

SUBSTITUTE FOR  
HOUSE BILL NO. 5385

A bill to amend 1949 PA 300, entitled  
"Michigan vehicle code,"  
by amending sections 320a, 625a, 625c, 625d, and 625g (MCL  
257.320a, 257.625a, 257.625c, 257.625d, and 257.625g), section  
320a as amended by 2012 PA 592, sections 625a and 625g as amended  
by 2013 PA 23, section 625c as amended by 2008 PA 463, and  
section 625d as amended by 1994 PA 211, and by adding section  
43a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 43A. "PRELIMINARY ROADSIDE ANALYSIS" MEANS THE ON-SITE  
2        TAKING OF A PRELIMINARY BREATH TEST FROM THE BREATH OF A PERSON  
3        OR THE PERFORMANCE AND OBSERVATION OF A FIELD SOBRIETY TEST FOR  
4        THE PURPOSE OF DETECTING THE PRESENCE OF ANY OF THE FOLLOWING  
5        WITHIN THE PERSON'S BODY:

(A) ALCOHOLIC LIQUOR.

(B) A CONTROLLED SUBSTANCE, AS THAT TERM IS DEFINED IN SECTION 7104 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7104.

(C) ANY OTHER INTOXICATING SUBSTANCE, AS THAT TERM IS DEFINED IN SECTION 625.

Sec. 320a. (1) Within 5 days after receipt of a properly prepared abstract from a court of this state or another state, the secretary of state shall record the date of conviction, civil infraction determination, or probate court disposition, and the number of points for each, based on the following formula, except as otherwise provided in this section and section 629c:

(a) Manslaughter, negligent homicide, or a felony resulting from the operation of a motor vehicle, ORV, or snowmobile.....6 points

(b) A violation of section 601b(2) or (3), 601c(1) or (2), or 653a(3) or (4) or, beginning October 31, 2010, a violation of section 601d.....6 points

(c) A violation of section 625(1), (4), (5), (7), or (8), section 81134 or 82127(1) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 and 324.82127, or a law or ordinance substantially corresponding to section 625(1), (4), (5), (7), or (8), or section 81134 or 82127(1) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 and 324.82127.....6 points

(d) Failing to stop and disclose identity

1 at the scene of an accident when required by law.....6 points  
 2 (e) Operating a motor vehicle in violation  
 3 of section 626.....6 points  
 4 (f) Fleeing or eluding an officer.....6 points  
 5 (g) A violation of section 627(9) pertaining  
 6 to speed in a work zone described in that section  
 7 by exceeding the lawful maximum by more than  
 8 15 miles per hour.....5 points  
 9 (h) A violation of any law other than the  
 10 law described in subdivision (g) or ordinance  
 11 pertaining to speed by exceeding the lawful  
 12 maximum by more than 15 miles per hour.....4 points  
 13 (i) A violation of section 625(3) or (6),  
 14 section 81135 or 82127(3) of the natural  
 15 resources and environmental protection act,  
 16 1994 PA 451, MCL 324.81135 and 324.82127,  
 17 or a law or ordinance substantially corresponding  
 18 to section 625(3) or (6) or section 81135  
 19 or 82127(3) of the natural resources and  
 20 environmental protection act, 1994 PA 451,  
 21 MCL 324.81135 and 324.82127.....4 points  
 22 (j) A violation of section 626a or a law  
 23 or ordinance substantially corresponding to  
 24 section 626a.....4 points  
 25 (k) A violation of section 653a(2).....4 points  
 26 (l) A violation of section 627(9) pertaining  
 27 to speed in a work zone described in that section  
 28 by exceeding the lawful maximum by more than 10  
 29 but not more than 15 miles per hour.....4 points  
 30 (m) Beginning October 31, 2010, a  
 31 moving violation resulting in an at-fault

