

**SUBSTITUTE FOR
HOUSE BILL NO. 4567**

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending section 625 (MCL 257.625), as amended by 2013 PA 23.

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 any of the following:

7 (a) The person is under the influence of alcoholic liquor, a
8 controlled substance, or other intoxicating substance or a
9 combination of alcoholic liquor, a controlled substance, or other
10 intoxicating substance.

11 (b) The person has an alcohol content of 0.08 grams or more

1 per 100 milliliters of blood, per 210 liters of breath, or per 67
2 milliliters of urine, or, beginning October 1, 2018, the person has
3 an alcohol content of 0.10 grams or more per 100 milliliters of
4 blood, per 210 liters of breath, or per 67 milliliters of urine.

5 (c) The person has an alcohol content of 0.17 grams or more
6 per 100 milliliters of blood, per 210 liters of breath, or per 67
7 milliliters of urine.

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

14 (a) The person is under the influence of alcoholic liquor, a
15 controlled substance, other intoxicating substance, or a
16 combination of alcoholic liquor, a controlled substance, or other
17 intoxicating 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, 2018, the person has
21 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 other intoxicating substance, or a
26 combination of alcoholic liquor, a controlled substance, or other
27 intoxicating substance.

1 (3) A person, whether licensed or not, shall not operate a
2 vehicle upon a highway or other place open to the general public or
3 generally accessible to motor vehicles, including an area
4 designated for the parking of vehicles, within this state when, due
5 to the consumption of alcoholic liquor, a controlled substance, or
6 other intoxicating substance, or a combination of alcoholic liquor,
7 a controlled substance, or other intoxicating substance, the
8 person's ability to operate the vehicle is visibly impaired. If a
9 person is charged with violating subsection (1), a finding of
10 guilty under this subsection may be rendered.

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

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

22 **(B) IF THE VIOLATION OCCURS WHILE THE PERSON HAS AN ALCOHOL**
23 **CONTENT OF 0.17 GRAMS OR MORE PER 100 MILLILITERS OF BLOOD, PER 210**
24 **LITERS OF BREATH, OR PER 67 MILLILITERS OF URINE, AND WITHIN 7**
25 **YEARS OF A PRIOR CONVICTION, THE PERSON IS GUILTY OF A FELONY**
26 **PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 20 YEARS OR A FINE OF**
27 **NOT LESS THAN \$2,500.00 OR MORE THAN \$10,000.00, OR BOTH. THE**

1 JUDGMENT OF SENTENCE MAY IMPOSE THE SANCTION PERMITTED UNDER
2 SECTION 625N. IF THE VEHICLE IS NOT ORDERED FORFEITED UNDER SECTION
3 625N, THE COURT SHALL ORDER VEHICLE IMMOBILIZATION UNDER SECTION
4 904D IN THE JUDGMENT OF SENTENCE.

5 (C) ~~(b)~~—If, at the time of the violation, the person is
6 operating a motor vehicle in a manner proscribed under section 653a
7 and causes the death of a police officer, firefighter, or other
8 emergency response personnel, the person is guilty of a felony
9 punishable by imprisonment for not more than 20 years or a fine of
10 not less than \$2,500.00 or more than \$10,000.00, or both. This
11 subdivision applies regardless of whether the person is charged
12 with the violation of section 653a. The judgment of sentence may
13 impose the sanction permitted under section 625n. If the vehicle is
14 not ordered forfeited under section 625n, the court shall order
15 vehicle immobilization under section 904d in the judgment of
16 sentence.

17 (5) A person, whether licensed or not, who operates a motor
18 vehicle in violation of subsection (1), (3), or (8) and by the
19 operation of that motor vehicle causes a serious impairment of a
20 body function of another person is guilty of a **CRIME AS FOLLOWS:**

21 (A) **EXCEPT AS PROVIDED IN SUBDIVISION (B), THE PERSON IS**
22 **GUILTY OF A** felony punishable by imprisonment for not more than 5
23 years or a fine of not less than \$1,000.00 or more than \$5,000.00,
24 or both. The judgment of sentence may impose the sanction permitted
25 under section 625n. If the vehicle is not ordered forfeited under
26 section 625n, the court shall order vehicle immobilization under
27 section 904d in the judgment of sentence.

