

**SUBSTITUTE FOR
HOUSE BILL NO. 4308**

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 625, 625a, 625g, and 625m (MCL 257.625,
257.625a, 257.625g, and 257.625m), section 625 as amended by 2020
PA 383 and sections 625a, 625g, and 625m as amended by 2017 PA 153.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 625. (1) A person, whether licensed or not, shall not
2 operate a vehicle on 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

1 controlled substance, or other intoxicating substance or a
2 combination of alcoholic liquor, a controlled substance, or other
3 intoxicating substance.

4 (b) The person has an alcohol content of 0.08 grams or more
5 per 100 milliliters of blood, per 210 liters of breath, or per 67
6 milliliters of urine **or, beginning ~~October 1, 2021,~~ 5 years after**
7 **the state treasurer publishes a certification under subsection**
8 **(28), the person has an alcohol content of 0.10 grams or more per**
9 **100 milliliters of blood, per 210 liters of breath, or per 67**
10 **milliliters of urine.**

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

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

20 (a) The person is under the influence of alcoholic liquor, a
21 controlled substance, other intoxicating substance, or a
22 combination of alcoholic liquor, a controlled substance, or other
23 intoxicating substance.

24 (b) The person has an alcohol content of 0.08 grams or more
25 per 100 milliliters of blood, per 210 liters of breath, or per 67
26 milliliters of urine **or, beginning ~~October 1, 2021,~~ 5 years after**
27 **the state treasurer publishes a certification under subsection**
28 **(28), the person has an alcohol content of 0.10 grams or more per**
29 **100 milliliters of blood, per 210 liters of breath, or per 67**

1 milliliters of urine.

2 (c) The person's ability to operate the motor vehicle is
3 visibly impaired due to the consumption of alcoholic liquor, a
4 controlled substance, or other intoxicating substance, or a
5 combination of alcoholic liquor, a controlled substance, or other
6 intoxicating substance.

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

17 (4) 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 the death of another person
20 is guilty of a crime as follows:

21 (a) Except as provided in subdivisions (b) and (c), the person
22 is guilty of a felony punishable by imprisonment for not more than
23 15 years or a fine of not less than \$2,500.00 or more than
24 \$10,000.00, or both. The judgment of sentence may impose the
25 sanction permitted under section 625n. If the vehicle is not
26 ordered forfeited under section 625n, the court shall order vehicle
27 immobilization under section 904d in the judgment of sentence.

28 (b) If the violation occurs while the person has an alcohol
29 content of 0.17 grams or more per 100 milliliters of blood, per 210

1 liters of breath, or per 67 milliliters of urine, and within 7
2 years of a prior conviction, the person is guilty of a felony
3 punishable by imprisonment for not more than 20 years or a fine of
4 not less than \$2,500.00 or more than \$10,000.00, or both. The
5 judgment of sentence may impose the sanction permitted under
6 section 625n. If the vehicle is not ordered forfeited under section
7 625n, the court shall order vehicle immobilization under section
8 904d in the judgment of sentence.

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

21 (5) A person, whether licensed or not, who operates a motor
22 vehicle in violation of subsection (1), (3), or (8) and by the
23 operation of that motor vehicle causes a serious impairment of a
24 body function of another person is guilty of a crime as follows:

25 (a) Except as provided in subdivision (b), the person is
26 guilty of a felony punishable by imprisonment for not more than 5
27 years or a fine of not less than \$1,000.00 or more than \$5,000.00,
28 or both. The judgment of sentence may impose the sanction permitted
29 under section 625n. If the vehicle is not ordered forfeited under

1 section 625n, the court shall order vehicle immobilization under
2 section 904d in the judgment of sentence.

3 (b) If the violation occurs while the person has an alcohol
4 content of 0.17 grams or more per 100 milliliters of blood, per 210
5 liters of breath, or per 67 milliliters of urine, and within 7
6 years of a prior conviction, the person is guilty of a felony
7 punishable by imprisonment for not more than 10 years or a fine of
8 not less than \$1,000.00 or more than \$5,000.00, or both. The
9 judgment of sentence may impose the sanction permitted under
10 section 625n. If the vehicle is not ordered forfeited under section
11 625n, the court shall order vehicle immobilization under section
12 904d in the judgment of sentence.