1 collision with another vehicle, a person,  
 2 or any other object.....4 points  
 3 (n) A violation of any law other than the  
 4 law described in subdivision (l) or ordinance  
 5 pertaining to speed by exceeding the lawful  
 6 maximum by more than 10 but not more than 15  
 7 miles per hour or careless driving in violation  
 8 of section 626b or a law or ordinance substantially  
 9 corresponding to section 626b.....3 points  
 10 (o) A violation of section 627(9) pertaining  
 11 to speed in a work zone described in that section  
 12 by exceeding the lawful maximum by 10 miles per  
 13 hour or less.....3 points  
 14 (p) A violation of any law other than the law  
 15 described in subdivision (o) or ordinance  
 16 pertaining to speed by exceeding the lawful maximum  
 17 by 10 miles per hour or less.....2 points  
 18 (q) Disobeying a traffic signal or stop sign,  
 19 or improper passing.....3 points  
 20 (r) A violation of section 624a, 624b, or  
 21 a law or ordinance substantially corresponding to  
 22 section 624a or 624b.....2 points  
 23 (s) A violation of section 310e(4) or (6) or  
 24 a law or ordinance substantially corresponding to  
 25 section 310e(4) or (6).....2 points  
 26 (t) All other moving violations pertaining to  
 27 the operation of motor vehicles reported under  
 28 this section.....2 points  
 29 (u) A refusal by a person ~~less than 21 years of~~  
 30 ~~age to submit to a preliminary breath test~~ **ROADSIDE ANALYSIS**  
 31 required by a peace officer under section 625a.....2 points

1 (2) Points shall not be entered for a violation of section  
2 310e(14), 311, 602b(1), 602c, 625m, 658, 710d, 717, 719, 719a, or  
3 723.

4 (3) Points shall not be entered for bond forfeitures.

5 (4) Points shall not be entered for overweight loads or for  
6 defective equipment.

7 (5) If more than 1 conviction, civil infraction  
8 determination, or probate court disposition results from the same  
9 incident, points shall be entered only for the violation that  
10 receives the highest number of points under this section.

11 (6) If a person has accumulated 9 points as provided in this  
12 section, the secretary of state may call the person in for an  
13 interview as to the person's driving ability and record after due  
14 notice as to time and place of the interview. If the person fails  
15 to appear as provided in this subsection, the secretary of state  
16 shall add 3 points to the person's record.

17 (7) If a person violates a speed restriction established by  
18 an executive order issued during a state of energy emergency as  
19 provided by 1982 PA 191, MCL 10.81 to 10.89, the secretary of  
20 state shall enter points for the violation pursuant to subsection  
21 (1).

22 (8) The secretary of state shall enter 6 points upon the  
23 record of a person whose license is suspended or denied pursuant  
24 to section 625f. However, if a conviction, civil infraction  
25 determination, or probate court disposition results from the same  
26 incident, additional points for that offense shall not be

1 entered.

2 (9) If a Michigan driver commits a violation in another  
3 state that would be a civil infraction if committed in Michigan,  
4 and a conviction results solely because of the failure of the  
5 Michigan driver to appear in that state to contest the violation,  
6 upon receipt of the abstract of conviction by the secretary of  
7 state, the violation shall be noted on the driver's record, but  
8 no points shall be assessed against his or her driver's license.

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

11 (a) The peace officer has reasonable cause to believe the  
12 person was, at the time of an accident in this state, the  
13 operator of a vehicle involved in the accident and was operating  
14 the vehicle in violation of section 625 or a local ordinance  
15 substantially corresponding to section 625.

16 (b) The person is found in the driver's seat of a vehicle  
17 parked or stopped on a highway or street within this state if any  
18 part of the vehicle intrudes into the roadway and the peace  
19 officer has reasonable cause to believe the person was operating  
20 the vehicle in violation of section 625 or a local ordinance  
21 substantially corresponding to section 625.

22 (2) A peace officer who has reasonable cause to believe that  
23 a person was operating a vehicle upon a public highway or other  
24 place open to the public or generally accessible to motor  
25 vehicles, including an area designated for the parking of  
26 vehicles, within this state and that the person by the  
27 consumption of alcoholic liquor, **A CONTROLLED SUBSTANCE, OR OTHER**

1 **INTOXICATING SUBSTANCE OR A COMBINATION OF THEM** may have affected  
2 his or her ability to operate a vehicle, or reasonable cause to  
3 believe that a person was operating a commercial motor vehicle  
4 within the state while the person's blood, breath, or urine  
5 contained any measurable amount of alcohol, **A CONTROLLED**  
6 **SUBSTANCE, OR ANY OTHER INTOXICATING SUBSTANCE** or while the  
7 person had any detectable presence of alcoholic liquor, **A**  
8 **CONTROLLED SUBSTANCE OR ANY OTHER INTOXICATING SUBSTANCE, OR ANY**  
9 **COMBINATION OF THEM**, or reasonable cause to believe that a person  
10 who is less than 21 years of age was operating a vehicle upon a  
11 public highway or other place open to the public or generally  
12 accessible to motor vehicles, including an area designated for  
13 the parking of vehicles, within this state while the person had  
14 any bodily alcohol content as that term is defined in section  
15 625(6), may require the person to submit to a preliminary  
16 ~~chemical-breath~~ **ROADSIDE** analysis. The following provisions apply  
17 with respect to a preliminary ~~chemical-breath~~ **ROADSIDE** analysis  
18 administered under this subsection:

