

# SENATE BILL No. 1309

June 15, 2006, Introduced by Senator SWITALSKI and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled  
"Michigan vehicle code,"  
by amending sections 625, 625a, 625g, and 625m (MCL 257.625,  
257.625a, 257.625g, and 257.625m), section 625 as amended by 2004  
PA 62 and sections 625a, 625g, and 625m as amended by 2003 PA 61.

## 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 general  
3       public or generally accessible to motor vehicles, including an area  
4       designated for the parking of vehicles, within this state if the  
5       person is operating while intoxicated. As used in this section,  
6       "operating while intoxicated" means either of the following  
7       applies:

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

4 (b) The person has an alcohol content of 0.08 grams or more  
5 per 100 milliliters of blood, per 210 liters of breath, or per 67  
6 milliliters of urine. ~~or, beginning October 1, 2013, the person~~  
7 ~~has an alcohol content of 0.10 grams or more per 100 milliliters of~~  
8 ~~blood, per 210 liters of breath, or per 67 milliliters of urine.~~

9 (2) The owner of a vehicle or a person in charge or in control  
10 of a vehicle shall not authorize or knowingly permit the vehicle to  
11 be operated upon a highway or other place open to the general  
12 public or generally accessible to motor vehicles, including an area  
13 designated for the parking of motor vehicles, within this state by  
14 a person if any of the following apply:

15 (a) The person is under the influence of alcoholic liquor, a  
16 controlled substance, or a combination of alcoholic liquor and a  
17 controlled substance.

18 (b) The person has an alcohol content of 0.08 grams or more  
19 per 100 milliliters of blood, per 210 liters of breath, or per 67  
20 milliliters of urine. ~~or, beginning October 1, 2013, the person~~  
21 ~~has an alcohol content of 0.10 grams or more per 100 milliliters of~~  
22 ~~blood, per 210 liters of breath, or per 67 milliliters of urine.~~

23 (c) The person's ability to operate the motor vehicle is  
24 visibly impaired due to the consumption of alcoholic liquor, a  
25 controlled substance, or a combination of alcoholic liquor and a  
26 controlled substance.

27 (3) A person, whether licensed or not, shall not operate a

1 vehicle upon a highway or other place open to the general public or  
2 generally accessible to motor vehicles, including an area  
3 designated for the parking of vehicles, within this state when, due  
4 to the consumption of alcoholic liquor, a controlled substance, or  
5 a combination of alcoholic liquor and a controlled substance, the  
6 person's ability to operate the vehicle is visibly impaired. If a  
7 person is charged with violating subsection (1), a finding of  
8 guilty under this subsection may be rendered.

9 (4) A person, whether licensed or not, who operates a motor  
10 vehicle in violation of subsection (1), (3), or (8) and by the  
11 operation of that motor vehicle causes the death of another person  
12 is guilty of a crime as follows:

13 (a) Except as provided in subdivision (b), the person is  
14 guilty of a felony punishable by imprisonment for not more than 15  
15 years or a fine of not less than \$2,500.00 or more than \$10,000.00,  
16 or both. The judgment of sentence may impose the sanction permitted  
17 under section 625n. If the vehicle is not ordered forfeited under  
18 section 625n, the court shall order vehicle immobilization under  
19 section 904d in the judgment of sentence.

20 (b) If, at the time of the violation, the person is operating  
21 a motor vehicle in a manner proscribed under section 653a and  
22 causes the death of a police officer, firefighter, or other  
23 emergency response personnel, the person is guilty of a felony  
24 punishable by imprisonment for not more than 20 years or a fine of  
25 not less than \$2,500.00 or more than \$10,000.00, or both. This  
26 subdivision applies regardless of whether the person is charged  
27 with the violation of section 653a. The judgment of sentence may

1 impose the sanction permitted under section 625n. If the vehicle is  
2 not ordered forfeited under section 625n, the court shall order  
3 vehicle immobilization under section 904d in the judgment of  
4 sentence.