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

20 (a) An alcohol content of 0.02 grams or more but less than
21 0.08 grams per 100 milliliters of blood, per 210 liters of breath,
22 or per 67 milliliters of urine ~~or, beginning October 1, 2021, 5~~
23 ~~years after the state treasurer publishes a certification under~~
24 ~~subsection (28), the person has an alcohol content of 0.02 grams or~~
25 ~~more but less than 0.10 grams per 100 milliliters of blood, per 210~~
26 ~~liters of breath, or per 67 milliliters of urine.~~

27 (b) Any presence of alcohol within a person's body resulting
28 from the consumption of alcoholic liquor, other than consumption of
29 alcoholic liquor as a part of a generally recognized religious

1 service or ceremony.

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

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

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

13 (A) Imprisonment for not more than 1 year.

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

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

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

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

28 (iii) A term of imprisonment imposed under subparagraph (ii) (A)
29 or (B) must not be suspended unless the defendant agrees to

1 participate in a specialty court program and successfully completes
2 the program.

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 must 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 This term of imprisonment must not be suspended unless the
21 defendant agrees to participate in a specialty court program and
22 successfully completes the program.

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

25 (c) In the judgment of sentence under subdivision (a) (i) or
26 (b) (i), the court may, unless the vehicle is ordered forfeited under
27 section 625n, order vehicle immobilization as provided in section
28 904d. In the judgment of sentence under subdivision (a) (ii) or
29 (b) (ii), the court shall, unless the vehicle is ordered forfeited

1 under section 625n, order vehicle immobilization as provided in
2 section 904d.

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

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

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

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

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

25 (ii) Imprisonment for not more than 93 days, or, if the person
26 is convicted of violating subsection (1)(c), imprisonment for not
27 more than 180 days.

28 (iii) A fine of not less than \$100.00 or more than \$500.00, or,
29 if the person is guilty of violating subsection (1)(c), a fine of

1 not less than \$200.00 or more than \$700.00.

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

5 (i) Imprisonment for not less than 5 days or more than 1 year.

6 (ii) Community service for not less than 30 days or more than
7 90 days.

8 (c) If the violation occurs after 2 or more prior convictions,
9 regardless of the number of years that have elapsed since any prior
10 conviction, the person is guilty of a felony and must be sentenced
11 to pay a fine of not less than \$500.00 or more than \$5,000.00 and
12 to either of the following:

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

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

20 (d) A term of imprisonment imposed under subdivision (b) or
21 (c) must not be suspended unless the defendant agrees to
22 participate in a specialty court program and successfully completes
23 the program.

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,
28 order vehicle immobilization as provided in section 904d.

29 (f) In the judgment of sentence under subdivision (b) or (c),

1 the court may impose the sanction permitted under section 625n.

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

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

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

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

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

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

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

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

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

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

27 (i) Imprisonment for not less than 5 days or more than 1 year.

28 (ii) Community service for not less than 30 days or more than
29 90 days.

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

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

8 (ii) Probation with imprisonment in the county jail for not
9 less than 30 days or more than 1 year and community service for not
10 less than 60 days or more than 180 days. Not less than 48 hours of
11 the imprisonment imposed under this subparagraph must be served
12 consecutively.

13 (d) A term of imprisonment imposed under subdivision (b) or
14 (c) must not be suspended unless the defendant agrees to
15 participate in a specialty court program and successfully completes
16 the program.

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

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

24 (12) If a person is convicted of violating subsection (6), all
25 of the following apply:

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

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

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

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

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

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

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

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

12 (14) A person sentenced to perform community service under
13 this section must not receive compensation and must reimburse the
14 state or appropriate local unit of government for the cost of
15 supervision incurred by the state or local unit of government as a
16 result of the person's activities in that service.

17 (15) If the prosecuting attorney intends to seek an enhanced
18 sentence under this section or a sanction under section 625n based
19 on the defendant having 1 or more prior convictions, the
20 prosecuting attorney shall include on the complaint and
21 information, or an amended complaint and information, filed in
22 district court, circuit court, municipal court, or family division
23 of circuit court, a statement listing the defendant's prior
24 convictions.

25 (16) If a person is charged with a violation of subsection
26 (1), (3), (4), (5), (7), or (8) or section 625m, the court shall
27 not permit the defendant to enter a plea of guilty or nolo
28 contendere to a charge of violating subsection (6) in exchange for
29 dismissal of the original charge. This subsection does not prohibit

1 the court from dismissing the charge on the prosecuting attorney's
2 motion.