19       **(A) BEFORE REQUESTING A PERSON TO SUBMIT TO A PRELIMINARY**  
20 **ROADSIDE ANALYSIS, A PEACE OFFICER SHALL ADVISE THE PERSON THAT A**  
21 **PERSON WHO REFUSES A REQUEST TO SUBMIT TO A PRELIMINARY ROADSIDE**  
22 **ANALYSIS IS RESPONSIBLE FOR A CIVIL INFRACTION, MAY BE ORDERED TO**  
23 **PAY A FINE OF NOT MORE THAN \$100.00, AND WILL BE ASSESSED 2**  
24 **POINTS ON HIS OR HER DRIVING RECORD.**

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

1       (C) ~~(b)~~ The results of a preliminary ~~chemical breath~~  
2 **ROADSIDE** analysis are admissible in a criminal prosecution for a  
3 crime enumerated in section 625c(1) or in an administrative  
4 hearing for 1 or more of 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  
7 not 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,  
10 if 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  
13 than when a chemical test was administered under subsection (6).

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

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

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



1           (3) A peace officer shall use the results of a preliminary  
2 ~~chemical-breath~~ **ROADSIDE** analysis conducted ~~pursuant to~~ **UNDER**  
3 this section to determine whether to order a person out-of-  
4 service under section 319d. A peace officer shall order out-of-  
5 service as required under section 319d a person who was operating  
6 a commercial motor vehicle and who refuses to submit to a  
7 preliminary ~~chemical-breath~~ **ROADSIDE** analysis as provided in this  
8 section. This section does not limit use of other competent  
9 evidence by the peace officer to determine whether to order a  
10 person out-of-service 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 **ROADSIDE** analysis under this section shall be advised that  
14 refusing a peace officer's request to take a test described in  
15 this section is a misdemeanor punishable by imprisonment for not  
16 more than 93 days or a fine of not more than \$100.00, or both,  
17 and will result in the issuance of a 24-hour out-of-service  
18 order.

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

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

27           (a) The amount of alcohol or presence of a controlled

1 substance ~~or both~~ **OR OTHER INTOXICATING SUBSTANCE** in a driver's  
2 blood or urine or the amount of alcohol in a person's breath at  
3 the time alleged as shown by chemical analysis of the person's  
4 blood, urine, or breath is admissible into evidence in any civil  
5 or criminal proceeding and is presumed to be the same as at the  
6 time the person operated the vehicle.

7 (b) A person arrested for a crime described in section  
8 625c(1) shall be advised of all of the following:

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

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

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

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

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

1 (c) A sample or specimen of urine or breath shall be taken  
2 and collected in a reasonable manner. Only a licensed physician,  
3 or an individual operating under the delegation of a licensed  
4 physician under section 16215 of the public health code, 1978 PA  
5 368, MCL 333.16215, qualified to withdraw blood and acting in a  
6 medical environment, may withdraw blood at a peace officer's  
7 request to determine the amount of alcohol or presence of a  
8 controlled substance or ~~both~~ **OTHER INTOXICATING SUBSTANCE** in the  
9 person's blood, as provided in this subsection. Liability for a  
10 crime or civil damages predicated on the act of withdrawing or  
11 analyzing blood and related procedures does not attach to a  
12 licensed physician or individual operating under the delegation  
13 of a licensed physician who withdraws or analyzes blood or  
14 assists in the withdrawal or analysis in accordance with this act  
15 unless the withdrawal or analysis is performed in a negligent  
16 manner.

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

1 chemical test by a person of his or her own choosing, the person  
2 charged is responsible for obtaining a chemical analysis of the  
3 test sample.

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

19 (f) If, after an accident, the driver of a vehicle involved  
20 in the accident is deceased, a sample of the decedent's blood  
21 shall be withdrawn in a manner directed by the medical examiner  
22 to determine the amount of alcohol or the presence of a  
23 controlled substance ~~, or both,~~ **OTHER INTOXICATING SUBSTANCE, OR**  
24 **ANY COMBINATION OF THEM,** in the decedent's blood. The medical  
25 examiner shall give the results of the chemical analysis of the  
26 sample to the law enforcement agency investigating the accident  
27 and that agency shall forward the results to the department of

1 state police.