1 (B) IF THE VIOLATION OCCURS WHILE THE PERSON HAS AN ALCOHOL
2 CONTENT OF 0.17 GRAMS OR MORE PER 100 MILLILITERS OF BLOOD, PER 210
3 LITERS OF BREATH, OR PER 67 MILLILITERS OF URINE, AND WITHIN 7
4 YEARS OF A PRIOR CONVICTION, THE PERSON IS GUILTY OF A FELONY
5 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A FINE OF
6 NOT LESS THAN \$1,000.00 OR MORE THAN \$5,000.00, OR BOTH. THE
7 JUDGMENT OF SENTENCE MAY IMPOSE THE SANCTION PERMITTED UNDER
8 SECTION 625N. IF THE VEHICLE IS NOT ORDERED FORFEITED UNDER SECTION
9 625N, THE COURT SHALL ORDER VEHICLE IMMOBILIZATION UNDER SECTION
10 904D IN THE JUDGMENT OF SENTENCE.

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

18 (a) An alcohol content of 0.02 grams or more but less than
19 0.08 grams per 100 milliliters of blood, per 210 liters of breath,
20 or per 67 milliliters of urine, or, beginning October 1, 2018, the
21 person has an alcohol content of 0.02 grams or more but less than
22 0.10 grams per 100 milliliters of blood, per 210 liters of breath,
23 or per 67 milliliters of urine.

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

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

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

8 (i) Except as provided in subparagraph (ii), a person who
9 violates this subdivision is guilty of a misdemeanor and shall be
10 sentenced to pay a fine of not less than \$200.00 or more than
11 \$1,000.00 and to 1 or more of the following:

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

15 (B) Community service for not less than 30 days or more than
16 90 days.

17 (ii) If the violation occurs within 7 years of a prior
18 conviction or after 2 or more prior convictions, regardless of the
19 number of years that have elapsed since any prior conviction, a
20 person who violates this subdivision is guilty of a felony and
21 shall be sentenced to pay a fine of not less than \$500.00 or more
22 than \$5,000.00 and to either of the following:

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

25 (B) Probation with imprisonment in the county jail for not
26 less than 30 days or more than 1 year and community service for not
27 less than 60 days or more than 180 days. Not less than 48 hours of

1 this imprisonment shall be served consecutively. This term of
2 imprisonment shall not be suspended.

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

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

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

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

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

13 (ii) If the violation occurs within 7 years of a prior
14 conviction or after 2 or more prior convictions, regardless of the
15 number of years that have elapsed since any prior conviction, a
16 person who violates this subdivision shall be sentenced to pay a
17 fine of not less than \$200.00 or more than \$1,000.00 and to 1 or
18 more of the following:

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

22 (B) Community service for not less than 30 days or more than
23 90 days.

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

1 (b)(ii), the court shall, unless the vehicle is ordered forfeited
2 under section 625n, order vehicle immobilization as provided in
3 section 904d.

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

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

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

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

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

26 (ii) Imprisonment for not more than 93 days, or, if the person
27 is convicted of violating subsection (1)(c), imprisonment for not

1 more than 180 days.

2 (iii) A fine of not less than \$100.00 or more than \$500.00, or,
3 if the person is guilty of violating subsection (1)(c), a fine of
4 not less than \$200.00 or more than \$700.00.

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

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

11 (ii) Community service for not less than 30 days or more than
12 90 days.

13 (c) If the violation occurs after 2 or more prior convictions,
14 regardless of the number of years that have elapsed since any prior
15 conviction, the person is guilty of a felony and shall be sentenced
16 to pay a fine of not less than \$500.00 or more than \$5,000.00 and
17 to either of the following:

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

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

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

27 (e) In the judgment of sentence under subdivision (a), the

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

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

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

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

12 (b) If the person operating the motor vehicle violated
13 subsection (4), a felony punishable by imprisonment for not more
14 than 5 years or a fine of not less than \$1,500.00 or more than
15 \$10,000.00, or both.

16 (c) If the person operating the motor vehicle violated
17 subsection (5), a felony punishable by imprisonment for not more
18 than 2 years or a fine of not less than \$1,000.00 or more than
19 \$5,000.00, or both.