5 (5) A person, whether licensed or not, who operates a motor  
6 vehicle in violation of subsection (1), (3), or (8) and by the  
7 operation of that motor vehicle causes a serious impairment of a  
8 body function of another person is guilty of a felony punishable by  
9 imprisonment for not more than 5 years or a fine of not less than  
10 \$1,000.00 or more than \$5,000.00, or both. The judgment of sentence  
11 may impose the sanction permitted under section 625n. If the  
12 vehicle is not ordered forfeited under section 625n, the court  
13 shall order vehicle immobilization under section 904d in the  
14 judgment of sentence.

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

22 (a) An alcohol content of 0.02 grams or more but less than  
23 0.08 grams per 100 milliliters of blood, per 210 liters of breath,  
24 or per 67 milliliters of urine. ~~—, or, beginning October 1, 2013,~~  
25 ~~the person has an alcohol content of 0.02 grams or more but less~~  
26 ~~than 0.10 grams per 100 milliliters of blood, per 210 liters of~~  
27 ~~breath, or per 67 milliliters of urine.~~

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

5 (7) A person, whether licensed or not, is subject to the  
6 following requirements:

7 (a) He or she shall not operate a vehicle in violation of  
8 subsection (1), (3), (4), (5), or (8) while another person who is  
9 less than 16 years of age is occupying the vehicle. A person who  
10 violates this subdivision is guilty of a crime punishable as  
11 follows:

12 (i) Except as provided in subparagraph (ii), a person who  
13 violates this subdivision is guilty of a misdemeanor and shall be  
14 sentenced to pay a fine of not less than \$200.00 or more than  
15 \$1,000.00 and to 1 or more of the following:

16 (A) Imprisonment for not less than 5 days or more than 1 year.  
17 Not less than 48 hours of this imprisonment shall be served  
18 consecutively. This term of imprisonment shall not be suspended.

19 (B) Community service for not less than 30 days or more than  
20 90 days.

21 (ii) If the violation occurs within 7 years of a prior  
22 conviction or within 10 years of 2 or more prior convictions, a  
23 person who violates this subdivision is guilty of a felony and  
24 shall be sentenced to pay a fine of not less than \$500.00 or more  
25 than \$5,000.00 and to either of the following:

26 (A) Imprisonment under the jurisdiction of the department of  
27 corrections for not less than 1 year or more than 5 years.

1 (B) Probation with imprisonment in the county jail for not  
2 less than 30 days or more than 1 year and community service for not  
3 less than 60 days or more than 180 days. Not less than 48 hours of  
4 this imprisonment shall be served consecutively. This term of  
5 imprisonment shall not be suspended.

6 (b) He or she shall not operate a vehicle in violation of  
7 subsection (6) while another person who is less than 16 years of  
8 age is occupying the vehicle. A person who violates this  
9 subdivision is guilty of a misdemeanor punishable as follows:

10 (i) Except as provided in subparagraph (ii), a person who  
11 violates this subdivision may be sentenced to 1 or more of the  
12 following:

13 (A) Community service for not more than 60 days.

14 (B) A fine of not more than \$500.00.

15 (C) Imprisonment for not more than 93 days.

16 (ii) If the violation occurs within 7 years of a prior  
17 conviction or within 10 years of 2 or more prior convictions, a  
18 person who violates this subdivision shall be sentenced to pay a  
19 fine of not less than \$200.00 or more than \$1,000.00 and to 1 or  
20 more of the following:

21 (A) Imprisonment for not less than 5 days or more than 1 year.  
22 Not less than 48 hours of this imprisonment shall be served  
23 consecutively. This term of imprisonment shall not be suspended.

24 (B) Community service for not less than 30 days or more than  
25 90 days.

26 (c) In the judgment of sentence under subdivision (a) (i) or  
27 (b) (i), the court may, unless the vehicle is ordered forfeited under

1 section 625n, order vehicle immobilization as provided in section  
2 904d. In the judgment of sentence under subdivision (a) (ii) or  
3 (b) (ii), the court shall, unless the vehicle is ordered forfeited  
4 under section 625n, order vehicle immobilization as provided in  
5 section 904d.