2 (g) The department of state police shall promulgate uniform  
3 rules in compliance with the administrative procedures act of  
4 1969, 1969 PA 306, MCL 24.201 to 24.328, for the administration  
5 of chemical tests for the purposes of this section. An instrument  
6 used for a preliminary ~~chemical breath~~ **ROADSIDE** analysis may be  
7 used for a chemical test described in this subsection if approved  
8 under rules promulgated by the department of state police.

9 (7) The provisions of subsection (6) relating to chemical  
10 testing do not limit the introduction of any other admissible  
11 evidence bearing upon any of the following questions:

12 (a) Whether the person was impaired by, or under the  
13 influence of, alcoholic liquor, a controlled substance **OR OTHER**  
14 **INTOXICATING SUBSTANCE**, or a combination of alcoholic liquor, ~~and~~  
15 a controlled substance, **OR OTHER INTOXICATING SUBSTANCE**.

16 (b) Whether the person had an alcohol content of 0.08 grams  
17 or more per 100 milliliters of blood, per 210 liters of breath,  
18 or per 67 milliliters of urine or, beginning October 1, 2018, the  
19 person had an alcohol content of 0.10 grams or more per 100  
20 milliliters of blood, per 210 liters of breath, or per 67  
21 milliliters of urine.

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

26 (i) An alcohol content of 0.02 grams or more but less than  
27 0.08 grams per 100 milliliters of blood, per 210 liters of

1 breath, or per 67 milliliters of urine or, beginning October 1,  
2 2018, the person had an alcohol content of 0.02 grams or more but  
3 less than 0.10 grams or more per 100 milliliters of blood, per  
4 210 liters of breath, or per 67 milliliters of urine.

5 (ii) Any presence of alcohol within a person's body resulting  
6 from the consumption of alcoholic liquor, other than the  
7 consumption of alcoholic liquor as a part of a generally  
8 recognized religious service or ceremony.

9 (8) If a chemical test described in subsection (6) is  
10 administered, the test results shall be made available to the  
11 person charged or the person's attorney upon written request to  
12 the prosecution, with a copy of the request filed with the court.  
13 The prosecution shall furnish the results at least 2 days before  
14 the day of the trial. The prosecution shall offer the test  
15 results as evidence in that trial. Failure to fully comply with  
16 the request bars the admission of the results into evidence by  
17 the prosecution.

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

24 **(10) AS USED IN THIS SECTION:**

25 **(A) "CONTROLLED SUBSTANCE" MEANS THAT TERM AS DEFINED IN**  
26 **SECTION 7104 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL**  
27 **333.7104.**

1           **(B) "INTOXICATING SUBSTANCE" MEANS THAT TERM AS DEFINED IN**  
2 **SECTION 625.**

3           Sec. 625c. (1) A person who operates a vehicle upon a public  
4 highway or other place open to the general public or generally  
5 accessible to motor vehicles, including an area designated for  
6 the parking of vehicles, within this state is considered to have  
7 given consent to chemical tests of his or her blood, breath, or  
8 urine for the purpose of determining the amount of alcohol or  
9 presence of a controlled substance or ~~both~~**OTHER INTOXICATING**  
10 **SUBSTANCE, OR ANY COMBINATION OF THEM,** in his or her blood or  
11 urine or the amount of alcohol in his or her breath in all of the  
12 following circumstances:

13           (a) If the person is arrested for a violation of section  
14 625(1), (3), (4), (5), (6), (7), or (8), section 625a(5), or  
15 section 625m or a local ordinance substantially corresponding to  
16 section 625(1), (3), (6), or (8), section 625a(5), or section  
17 625m.

18           (b) If the person is arrested for a violation of section  
19 601d, section 626(3) or (4), or manslaughter, or murder resulting  
20 from the operation of a motor vehicle, and the peace officer had  
21 reasonable grounds to believe the person was operating the  
22 vehicle in violation of section 625.

23           (2) A person who is afflicted with hemophilia, diabetes, or  
24 a condition requiring the use of an anticoagulant under the  
25 direction of a physician is not considered to have given consent  
26 to the withdrawal of blood.

27           (3) The tests shall be administered as provided in section

1 625a(6) .

2 (4) AS USED IN THIS SECTION:

3 (A) "CONTROLLED SUBSTANCE" MEANS THAT TERM AS DEFINED IN  
4 SECTION 7104 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL  
5 333.7104 .

6 (B) "INTOXICATING SUBSTANCE" MEANS THAT TERM AS DEFINED IN  
7 SECTION 625 .

