

HOUSE BILL No. 4648

May 24, 2017, Introduced by Rep. Lucido and referred to the Committee on Law and Justice.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 319d, 320a, 625a, 625c, 625d, 625f, and 625g (MCL 257.319d, 257.320a, 257.625a, 257.625c, 257.625d, 257.625f, and 257.625g), section 319d as amended by 2011 PA 159, section 320a as amended by 2016 PA 448, section 625a as amended by 2015 PA 11, sections 625c, 625d, and 625g as amended by 2014 PA 315, and section 625f as amended by 2003 PA 61; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 319d. (1) A person, whether licensed or not, shall not
2 operate a commercial motor vehicle within this state with an
3 alcohol content of 0.015 grams or more per 100 milliliters of
4 blood, per 210 liters of breath, or per 67 milliliters of urine.

5 (2) A peace officer who has reasonable cause to believe that a

1 person was operating a commercial motor vehicle within the state
2 with an alcohol content of 0.015 grams or more per 100 milliliters
3 of blood, per 210 liters of breath, or per 67 milliliters of urine,
4 as measured by ~~a preliminary chemical breath analysis or a~~ chemical
5 test provided under section 625a, shall order the person out-of-
6 service immediately for 24 hours, which ~~shall~~ **MUST** begin upon
7 issuance of the order.

8 (3) A peace officer shall immediately order a person who
9 refuses to submit to ~~a preliminary chemical breath analysis~~
10 ~~requested or a~~ chemical test provided under section 625a out-of-
11 service for 24 hours, which ~~shall~~ **MUST** begin when the order is
12 issued.

13 (4) A person ordered out-of-service as described in this
14 section shall not operate a commercial motor vehicle within this
15 state during the 24-hour out-of-service period.

16 (5) A peace officer who issues an out-of-service order under
17 this section shall provide for the safe and expeditious disposition
18 of a product carried by a commercial motor vehicle that is
19 hazardous or would result in damage to the vehicle, human health,
20 or the environment.

21 (6) Failure to comply with subsection (1) is not a civil
22 infraction or criminal violation of this act.

23 (7) A person who violates subsection (4) is guilty of a
24 misdemeanor punishable by imprisonment for not more than 90 days or
25 a fine of not more than \$100.00, or both.

26 Sec. 320a. (1) Within 5 days after receipt of a properly
27 prepared abstract from a court of this state or another state, the

1 secretary of state shall record the date of conviction, civil
2 infraction determination, or probate court disposition, and the
3 number of points for each, based on the following formula, except
4 as otherwise provided in this section and section 629c:

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

8 (b) A violation of section 601b(2) or (3),
9 601c(1) or (2), or 653a(3) or (4) or, beginning
10 October 31, 2010, a violation of section 601d.....6 points

11 (c) A violation of section 625(1), (4), (5),
12 (7), or (8), section 81134 or 82127(1) of the
13 natural resources and environmental protection act,
14 1994 PA 451, MCL 324.81134 and 324.82127, or a law
15 or ordinance substantially corresponding to section
16 625(1), (4), (5), (7), or (8), or section 81134
17 or 82127(1) of the natural resources and
18 environmental protection act, 1994 PA 451,
19 MCL 324.81134 and 324.82127.....6 points

20 (d) Failing to stop and disclose identity
21 at the scene of an accident when required by law.....6 points

22 (e) Operating a motor vehicle in violation
23 of section 626.....6 points

24 (f) Fleeing or eluding an officer.....6 points

25 (g) A violation of section 627(6) pertaining
26 to speed in a work zone described in that section
27 by exceeding the lawful maximum by more than