6 (d) This subsection does not prohibit a person from being  
7 charged with, convicted of, or punished for a violation of  
8 subsection (4) or (5) that is committed by the person while  
9 violating this subsection. However, points shall not be assessed  
10 under section 320a for both a violation of subsection (4) or (5)  
11 and a violation of this subsection for conduct arising out of the  
12 same transaction.

13 (8) A person, whether licensed or not, shall not operate a  
14 vehicle upon a highway or other place open to the general public or  
15 generally accessible to motor vehicles, including an area  
16 designated for the parking of vehicles, within this state if the  
17 person has in his or her body any amount of a controlled substance  
18 listed in schedule 1 under section 7212 of the public health code,  
19 1978 PA 368, MCL 333.7212, or a rule promulgated under that  
20 section, or of a controlled substance described in section  
21 7214(a) (iv) of the public health code, 1978 PA 368, MCL 333.7214.

22 (9) If a person is convicted of violating subsection (1) or  
23 (8), all of the following apply:

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

27 (i) Community service for not more than 360 hours.

1           (ii) Imprisonment for not more than 93 days.

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

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

6           (i) Imprisonment for not less than 5 days or more than 1 year.  
7 Not less than 48 hours of the term of imprisonment imposed under  
8 this subparagraph shall be served consecutively.

9           (ii) Community service for not less than 30 days or more than  
10 90 days.

11           (c) If the violation occurs within 10 years of 2 or more prior  
12 convictions, the person is guilty of a felony and shall be  
13 sentenced to pay a fine of not less than \$500.00 or more than  
14 \$5,000.00 and to either of the following:

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

17           (ii) Probation with imprisonment in the county jail for not  
18 less than 30 days or more than 1 year and community service for not  
19 less than 60 days or more than 180 days. Not less than 48 hours of  
20 the imprisonment imposed under this subparagraph shall be served  
21 consecutively.

22           (d) A term of imprisonment imposed under subdivision (b) or  
23 (c) shall not be suspended.

24           (e) In the judgment of sentence under subdivision (a), the  
25 court may order vehicle immobilization as provided in section 904d.  
26 In the judgment of sentence under subdivision (b) or (c), the court  
27 shall, unless the vehicle is ordered forfeited under section 625n,



1 order vehicle immobilization as provided in section 904d.

2 (f) In the judgment of sentence under subdivision (b) or (c),  
3 the court may impose the sanction permitted under section 625n.

4 (10) A person who is convicted of violating subsection (2) is  
5 guilty of a crime as follows:

6 (a) Except as provided in subdivisions (b) and (c), a  
7 misdemeanor punishable by imprisonment for not more than 93 days or  
8 a fine of not less than \$100.00 or more than \$500.00, or both.

9 (b) If the person operating the motor vehicle violated  
10 subsection (4), a felony punishable by imprisonment for not more  
11 than 5 years or a fine of not less than \$1,500.00 or more than  
12 \$10,000.00, or both.

13 (c) If the person operating the motor vehicle violated  
14 subsection (5), a felony punishable by imprisonment for not more  
15 than 2 years or a fine of not less than \$1,000.00 or more than  
16 \$5,000.00, or both.

17 (11) If a person is convicted of violating subsection (3), all  
18 of the following apply:

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

22 (i) Community service for not more than 360 hours.

23 (ii) Imprisonment for not more than 93 days.

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

25 (b) If the violation occurs within 7 years of 1 prior  
26 conviction, the person shall be sentenced to pay a fine of not less  
27 than \$200.00 or more than \$1,000.00, and 1 or more of the

1 following:

2 (i) Imprisonment for not less than 5 days or more than 1 year.  
3 Not less than 48 hours of the term of imprisonment imposed under  
4 this subparagraph shall be served consecutively.

5 (ii) Community service for not less than 30 days or more than  
6 90 days.