8 Sec. 625d. (1) If a person refuses the request of a peace  
9 officer to submit to a chemical test offered ~~pursuant to~~ **UNDER**  
10 section 625a(6), a test shall not be given without a court order,  
11 but the officer may seek to obtain the court order.

12 (2) A written report shall immediately be forwarded to the  
13 secretary of state by the peace officer. The report shall state  
14 that the officer had reasonable grounds to believe that the  
15 person had committed a crime described in section 625c(1), and  
16 that the person had refused to submit to the test upon the  
17 request of the peace officer and had been advised of the  
18 consequences of the refusal. The form of the report shall be  
19 prescribed and furnished by the secretary of state.

20 Sec. 625g. (1) If a person **FAILS A PRELIMINARY ROADSIDE**  
21 **ANALYSIS**, refuses a chemical test offered under section 625a(6),  
22 or submits to the chemical test or a chemical test is performed  
23 under a court order and the test reveals an unlawful alcohol  
24 content, **OR THE PRESENCE OF A CONTROLLED SUBSTANCE OR OTHER**  
25 **INTOXICATING SUBSTANCE, OR ANY COMBINATION OF THEM**, the peace  
26 officer who requested the person to submit to the test shall do  
27 all of the following:



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

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

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

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

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

(2) If a person **FAILED A PRELIMINARY ROADSIDE ANALYSIS AND THE PERSON** submits to a chemical test offered under section 625a(6) that requires an analysis of blood or urine and a report of the results of that chemical test is not immediately available, the peace officer who requested the person to submit to the test shall comply with subsection (1)(a) **AND (B) (i) AND (ii)** pending receipt of the test report. If the report reveals an unlawful alcohol content, **OR THE PRESENCE OF A CONTROLLED SUBSTANCE OR OTHER INTOXICATING SUBSTANCE, OR ANY COMBINATION OF THEM,** the peace officer who requested the person to submit to the test shall immediately comply with subsection ~~(1)(b)~~ **(1) (B) (iii)**. If the report does not reveal an unlawful alcohol content, **OR THE**

**1 PRESENCE OF A CONTROLLED SUBSTANCE OR OTHER INTOXICATING**

**2 SUBSTANCE, OR ANY COMBINATION OF THEM,** the peace officer who  
**3** requested the person to submit to the test shall immediately  
**4** notify the person of the test results and immediately return the  
**5** person's license or permit by first-class mail to the address  
**6** ~~given~~**PROVIDED** at the time of arrest.

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

**9** (a) If the case is not prosecuted, for 90 days after  
**10** issuance or until the person's license or permit is suspended  
**11** under section 625f, whichever occurs earlier. The prosecuting  
**12** attorney shall notify the secretary of state if a case referred  
**13** to the prosecuting attorney is not prosecuted. The arresting law  
**14** enforcement agency shall notify the secretary of state if a case  
**15** is not referred to the prosecuting attorney for prosecution.

**16** (b) If the case is prosecuted, until the criminal charges  
**17** against the person are dismissed, the person is acquitted of  
**18** those charges, or the person's license or permit is suspended,  
**19** restricted, or revoked.

**20** (4) As used in this section: ~~,"unlawful"~~

**21** (A) **"CONTROLLED SUBSTANCE" MEANS THAT TERM AS DEFINED IN**  
**22** **SECTION 7104 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL**  
**23** **333.7104.**

**24** (B) **"INTOXICATING SUBSTANCE" MEANS THAT TERM AS DEFINED IN**  
**25** **SECTION 625.**

**26** (C) **"UNLAWFUL alcohol content"** means any of the following,  
**27** as applicable:

House Bill No. 5385 (H-3) as amended June 3, 2014

1       (i) ~~(a)~~—If the person tested is less than 21 years of age,  
2       0.02 grams or more of alcohol per 100 milliliters of blood, per  
3       210 liters of breath, or per 67 milliliters of urine.

4       (ii) ~~(b)~~—If the person tested was operating a commercial  
5       motor vehicle within this state, 0.04 grams or more of alcohol  
6       per 100 milliliters of blood, per 210 liters of breath, or per 67  
7       milliliters of urine.

8       (iii) ~~(c)~~—If the person tested is not a person described in  
9       subdivision ~~(a) or (b)~~, **SUBPARAGRAPH (i) OR (ii)**, 0.08 grams or  
10      more of alcohol per 100 milliliters of blood, per 210 liters of  
11      breath, or per 67 milliliters of urine, or, beginning October 1,  
12      2018, 0.10 grams or more of alcohol per 100 milliliters of blood,  
13      per 210 liters of breath, or per 67 milliliters of urine.

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