- 1 15 miles per hour.....5 points
- 2 (h) A violation of any law or ordinance
- 3 pertaining to speed by exceeding the lawful
- 4 maximum by more than 15 miles per hour.....4 points
- 5 (i) A violation of section 625(3) or (6) ~~7~~
- 6 **OR section ~~81135~~ or ~~82127(3)~~ OR FORMER SECTION 81135**
- 7 of the natural resources and environmental protection act,
- 8 1994 PA 451, ~~MCL 324.81135~~ and **MCL 324.82127**,
- 9 or a law or ordinance substantially corresponding
- 10 to section 625(3) or (6) or section ~~81135~~
- 11 ~~or~~ ~~82127(3)~~ **OR FORMER SECTION 81135** of the natural
- 12 resources and environmental protection act, 1994 PA 451,
- 13 ~~MCL 324.81135~~ and **MCL 324.82127**.....4 points
- 14 (j) A violation of section 626a or a law
- 15 or ordinance substantially corresponding to
- 16 section 626a.....4 points
- 17 (k) A violation of section 653a(2).....4 points
- 18 (l) A violation of section 627(6) pertaining
- 19 to speed in a work zone described in that section
- 20 by exceeding the lawful maximum by more than 10
- 21 but not more than 15 miles per hour.....4 points
- 22 (m) Beginning October 31, 2010, a moving
- 23 violation resulting in an at-fault collision with
- 24 another vehicle, a person, or any other object.....4 points
- 25 (n) Careless driving in violation of section
- 26 626b or a law or ordinance substantially
- 27 corresponding to section 626b.....3 points

1 (o) A violation of any law or ordinance
2 pertaining to speed by exceeding the lawful
3 maximum by more than 10 miles per hour but not
4 more than 15 miles per hour.....3 points

5 (p) A violation of any law or ordinance
6 pertaining to speed by exceeding the lawful
7 maximum by more than 5 miles per hour but not
8 more than 10 miles per hour2 points

9 (q) A violation of any law or ordinance
10 pertaining to speed by exceeding the lawful
11 maximum by more than 1 mile per hour but not
12 more than 5 miles per hour.....1 point

13 (r) Disobeying a traffic signal or stop sign,
14 or improper passing.....3 points

15 (s) A violation of section 624a, 624b, or
16 a law or ordinance substantially corresponding to
17 section 624a or 624b.....2 points

18 (t) A violation of section 310e(4) or (6) or
19 a law or ordinance substantially corresponding
20 to section 310e(4) or (6).....2 points

21 (u) All other moving violations pertaining to
22 the operation of motor vehicles reported under
23 this section.....2 points

24 ~~(v) A refusal by a person less than 21 years~~
25 ~~of age to submit to a preliminary breath test~~
26 ~~required by a peace officer under section 625a.....2 points~~

27 (v) ~~(w)~~ A violation of section 627(6) pertaining

1 to speed in a work zone described in that
2 section by exceeding the lawful maximum by
3 10 miles per hour or less.....3 points

4 (2) Points ~~shall~~**MUST** not be entered for a violation of
5 section 310e(14), 311, 602b(1), 602c, 625m, 658, 710d, 717, 719,
6 719a, or 723.

7 (3) Points ~~shall~~**MUST** not be entered for bond forfeitures.

8 (4) Points ~~shall~~**MUST** not be entered for overweight loads or
9 for defective equipment.

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

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

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

24 (8) The secretary of state shall enter 6 points upon the
25 record of a person whose license is suspended or denied under
26 section 625f. However, if a conviction, civil infraction
27 determination, or probate court disposition results from the same

1 incident, additional points for that offense ~~shall~~**MUST** not be
2 entered.

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

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

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

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

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

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

19 ~~—— (a) A peace officer may arrest a person based in whole or in~~
20 ~~part upon the results of a preliminary chemical breath analysis.~~

21 ~~—— (b) The results of a preliminary chemical breath analysis are~~
22 ~~admissible in a criminal prosecution for a crime enumerated in~~
23 ~~section 625c(1) or in an administrative hearing for 1 or more of~~
24 ~~the following purposes:~~

25 ~~—— (i) To assist the court or hearing officer in determining a~~
26 ~~challenge to the validity of an arrest. This subparagraph does not~~
27 ~~limit the introduction of other competent evidence offered to~~