7 (c) If the violation occurs within 10 years of 2 or more prior  
8 convictions, the person is guilty of a felony and shall be  
9 sentenced to pay a fine of not less than \$500.00 or more than  
10 \$5,000.00 and either of the following:

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

13 (ii) Probation with imprisonment in the county jail for not  
14 less than 30 days or more than 1 year and community service for not  
15 less than 60 days or more than 180 days. Not less than 48 hours of  
16 the imprisonment imposed under this subparagraph shall be served  
17 consecutively.

18 (d) A term of imprisonment imposed under subdivision (b) or  
19 (c) shall not be suspended.

20 (e) In the judgment of sentence under subdivision (a), the  
21 court may order vehicle immobilization as provided in section 904d.  
22 In the judgment of sentence under subdivision (b) or (c), the court  
23 shall, unless the vehicle is ordered forfeited under section 625n,  
24 order vehicle immobilization as provided in section 904d.

25 (f) In the judgment of sentence under subdivision (b) or (c),  
26 the court may impose the sanction permitted under section 625n.

27 (12) If a person is convicted of violating subsection (6), all

1 of the following apply:

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

5 (i) Community service for not more than 360 hours.

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

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

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

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

12 (iii) Imprisonment for not more than 93 days.

13 (13) In addition to imposing the sanctions prescribed under  
14 this section, the court may order the person to pay the costs of  
15 the prosecution under the code of criminal procedure, 1927 PA 175,  
16 MCL 760.1 to 777.69.

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

22 (15) If the prosecuting attorney intends to seek an enhanced  
23 sentence under this section or a sanction under section 625n based  
24 upon the defendant having 1 or more prior convictions, the  
25 prosecuting attorney shall include on the complaint and  
26 information, or an amended complaint and information, filed in  
27 district court, circuit court, municipal court, or family division

1 of circuit court, a statement listing the defendant's prior  
2 convictions.

3 (16) If a person is charged with a violation of subsection  
4 (1), (3), (4), (5), (7), or (8) or section 625m, the court shall  
5 not permit the defendant to enter a plea of guilty or nolo  
6 contendere to a charge of violating subsection (6) in exchange for  
7 dismissal of the original charge. This subsection does not prohibit  
8 the court from dismissing the charge upon the prosecuting  
9 attorney's motion.

10 (17) A prior conviction shall be established at sentencing by  
11 1 or more of the following:

12 (a) An abstract of conviction.

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

14 (c) An admission by the defendant.

15 (18) Except as otherwise provided in subsection (20), if a  
16 person is charged with operating a vehicle while under the  
17 influence of a controlled substance or a combination of alcoholic  
18 liquor and a controlled substance in violation of subsection (1) or  
19 a local ordinance substantially corresponding to subsection (1),  
20 the court shall require the jury to return a special verdict in the  
21 form of a written finding or, if the court convicts the person  
22 without a jury or accepts a plea of guilty or nolo contendere, the  
23 court shall make a finding as to whether the person was under the  
24 influence of a controlled substance or a combination of alcoholic  
25 liquor and a controlled substance at the time of the violation.

26 (19) Except as otherwise provided in subsection (20), if a  
27 person is charged with operating a vehicle while his or her ability

1 to operate the vehicle was visibly impaired due to his or her  
2 consumption of a controlled substance or a combination of alcoholic  
3 liquor and a controlled substance in violation of subsection (3) or  
4 a local ordinance substantially corresponding to subsection (3),  
5 the court shall require the jury to return a special verdict in the  
6 form of a written finding or, if the court convicts the person  
7 without a jury or accepts a plea of guilty or nolo contendere, the  
8 court shall make a finding as to whether, due to the consumption of  
9 a controlled substance or a combination of alcoholic liquor and a  
10 controlled substance, the person's ability to operate a motor  
11 vehicle was visibly impaired at the time of the violation.

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

15 (a) Whether the defendant was under the influence of a  
16 controlled substance or a combination of alcoholic liquor and a  
17 controlled substance at the time of the violation.

18 (b) Whether the defendant was visibly impaired due to his or  
19 her consumption of a controlled substance or a combination of  
20 alcoholic liquor and a controlled substance at the time of the  
21 violation.

