1), (3), (4), (5), or (6) or a~~
26 ~~local ordinance substantially corresponding to section 625(1),~~
27 ~~(3), or (6), whether or not the person is eligible to be~~

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

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

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

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

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~~

~~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~~

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~~

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~~

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 ~~(6) (8) The~~ IF THE SECRETARY OF STATE REQUESTS, THE court
22 may order that ~~the~~ A restricted license issued ~~pursuant to~~
23 ~~subsection (6)~~ BY THE SECRETARY OF STATE UNDER THIS ACT include
24 the requirement that the person shall not operate a motor vehicle
25 unless the vehicle is equipped with a functioning ignition inter-
26 lock device OR ANOTHER DEVICE APPROVED BY THE COURT THAT RENDERS
27 A MOTOR VEHICLE INOPERABLE BASED UPON A DIRECT OR INDIRECT

1 DETERMINATION OF THE PERSON'S BODILY ALCOHOL CONTENT, INCLUDING
2 BUT NOT LIMITED TO A DETERMINATION OF THE PERSON'S ABILITY TO
3 OPERATE THE MOTOR VEHICLE AS A RESULT OF THE PERSON'S BODILY
4 ALCOHOL CONTENT. ~~The~~ AN IGNITION INTERLOCK device shall be set
5 to render the motor vehicle inoperable if the device detects an
6 alcohol content of 0.02 grams or more per 210 liters of breath of
7 the person who offers a breath sample. The court may order
8 installation of an ignition interlock device OR OTHER DEVICE on
9 any motor vehicle ~~that~~ the person owns or operates, the costs
10 of which the person whose license is restricted shall bear.

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

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

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

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

5 ~~(11) The court order issued under subsection (6) and the~~
6 ~~restricted license shall indicate the permitted destinations of~~
7 ~~the person or the permitted purposes for which the person may~~
8 ~~operate a vehicle, the approved route or routes if specified by~~
9 ~~the court, and permitted times of travel.~~

10 (7) ~~(12)~~ Immediately upon acceptance by the court of a
11 plea of guilty or nolo contendere or upon entry of a verdict of
12 guilty for a violation of section 625(1), (3), (4), (5), or (6)
13 or a local ordinance substantially corresponding to
14 section 625(1), (3), or (6), the person shall surrender to the
15 court his or her operator's or chauffeur's license or permit.
16 The court shall immediately destroy the license or permit and
17 forward an abstract of conviction ~~with court-ordered license~~
18 ~~sanctions~~ to the secretary of state FOR ENTRY OF LICENSE
19 SANCTIONS. ~~Upon receipt of, and pursuant to, the abstract of~~
20 ~~conviction with court-ordered license sanctions, the secretary of~~
21 ~~state shall suspend or revoke the person's license and, if~~
22 ~~ordered by the court and the person is otherwise eligible for a~~
23 ~~license, issue to the person a restricted license stating the~~
24 ~~limited driving privileges indicated on the abstract.~~ If the
25 judgment and sentence ~~is~~ ARE appealed to circuit court, the
26 court may ex parte order the secretary of state to stay the
27 suspension, revocation, or restricted license issued ~~pursuant to~~

1 ~~this section~~ BY THE SECRETARY OF STATE pending the outcome of
2 the appeal.

3 ~~(13) In addition to any other suspension or revocation~~
4 ~~ordered under this section and as part of the sentence imposed~~
5 ~~upon a person who violates section 625(1), (3), (4), or (5) or a~~
6 ~~local ordinance substantially corresponding to section 625(1) or~~
7 ~~(3) while operating a commercial motor vehicle, the court shall~~
8 ~~order the secretary of state to suspend the vehicle group desig-~~
9 ~~nations on the person's operator's or chauffeur's license in~~
10 ~~accordance with section 319b(1)(c). If the vehicle was trans-~~
11 ~~porting hazardous material required to have a placard pursuant to~~
12 ~~49 C.F.R. parts 100 to 199, the court shall order the secretary~~
13 ~~of state to suspend the vehicle group designations on the~~
14 ~~person's operator's or chauffeur's license in accordance with~~
15 ~~section 319b(1)(d). The court shall not order the secretary of~~
16 ~~state to issue a restricted license that would permit the person~~
17 ~~to operate a commercial motor vehicle.~~

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

~~1 person to operate a commercial motor vehicle. As used in this
2 subsection, "prior conviction" means a conviction under section
3 625(1), (3), (4), or (5), former section 625(1) or (2), or former
4 section 625b, a local ordinance substantially corresponding to
5 section 625(1) or (3), former section 625(1) or (2), or former
6 section 625b, or a law of another state substantially correspond-
7 ing to section 625(1), (3), (4), or (5), former section 625(1) or
8 (2), or former section 625b involving the operation of a commer-
9 cial motor vehicle, or a conviction under section 625m, a local
10 ordinance substantially corresponding to section 625m, or a law
11 of another state substantially corresponding to section 625m.~~

~~12 (15) As used in this section, "work location" means, as
13 applicable, the specific place or places of employment or the
14 territory or territories regularly visited by the person in pur-
15 suance of the person's occupation, or both.~~

16 Enacting section 1. This amendatory act does not take
17 effect unless all of the following bills of the 89th Legislature
18 are enacted into law:

19 (a) Senate Bill No. 625.

20 (b) Senate Bill No. 626.

21 (c) Senate Bill No. 627.