1 ~~establish the validity of an arrest.~~

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

7 ~~—— (iii) As evidence of the defendant's breath alcohol content,~~
8 ~~if offered by the prosecution to rebut testimony elicited on cross-~~
9 ~~examination of a prosecution witness that the defendant's breath~~
10 ~~alcohol content was lower at the time of the charged offense than~~
11 ~~when a chemical test was administered under subsection (6).~~

12 ~~—— (c) A person who submits to a preliminary chemical breath~~
13 ~~analysis remains subject to the requirements of sections 625c,~~
14 ~~625d, 625e, and 625f for purposes of chemical tests described in~~
15 ~~those sections.~~

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

19 ~~—— (3) A peace officer shall use the results of a preliminary~~
20 ~~chemical breath analysis conducted under this section to determine~~
21 ~~whether to order a person out-of-service under section 319d. A~~
22 ~~peace officer shall order out-of-service as required under section~~
23 ~~319d a person who was operating a commercial motor vehicle and who~~
24 ~~refuses to submit to a preliminary chemical breath analysis as~~
25 ~~provided in this section. This section does not limit use of other~~
26 ~~competent evidence by the peace officer to determine whether to~~
27 ~~order a person out-of-service under section 319d.~~

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

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

13 (2) ~~(6)~~ The following provisions apply with respect to
14 chemical tests and analysis of a person's blood, urine, or breath:
15 ~~, other than a preliminary chemical breath analysis:~~

16 (a) The amount of alcohol or presence of a controlled
17 substance or other intoxicating substance in a driver's blood or
18 urine or the amount of alcohol in a person's breath at the time
19 alleged as shown by chemical analysis of the person's blood, urine,
20 or breath is admissible into evidence in any civil or criminal
21 proceeding and is presumed to be the same as at the time the person
22 operated the vehicle.

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

25 (i) If he or she takes a chemical test of his or her blood,
26 urine, or breath administered at the request of a peace officer, he
27 or she has the right to demand that a person of his or her own

1 choosing administer 1 of the chemical tests.

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

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

8 (iv) If he or she refuses the request of a peace officer to
9 take a test described in subparagraph (i), a test ~~shall~~**MUST** not be
10 given without a court order, but the peace officer may seek to
11 obtain a court order.

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

17 (c) A sample or specimen of urine or breath ~~shall~~**MUST** be
18 taken and collected in a reasonable manner. Only a licensed
19 physician, or an individual operating under the delegation of a
20 licensed physician under section 16215 of the public health code,
21 1978 PA 368, MCL 333.16215, qualified to withdraw blood and acting
22 in a medical environment, may withdraw blood at a peace officer's
23 request to determine the amount of alcohol or presence of a
24 controlled substance or other intoxicating substance in the
25 person's blood, as provided in this subsection. Liability for a
26 crime or civil damages predicated on the act of withdrawing or
27 analyzing blood and related procedures does not attach to a

1 licensed physician or individual operating under the delegation of
2 a licensed physician who withdraws or analyzes blood or assists in
3 the withdrawal or analysis in accordance with this act unless the
4 withdrawal or analysis is performed in a negligent manner.

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

18 (e) If, after an accident, the driver of a vehicle involved in
19 the accident is transported to a medical facility and a sample of
20 the driver's blood is withdrawn at that time for medical treatment,
21 the results of a chemical analysis of that sample are admissible in
22 any civil or criminal proceeding to show the amount of alcohol or
23 presence of a controlled substance or other intoxicating substance
24 in the person's blood at the time alleged, regardless of whether
25 the person had been offered or had refused a chemical test. The
26 medical facility or person performing the chemical analysis shall
27 disclose the results of the analysis to a prosecuting attorney who

1 requests the results for use in a criminal prosecution as provided
2 in this subdivision. A medical facility or person disclosing
3 information in compliance with this subsection is not civilly or
4 criminally liable for making the disclosure.