22 (21) If a jury or court finds under subsection (18), (19), or  
23 (20) that the defendant operated a motor vehicle under the  
24 influence of or while impaired due to the consumption of a  
25 controlled substance or a combination of a controlled substance and  
26 an alcoholic liquor, the court shall do both of the following:

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

1 (b) On a form or forms prescribed by the state court  
2 administrator, forward to the department of state police a record  
3 that specifies the penalties imposed by the court, including any  
4 term of imprisonment, and any sanction imposed under section 625n  
5 or 904d.

6 (22) Except as otherwise provided by law, a record described  
7 in subsection (21)(b) is a public record and the department of  
8 state police shall retain the information contained on that record  
9 for not less than 7 years.

10 (23) In a prosecution for a violation of subsection (6), the  
11 defendant bears the burden of proving that the consumption of  
12 alcoholic liquor was a part of a generally recognized religious  
13 service or ceremony by a preponderance of the evidence.

14 (24) The court may order as a condition of probation that a  
15 person convicted of violating subsection (1) or (8), or a local  
16 ordinance substantially corresponding to subsection (1) or (8),  
17 shall not operate a motor vehicle unless that vehicle is equipped  
18 with an ignition interlock device approved, certified, and  
19 installed as required under sections 625k and 625l.

20 (25) Subject to subsection (27), as used in this section,  
21 "prior conviction" means a conviction for any of the following,  
22 whether under a law of this state, a local ordinance substantially  
23 corresponding to a law of this state, or a law of another state  
24 substantially corresponding to a law of this state:

25 (a) Except as provided in subsection (26), a violation or  
26 attempted violation of any of the following:

27 (i) This section, except a violation of section 625(2), or a

1 violation of any prior enactment of this section in which the  
2 defendant operated a vehicle while under the influence of  
3 intoxicating or alcoholic liquor or a controlled substance, or a  
4 combination of intoxicating or alcoholic liquor and a controlled  
5 substance, or while visibly impaired, or with an unlawful bodily  
6 alcohol content.

7 (ii) Section 625m.

8 (iii) Former section 625b.

9 (b) Negligent homicide, manslaughter, or murder resulting from  
10 the operation of a vehicle or an attempt to commit any of those  
11 crimes.

12 (26) Except for purposes of the enhancement described in  
13 subsection (12)(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  
16 corresponding to subsection (6) may be used as a prior conviction.

17 (27) If 2 or more convictions described in subsection (25) are  
18 convictions for violations arising out of the same transaction,  
19 only 1 conviction shall be used to determine whether the person has  
20 a prior conviction.

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

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

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 officer  
4 has reasonable cause to believe the person was operating the  
5 vehicle in violation of section 625 or a local ordinance  
6 substantially corresponding to section 625.

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

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



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

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

9 (ii) As evidence of the defendant's breath alcohol content, if  
10 offered by the defendant to rebut testimony elicited on cross-  
11 examination of a defense witness that the defendant's breath  
12 alcohol content was higher at the time of the charged offense than  
13 when a chemical test was administered under subsection (6).

14 (iii) As evidence of the defendant's breath alcohol content, if  
15 offered by the prosecution to rebut testimony elicited on cross-  
16 examination of a prosecution witness that the defendant's breath  
17 alcohol content was lower at the time of the charged offense than  
18 when a chemical test was administered under subsection (6).

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

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

26 (3) A peace officer shall use the results of a preliminary  
27 chemical breath analysis conducted pursuant to this section to

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

8 (4) A person who was operating a commercial motor vehicle and  
9 who is requested to submit to a preliminary chemical breath  
10 analysis under this section shall be advised that refusing a peace  
11 officer's request to take a test described in this section is a  
12 misdemeanor punishable by imprisonment for not more than 93 days or  
13 a fine of not more than \$100.00, or both, and will result in the  
14 issuance of a 24-hour out-of-service order.

15 (5) A person who was operating a commercial motor vehicle and  
16 who refuses to submit to a preliminary chemical breath analysis  
17 upon a peace officer's lawful request is guilty of a misdemeanor  
18 punishable by imprisonment for not more than 93 days or a fine of  
19 not more than \$100.00, or both.