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

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

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

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

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

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

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

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

10 (c) If the violation occurs after 2 or more prior convictions,
11 regardless of the number of years that have elapsed since any prior
12 conviction, the person is guilty of a felony and shall be sentenced
13 to pay a fine of not less than \$500.00 or more than \$5,000.00 and
14 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 (12) If a person is convicted of violating subsection (6), all
5 of the following apply:

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

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

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

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

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

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

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

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

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

26 (15) If the prosecuting attorney intends to seek an enhanced
27 sentence under this section or a sanction under section 625n based

1 upon the defendant having 1 or more prior convictions, the
2 prosecuting attorney shall include on the complaint and
3 information, or an amended complaint and information, filed in
4 district court, circuit court, municipal court, or family division
5 of circuit court, a statement listing the defendant's prior
6 convictions.

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

14 (17) A prior conviction shall be established at sentencing by
15 1 or more of the following:

16 (a) A copy of a judgment of conviction.

17 (b) An abstract of conviction.

18 (c) A transcript of a prior trial or a plea-taking or
19 sentencing proceeding.

20 (d) A copy of a court register of actions.

21 (e) A copy of the defendant's driving record.

22 (f) Information contained in a presentence report.

23 (g) An admission by the defendant.

24 (18) Except as otherwise provided in subsection (20), if a
25 person is charged with operating a vehicle while under the
26 influence of a controlled substance or other intoxicating substance
27 or a combination of alcoholic liquor, a controlled substance, or

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

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

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

1 (a) Whether the defendant was under the influence of a
2 controlled substance or a combination of alcoholic liquor, a
3 controlled substance, or other intoxicating substance at the time
4 of the violation.

5 (b) Whether the defendant was visibly impaired due to his or
6 her consumption of a controlled substance or a combination of
7 alcoholic liquor, a controlled substance, or other intoxicating
8 substance at the time of the violation.

9 (21) If a jury or court finds under subsection (18), (19), or
10 (20) that the defendant operated a motor vehicle under the
11 influence of or while impaired due to the consumption of a
12 controlled substance or a combination of a controlled substance, an
13 alcoholic liquor, or other intoxicating substance, the court shall
14 do both of the following:

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

16 (b) On a form or forms prescribed by the state court
17 administrator, forward to the department of state police a record
18 that specifies the penalties imposed by the court, including any
19 term of imprisonment, and any sanction imposed under section 625n
20 or 904d.

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

25 (23) In a prosecution for a violation of subsection (6), the
26 defendant bears the burden of proving that the consumption of
27 alcoholic liquor was a part of a generally recognized religious

1 service or ceremony by a preponderance of the evidence.

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

8 (25) As used in this section:

9 (a) "Intoxicating substance" means any substance, preparation,
10 or a combination of substances and preparations other than alcohol
11 or a controlled substance, that is either of the following:

12 (i) Recognized as a drug in any of the following publications
13 or their supplements:

14 (A) The official United States pharmacopoeia.

15 (B) The official homeopathic pharmacopoeia of the United
16 States.

17 (C) The official national formulary.

18 (ii) A substance, other than food, taken into a person's body,
19 including, but not limited to, vapors or fumes, that is used in a
20 manner or for a purpose for which it was not intended, and that may
21 result in a condition of intoxication.

22 (b) "Prior conviction" means a conviction for any of the
23 following, whether under a law of this state, a local ordinance
24 substantially corresponding to a law of this state, a law of the
25 United States substantially corresponding to a law of this state,
26 or a law of another state substantially corresponding to a law of
27 this state, subject to subsection (27):

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

(A) This section, except a violation of subsection (2), or a violation of any prior enactment of this section in which the defendant operated a vehicle while under the influence of intoxicating or alcoholic liquor or a controlled substance, or a combination of intoxicating or alcoholic liquor and a controlled substance, or while visibly impaired, or with an unlawful bodily alcohol content.

(B) Section 625m.

(C) Former section 625b.

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

(iii) Section 601d or 626(3) or (4).

(26) Except for purposes of the enhancement described in subsection (12)(b), only 1 violation or attempted violation of subsection (6), a local ordinance substantially corresponding to subsection (6), or a law of another state substantially corresponding to subsection (6) may be used as a prior conviction.

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

Enacting section 1. This amendatory act takes effect <<90 days after the date it is enacted into law.>>