5 (f) If, after an accident, the driver of a vehicle involved in
6 the accident is deceased, a sample of the decedent's blood ~~shall~~
7 **MUST** be withdrawn in a manner directed by the medical examiner to
8 determine the amount of alcohol or the presence of a controlled
9 substance or other intoxicating substance, or any combination of
10 them, in the decedent's blood. The medical examiner shall give the
11 results of the chemical analysis of the sample to the law
12 enforcement agency investigating the accident and that agency shall
13 forward the results to the department of state police.

14 (g) The department of state police shall promulgate uniform
15 rules in compliance with the administrative procedures act of 1969,
16 1969 PA 306, MCL 24.201 to 24.328, for the administration of
17 chemical tests for the purposes of this section. ~~An instrument used
18 for a preliminary chemical breath analysis may be used for a
19 chemical test described in this subsection if approved under rules
20 promulgated by the department of state police.~~

21 **(3)** ~~(7)~~—The provisions of subsection ~~(6)~~—**(2)** relating to
22 chemical testing do not limit the introduction of any other
23 admissible evidence bearing upon any of the following questions:

24 (a) Whether the person was impaired by, or under the influence
25 of, alcoholic liquor, a controlled substance or other intoxicating
26 substance, or a combination of alcoholic liquor, a controlled
27 substance, or other intoxicating substance.

1 (b) Whether the person had an alcohol content of 0.08 grams or
2 more per 100 milliliters of blood, per 210 liters of breath, or per
3 67 milliliters of urine or, beginning October 1, 2018, the person
4 had an alcohol content of 0.10 grams or more per 100 milliliters of
5 blood, per 210 liters of breath, or per 67 milliliters of urine.

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

10 (i) An alcohol content of 0.02 grams or more but less than
11 0.08 grams per 100 milliliters of blood, per 210 liters of breath,
12 or per 67 milliliters of urine or, beginning October 1, 2018, the
13 person had an alcohol content of 0.02 grams or more but less than
14 0.10 grams or more per 100 milliliters of blood, per 210 liters of
15 breath, or per 67 milliliters of urine.

16 (ii) Any presence of alcohol within a person's body resulting
17 from the consumption of alcoholic liquor, other than the
18 consumption of alcoholic liquor as a part of a generally recognized
19 religious service or ceremony.

20 **(4)** ~~(8)~~—If a chemical test described in subsection ~~(6)~~ **(2)** is
21 administered, the test results ~~shall~~ **MUST** be made available to the
22 person charged or the person's attorney upon written request to the
23 prosecution, with a copy of the request filed with the court. The
24 prosecution shall furnish the results at least 2 days before the
25 day of the trial. The prosecution shall offer the test results as
26 evidence in that trial. Failure to fully comply with ~~the~~ **A** request
27 **FOR TEST RESULTS UNDER THIS SUBSECTION** bars the admission of the

1 results into evidence by the prosecution.

2 **(5)** ~~(9)~~—A person's refusal to submit to a chemical test as
 3 provided in subsection ~~(6)~~—**(2)** is admissible in a criminal
 4 prosecution for a crime described in section 625c(1) only to show
 5 that a test was offered to the defendant, but not as evidence in
 6 determining the defendant's innocence or guilt. The jury shall be
 7 instructed accordingly.

8 **(6)** ~~(10)~~—As used in this section:

9 (a) "Controlled substance" means that term as defined in
 10 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

11 (b) "Intoxicating substance" means that term as defined in
 12 section 625.

13 Sec. 625c. (1) A person who operates a vehicle upon a public
 14 highway or other place open to the general public or generally
 15 accessible to motor vehicles, including an area designated for the
 16 parking of vehicles, within this state is considered to have given
 17 consent to chemical tests of his or her blood, breath, or urine for
 18 the purpose of determining the amount of alcohol or presence of a
 19 controlled substance or other intoxicating substance, or any
 20 combination of them, in his or her blood or urine or the amount of
 21 alcohol in his or her breath in all of the following circumstances:

22 (a) If the person is arrested for a violation of section
 23 625(1), (3), (4), (5), (6), (7), or (8), ~~section 625a(5), or~~
 24 section 625m, or a local ordinance substantially corresponding to
 25 section 625(1), (3), (6), or (8) ~~, section 625a(5), or~~ section
 26 625m.