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

23 (a) The amount of alcohol or presence of a controlled  
24 substance or both in a driver's blood or urine or the amount of  
25 alcohol in a person's breath at the time alleged as shown by  
26 chemical analysis of the person's blood, urine, or breath is  
27 admissible into evidence in any civil or criminal proceeding and is

1 presumed to be the same as at the time the person operated the  
2 vehicle.

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

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

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

13 (iii) He or she is responsible for obtaining a chemical analysis  
14 of a test sample obtained at his or her own request.

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

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

24 (c) A sample or specimen of urine or breath shall be taken and  
25 collected in a reasonable manner. Only a licensed physician, or an  
26 individual operating under the delegation of a licensed physician  
27 under section 16215 of the public health code, 1978 PA 368, MCL

1 333.16215, qualified to withdraw blood and acting in a medical  
2 environment, may withdraw blood at a peace officer's request to  
3 determine the amount of alcohol or presence of a controlled  
4 substance or both in the person's blood, as provided in this  
5 subsection. Liability for a crime or civil damages predicated on  
6 the act of withdrawing or analyzing blood and related procedures  
7 does not attach to a licensed physician or individual operating  
8 under the delegation of a licensed physician who withdraws or  
9 analyzes blood or assists in the withdrawal or analysis in  
10 accordance with this act unless the withdrawal or analysis is  
11 performed in a negligent manner.

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

25 (e) If, after an accident, the driver of a vehicle involved in  
26 the accident is transported to a medical facility and a sample of  
27 the driver's blood is withdrawn at that time for medical treatment,

1 the results of a chemical analysis of that sample are admissible in  
2 any civil or criminal proceeding to show the amount of alcohol or  
3 presence of a controlled substance or both in the person's blood at  
4 the time alleged, regardless of whether the person had been offered  
5 or had refused a chemical test. The medical facility or person  
6 performing the chemical analysis shall disclose the results of the  
7 analysis to a prosecuting attorney who requests the results for use  
8 in a criminal prosecution as provided in this subdivision. A  
9 medical facility or person disclosing information in compliance  
10 with this subsection is not civilly or criminally liable for making  
11 the disclosure.

12 (f) If, after an accident, the driver of a vehicle involved in  
13 the accident is deceased, a sample of the decedent's blood shall be  
14 withdrawn in a manner directed by the medical examiner to determine  
15 the amount of alcohol or the presence of a controlled substance, or  
16 both, in the decedent's blood. The medical examiner shall give the  
17 results of the chemical analysis of the sample to the law  
18 enforcement agency investigating the accident and that agency shall  
19 forward the results to the department of state police.

20 (g) The department of state police shall promulgate uniform  
21 rules in compliance with the administrative procedures act of 1969,  
22 1969 PA 306, MCL 24.201 to 24.328, for the administration of  
23 chemical tests for the purposes of this section. An instrument used  
24 for a preliminary chemical breath analysis may be used for a  
25 chemical test described in this subsection if approved under rules  
26 promulgated by the department of state police.

27 (7) The provisions of subsection (6) relating to chemical

1 testing do not limit the introduction of any other admissible  
2 evidence bearing upon any of the following questions:

3 (a) Whether the person was impaired by, or under the influence  
4 of, alcoholic liquor, a controlled substance, or a combination of  
5 alcoholic liquor and a controlled substance.

6 (b) Whether the person had an alcohol content of 0.08 grams or  
7 more per 100 milliliters of blood, per 210 liters of breath, or per  
8 67 milliliters of urine. ~~or, beginning October 1, 2013, the person~~  
9 ~~had an alcohol content of 0.10 grams or more per 100 milliliters of~~  
10 ~~blood, per 210 liters of breath, or per 67 milliliters of urine.~~

11 (c) If the person is less than 21 years of age, whether the  
12 person had any bodily alcohol content within his or her body. As  
13 used in this subdivision, "any bodily alcohol content" means either  
14 of the following:

15 (i) An alcohol content of 0.02 grams or more but less than 0.08  
16 grams per 100 milliliters of blood, per 210 liters of breath, or  
17 per 67 milliliters of urine. ~~or, beginning October 1, 2013, the~~  
18 ~~person had an alcohol content of 0.02 grams or more but less than~~  
19 ~~0.10 grams or more per 100 milliliters of blood, per 210 liters of~~  
20 ~~breath, or per 67 milliliters of urine.~~

21 (ii) Any presence of alcohol within a person's body resulting  
22 from the consumption of alcoholic liquor, other than the  
23 consumption of alcoholic liquor as a part of a generally recognized  
24 religious service or ceremony.

25 (8) If a chemical test described in subsection (6) is  
26 administered, the test results shall be made available to the  
27 person charged or the person's attorney upon written request to the

1 prosecution, with a copy of the request filed with the court. The  
2 prosecution shall furnish the results at least 2 days before the  
3 day of the trial. The prosecution shall offer the test results as  
4 evidence in that trial. Failure to fully comply with the request  
5 bars the admission of the results into evidence by the prosecution.

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

12 Sec. 625g. (1) If a person refuses a chemical test offered  
13 pursuant to section 625a(6), or submits to the chemical test or a  
14 chemical test is performed pursuant to a court order and the test  
15 reveals an unlawful alcohol content, the peace officer who  
16 requested the person to submit to the test shall do all of the  
17 following:

18 (a) On behalf of the secretary of state, immediately  
19 confiscate the person's license or permit to operate a motor  
20 vehicle and, if the person is otherwise eligible for a license or  
21 permit, issue a temporary license or permit to the person. The  
22 temporary license or permit shall be on a form provided by the  
23 secretary of state.

24 (b) Except as provided in subsection (2), immediately do all  
25 of the following:

26 (i) Forward a copy of the written report of the person's  
27 refusal to submit to a chemical test required under section 625d to

1 the secretary of state.

2 (ii) Notify the secretary of state by means of the law  
3 enforcement information network that a temporary license or permit  
4 was issued to the person.

5 (iii) Destroy the person's driver's license or permit.

6 (2) If a person submits to a chemical test offered pursuant to  
7 section 625a(6) that requires an analysis of blood or urine and a  
8 report of the results of that chemical test is not immediately  
9 available, the peace officer who requested the person to submit to  
10 the test shall comply with subsection (1)(a) pending receipt of the  
11 test report. If the report reveals an unlawful alcohol content, the  
12 peace officer who requested the person to submit to the test shall  
13 immediately comply with subsection (1)(b). If the report does not  
14 reveal an unlawful alcohol content, the peace officer who requested  
15 the person to submit to the test shall immediately notify the  
16 person of the test results and immediately return the person's  
17 license or permit by first-class mail to the address given at the  
18 time of arrest.

19 (3) A temporary license or permit issued under this section is  
20 valid for 1 of the following time periods:

21 (a) If the case is not prosecuted, for 90 days after issuance  
22 or until the person's license or permit is suspended pursuant to  
23 section 625f, whichever occurs earlier. The prosecuting attorney  
24 shall notify the secretary of state if a case referred to the  
25 prosecuting attorney is not prosecuted. The arresting law  
26 enforcement agency shall notify the secretary of state if a case is  
27 not referred to the prosecuting attorney for prosecution.



1 (b) If the case is prosecuted, until the criminal charges  
2 against the person are dismissed, the person is acquitted of those  
3 charges, or the person's license or permit is suspended,  
4 restricted, or revoked.

5 (4) As used in this section, "unlawful alcohol content" means  
6 any of the following, as applicable:

7 (a) If the person tested is less than 21 years of age, 0.02  
8 grams or more of alcohol per 100 milliliters of blood, per 210  
9 liters of breath, or per 67 milliliters of urine.

10 (b) If the person tested was operating a commercial motor  
11 vehicle within this state, 0.04 grams or more of alcohol per 100  
12 milliliters of blood, per 210 liters of breath, or per 67  
13 milliliters of urine.