27 (b) If the person is arrested for a violation of section 601d,

1 section 626(3) or (4), or manslaughter, or murder resulting from
2 the operation of a motor vehicle, and the peace officer had
3 reasonable grounds to believe the person was operating the vehicle
4 in violation of section 625.

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

9 (3) The tests ~~shall~~**MUST** be administered as provided in
10 section ~~625a(6)~~**625A(2)**.

11 (4) As used in this section:

12 (a) "Controlled substance" means that term as defined in
13 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

14 (b) "Intoxicating substance" means that term as defined in
15 section 625.

16 Sec. 625d. (1) If a person refuses the request of a peace
17 officer to submit to a chemical test offered under section ~~625a(6)~~,
18 **625A(2)** a test ~~shall~~**MUST** not be given without a court order, but
19 the officer may seek to obtain the court order.

20 (2) A written report ~~shall~~**MUST** immediately be forwarded to
21 the secretary of state by the peace officer. The report ~~shall~~**MUST**
22 state that the officer had reasonable grounds to believe that the
23 person had committed a crime described in section 625c(1), and that
24 the person had refused to submit to the test upon the request of
25 the peace officer and had been advised of the consequences of the
26 refusal. The form of the report ~~shall~~**MUST** be prescribed and
27 furnished by the secretary of state.

1 Sec. 625f. (1) If a person who refuses to submit to a chemical
2 test pursuant to section 625d does not request a hearing within 14
3 days after the date of notice pursuant to section 625e, the
4 secretary of state shall impose the following license sanctions:

5 (a) If the person was operating a vehicle other than a
6 commercial motor vehicle, suspend or deny the person's operator's
7 or chauffeur's license or permit to drive, or nonresident operating
8 privilege, for 1 year or, for a second or subsequent refusal within
9 7 years, for 2 years. If the person is a resident without a license
10 or permit to operate a vehicle in the state, the secretary of state
11 shall not issue the person a license or permit for 1 year or, for a
12 second or subsequent refusal within 7 years, for 2 years.

13 (b) If the person was operating a commercial motor vehicle,
14 for the first refusal, suspend all vehicle group designations on
15 the person's operator's or chauffeur's license or permit or
16 nonresident privilege to operate a commercial motor vehicle or, if
17 the person is a resident without a license or permit to operate a
18 commercial motor vehicle in the state, not issue the person an
19 operator's or chauffeur's license with vehicle group designations,
20 for 1 year.

21 (c) If the person was operating a commercial motor vehicle,
22 for a second or subsequent refusal that occurred in a separate
23 incident from and within 10 years of a prior refusal, revoke all
24 vehicle group designations on the person's operator's or
25 chauffeur's license or permit or nonresident privilege to operate a
26 commercial motor vehicle or, if the person is a resident without a
27 license or permit to operate a commercial motor vehicle in the

1 state, not issue the person an operator's or chauffeur's license
2 with vehicle group designations, for not less than 10 years and
3 until the person is approved for the issuance of a vehicle group
4 designation.

5 (d) If the person was operating a commercial motor vehicle and
6 was arrested for an offense enumerated in section 625c other than a
7 violation of section ~~625a(5) or~~ 625m, impose the license sanction
8 described in subdivision (a) and the license sanction described in
9 subdivision (b) or (c), as applicable.

10 (2) If a hearing is requested, the secretary of state shall
11 hold the hearing in the same manner and under the same conditions
12 as provided in section 322. Not less than 5 days' notice of the
13 hearing ~~shall~~ **MUST** be mailed to the person requesting the hearing,
14 to the peace officer who filed the report under section 625d, and
15 if the prosecuting attorney requests receipt of the notice, to the
16 prosecuting attorney of the county where the arrest was made. The
17 hearing officer may administer oaths, issue subpoenas for the
18 attendance of necessary witnesses, and grant a reasonable request
19 for an adjournment. Not more than 1 adjournment ~~shall~~ **MUST** be
20 granted to a party and the length of an adjournment ~~shall~~ **MUST** not
21 exceed 14 days. A hearing under this subsection ~~shall~~ **MUST** be
22 scheduled to be held within 45 days after the date of arrest for
23 the violation. The hearing officer shall not impose any sanction
24 for a failure to comply with these time limits.

25 (3) Except for delay attributable to the unavailability of the
26 defendant, a witness, or material evidence, or due to an
27 interlocutory appeal or exceptional circumstances, but not a delay

1 caused by docket congestion, a hearing ~~shall~~**MUST** be finally
2 adjudicated within 77 days after the date of arrest. The hearing
3 officer shall not impose any sanction for a failure to comply with
4 this time limit.

5 (4) The hearing ~~shall~~**MUST** cover only the following issues:

6 (a) Whether the peace officer had reasonable grounds to
7 believe that the person had committed a crime described in section
8 625c(1).

9 (b) Whether the person was placed under arrest for a crime
10 described in section 625c(1).

11 (c) If the person refused to submit to the test upon the
12 request of the officer, whether the refusal was reasonable.

13 (d) Whether the person was advised of the rights under section
14 ~~625a(6)~~**625A(2)**.

15 (5) A person shall not order a hearing officer to make a
16 particular finding on any issue enumerated in subsection (4) (a) to
17 (d).

18 (6) The hearing officer shall make a record of a hearing held
19 pursuant to this section. The record shall be prepared and
20 transcribed in accordance with section 86 of the administrative
21 procedures act of 1969, 1969 PA 306, MCL 24.286. Upon notification
22 of the filing of a petition for judicial review pursuant to section
23 323 and not less than 10 days before the matter is set for review,
24 the hearing officer shall transmit to the court in which the
25 petition was filed the original or a certified copy of the official
26 record of the proceedings. Proceedings at which evidence was
27 presented need not be transcribed and transmitted if the sole

1 reason for review is to determine whether the court will order the
2 issuance of a restricted license. The parties to the proceedings
3 for judicial review may stipulate that the record be shortened. A
4 party unreasonably refusing to stipulate to a shortened record may
5 be taxed by the court in which the petition is filed for the
6 additional costs. The court may permit subsequent corrections to
7 the record.

8 (7) If the person who requested a hearing does not prevail,
9 the secretary of state shall impose the following license sanctions
10 after the hearing:

11 (a) If the person was operating a vehicle other than a
12 commercial motor vehicle, suspend or deny issuance of a license or
13 driving permit or a nonresident operating privilege of the person
14 for 1 year or, for a second or subsequent refusal within 7 years,
15 for 2 years. If the person is a resident without a license or
16 permit to operate a vehicle in the state, the secretary of state
17 shall not issue the person a license or permit for 1 year or, for a
18 second or subsequent refusal within 7 years, for 2 years. The
19 person may file a petition in the circuit court of the county in
20 which the arrest was made to review the suspension or denial as
21 provided in section 323.

22 (b) If the person was operating a commercial motor vehicle,
23 impose the sanction prescribed under subsection (1)(b) or (1)(c),
24 as applicable. The person may file a petition in the circuit court
25 of the county in which the arrest was made to review the suspension
26 or denial as provided in section 323.

27 (c) If the person was operating a commercial motor vehicle and

1 was arrested for an offense enumerated in section 625c other than a
2 violation of section ~~625a(5)~~ or 625m, impose the license sanctions
3 described in subdivisions (a) and (b).

4 (8) If the person who requested the hearing prevails, the
5 peace officer who filed the report under section 625d may, with the
6 consent of the prosecuting attorney, file a petition in the circuit
7 court of the county in which the arrest was made to review the
8 determination of the hearing officer as provided in section 323.

9 (9) When it has been finally determined that a nonresident's
10 privilege to operate a vehicle in the state has been suspended or
11 denied, the department shall give notice in writing of the action
12 taken to the motor vehicle administrator of the state of the
13 person's residence and of each state in which he or she has a
14 license to operate a motor vehicle.