14 (c) If the person tested is not a person described in  
15 subdivision (a) or (b), 0.08 grams or more of alcohol per 100  
16 milliliters of blood, per 210 liters of breath, or per 67  
17 milliliters of urine. ~~—, or, beginning October 1, 2013, 0.10 grams~~  
18 ~~or more of alcohol per 100 milliliters of blood, per 210 liters of~~  
19 ~~breath, or per 67 milliliters of urine.~~

20 Sec. 625m. (1) A person, whether licensed or not, who has an  
21 alcohol content of 0.04 grams or more but less than 0.08 grams per  
22 100 milliliters of blood, per 210 liters of breath, or per 67  
23 milliliters of urine ~~—, or, beginning October 1, 2013, an alcohol~~  
24 ~~content of 0.04 grams or more but less than 0.10 grams per 100~~  
25 ~~milliliters of blood, per 210 liters of breath, or per 67~~  
26 ~~milliliters of urine,~~ shall not operate a commercial motor vehicle  
27 within this state.

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

3           (a) The peace officer has reasonable cause to believe that the  
4 person was, at the time of an accident, the driver of a commercial  
5 motor vehicle involved in the accident and was operating the  
6 vehicle in violation of this section or a local ordinance  
7 substantially corresponding to this section.

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

14           (3) Except as otherwise provided in subsections (4) and (5), a  
15 person who is convicted of a violation of this section or a local  
16 ordinance substantially corresponding to this section is guilty of  
17 a misdemeanor punishable by imprisonment for not more than 93 days  
18 or a fine of not more than \$300.00, or both, together with costs of  
19 the prosecution.

20           (4) A person who violates this section or a local ordinance  
21 substantially corresponding to this section within 7 years of 1  
22 prior conviction may be sentenced to imprisonment for not more than  
23 1 year or a fine of not more than \$1,000.00, or both.

24           (5) A person who violates this section or a local ordinance  
25 substantially corresponding to this section within 10 years of 2 or  
26 more prior convictions is guilty of a felony and shall be sentenced  
27 to pay a fine of not less than \$500.00 or more than \$5,000.00 and

1 to either of the following:

2 (a) Imprisonment under the jurisdiction of the department of  
3 corrections for not less than 1 year or more than 5 years.

4 (b) Probation with imprisonment in the county jail for not  
5 less than 30 days or more than 1 year and community service for not  
6 less than 60 days or more than 180 days. Not less than 48 hours of  
7 the imprisonment imposed under this subdivision shall be served  
8 consecutively.

9 (6) A term of imprisonment imposed under subsection (4) or (5)  
10 shall not be suspended.

11 (7) Subject to subsection (9), as used in this section, "prior  
12 conviction" means a conviction for any of the following, whether  
13 under a law of this state, a local ordinance substantially  
14 corresponding to a law of this state, or a law of another state  
15 substantially corresponding to a law of this state:

16 (a) Except as provided in subsection (8), a violation or  
17 attempted violation of any of the following:

18 (i) This section.

19 (ii) Section 625, except a violation of section 625(2), or a  
20 violation of any prior enactment of section 625 in which the  
21 defendant operated a vehicle while under the influence of  
22 intoxicating or alcoholic liquor or a controlled substance, or a  
23 combination of intoxicating or alcoholic liquor and a controlled  
24 substance, or while visibly impaired, or with an unlawful bodily  
25 alcohol content.

26 (iii) Former section 625b.

27 (b) Negligent homicide, manslaughter, or murder resulting from

1 the operation of a vehicle or an attempt to commit any of those  
2 crimes.

3 (8) Only 1 violation or attempted violation of section 625(6),  
4 a local ordinance substantially corresponding to section 625(6), or  
5 a law of another state substantially corresponding to section  
6 625(6) may be used as a prior conviction.

7 (9) If 2 or more convictions described in subsection (7) are  
8 convictions for violations arising out of the same transaction,  
9 only 1 conviction shall be used to determine whether the person has  
10 a prior conviction.