15 Sec. 625g. (1) If a person refuses a chemical test offered
16 under section ~~625a(6)~~, **625A(2)**, the peace officer who requested the
17 person to submit to the chemical test shall comply with
18 subdivisions (a) and (b). If a person submits to the chemical test
19 or a chemical test is performed under a court order and the test
20 reveals an unlawful alcohol content, or the presence of a
21 controlled substance or other intoxicating substance, or any
22 combination of them, the peace officer who requested the person to
23 submit to the test shall do all of the following, other than
24 subdivision (b) (i):

25 (a) On behalf of the secretary of state, immediately
26 confiscate the person's license or permit to operate a motor
27 vehicle and, if the person is otherwise eligible for a license or

1 permit, issue a temporary license or permit to the person. The
2 temporary license or permit ~~shall~~**MUST** be on a form provided by the
3 secretary of state.

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

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

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

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

13 (2) If a person submits to a chemical test offered under
14 section ~~625a(6)~~**625A(2)** that requires an analysis of blood or urine
15 and a report of the results of that chemical test is not
16 immediately available, the peace officer who requested the person
17 to submit to the test shall comply with subsection (1)(a) and
18 (b)(ii) and indicate in the notice under subsection (1)(b)(ii) that
19 a subsequent chemical test is pending. If the report reveals an
20 unlawful alcohol content, or the presence of a controlled substance
21 or other intoxicating substance, or any combination of them, the
22 peace officer who requested the person to submit to the test shall
23 immediately comply with subsection (1)(b)(iii). If the report does
24 not reveal an unlawful alcohol content, or the presence of a
25 controlled substance or other intoxicating substance, or any
26 combination of them, the peace officer who requested the person to
27 submit to the test shall immediately notify the person of the test

1 results and immediately return the person's license or permit by
2 first-class mail to the address provided at the time of arrest.

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

5 (a) If the case is not prosecuted, for 90 days after issuance
6 or until the person's license or permit is suspended under section
7 625f, whichever occurs earlier. The prosecuting attorney shall
8 notify the secretary of state if a case referred to the prosecuting
9 attorney is not prosecuted. The arresting law enforcement agency
10 shall notify the secretary of state if a case is not referred to
11 the prosecuting attorney for prosecution.

12 (b) If the case is prosecuted, until the criminal charges
13 against the person are dismissed, the person is acquitted of those
14 charges, or the person's license or permit is suspended,
15 restricted, or revoked.

16 (4) As used in this section:

17 (a) "Controlled substance" means that term as defined in
18 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

19 (b) "Intoxicating substance" means that term as defined in
20 section 625.

21 (c) "Unlawful alcohol content" means any of the following, as
22 applicable:

23 (i) If the person tested is less than 21 years of age, 0.02
24 grams or more of alcohol per 100 milliliters of blood, per 210
25 liters of breath, or per 67 milliliters of urine.

26 (ii) If the person tested was operating a commercial motor
27 vehicle within this state, 0.04 grams or more of alcohol per 100

1 milliliters of blood, per 210 liters of breath, or per 67
2 milliliters of urine.

3 (iii) If the person tested is not a person described in
4 subparagraph (i) or (ii), 0.08 grams or more of alcohol per 100
5 milliliters of blood, per 210 liters of breath, or per 67
6 milliliters of urine, or, beginning October 1, 2018, 0.10 grams or
7 more of alcohol per 100 milliliters of blood, per 210 liters of
8 breath, or per 67 milliliters of urine.

9 Enacting section 1. Section 43a of the Michigan vehicle code,
10 1949 PA 300, MCL 257.43a, is repealed.

11 Enacting section 2. This amendatory act takes effect January
12 5, 2018.

13 Enacting section 3. This amendatory act does not take effect
14 unless all of the following bills of the 99th Legislature are
15 enacted into law:

16 (a) Senate Bill No. _____ or House Bill No. 4649 (request no.
17 02916'17).

18 (b) Senate Bill No. _____ or House Bill No. 4650 (request no.
19 02917'17).