3 (17) A prior conviction must be established at sentencing by 1
4 or more of the following:

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

6 (b) An abstract of conviction.

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

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

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

11 (f) Information contained in a presentence report.

12 (g) An admission by the defendant.

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

26 (19) Except as otherwise provided in subsection (20), if a
27 person is charged with operating a vehicle while his or her ability
28 to operate the vehicle was visibly impaired due to his or her
29 consumption of a controlled substance or other intoxicating

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

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

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

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

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

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

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

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

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

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

20 (25) As used in this section:

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

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

26 (A) The official United States Pharmacopoeia.

27 (B) The official Homeopathic Pharmacopoeia of the United
28 States.

29 (C) The official National Formulary.

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

5 (b) "Prior conviction" means a conviction for any of the
6 following, whether under a law of this state, a local ordinance
7 substantially corresponding to a law of this state, a law of the
8 United States substantially corresponding to a law of this state,
9 or a law of another state substantially corresponding to a law of
10 this state, subject to subsection (27):

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

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

20 (B) Section 625m.

21 (C) Former section 625b.

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

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

26 (26) Except for purposes of the enhancement described in
27 subsection (12)(b), only 1 violation or attempted violation of
28 subsection (6), a local ordinance substantially corresponding to
29 subsection (6), or a law of another state substantially

1 corresponding to subsection (6) may be used as a prior conviction.

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

6 (28) Not later than 30 days after this state no longer
7 receives annual federal highway construction funding conditioned on
8 compliance with a national blood alcohol limit, the state treasurer
9 shall certify that fact. The state treasurer shall publish a
10 certification under this subsection on the department of treasury's
11 website.

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

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

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

25 (2) A peace officer who has reasonable cause to believe that a
26 person was operating a vehicle upon a public highway or other place
27 open to the public or generally accessible to motor vehicles,
28 including an area designated for the parking of vehicles, within
29 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 to a preliminary chemical breath analysis administered under
18 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
28 establish the validity of an arrest.

29 (ii) As evidence of the defendant's breath alcohol content, if

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

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

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

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

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

26 (4) A person who was operating a commercial motor vehicle and
27 who is requested to submit to a preliminary chemical breath
28 analysis under this section must be advised that refusing a peace
29 officer's request to take a test described in this section is a

1 misdemeanor punishable by imprisonment for not more than 93 days or
2 a fine of not more than \$100.00, or both, and will result in the
3 issuance of a 24-hour out-of-service order.

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

9 (6) The following provisions apply to chemical tests and
10 analysis of a person's blood, urine, or breath, other than a
11 preliminary chemical breath analysis:

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

19 (b) A person arrested for a crime described in section 625c(1)
20 must be advised of all of the following:

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

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

29 (iii) He or she is responsible for obtaining a chemical analysis

1 of a test sample obtained at his or her own request.

2 (iv) If he or she refuses the request of a peace officer to
3 take a test described in subparagraph (i), a test must not be given
4 without a court order, but the peace officer may seek to obtain a
5 court order.

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

11 (c) A sample or specimen of urine or breath must be taken and
12 collected in a reasonable manner. Only a licensed physician, or an
13 individual operating under the delegation of a licensed physician
14 under section 16215 of the public health code, 1978 PA 368, MCL
15 333.16215, qualified to withdraw blood and acting in a medical
16 environment, may withdraw blood at a peace officer's request to
17 determine the amount of alcohol or presence of a controlled
18 substance or other intoxicating substance in the person's blood, as
19 provided in this subsection. Liability for a crime or civil damages
20 predicated on the act of withdrawing or analyzing blood and related
21 procedures does not attach to a licensed physician or individual
22 operating under the delegation of a licensed physician who
23 withdraws or analyzes blood or assists in the withdrawal or
24 analysis in accordance with this act unless the withdrawal or
25 analysis is performed in a negligent manner.

26 (d) A chemical test described in this subsection must be
27 administered at the request of a peace officer having reasonable
28 grounds to believe the person has committed a crime described in
29 section 625c(1). A person who takes a chemical test administered at

1 a peace officer's request as provided in this section must be given
2 a reasonable opportunity to have a person of his or her own
3 choosing administer 1 of the chemical tests described in this
4 subsection within a reasonable time after his or her detention. The
5 test results are admissible and must be considered with other
6 admissible evidence in determining the defendant's innocence or
7 guilt. If the person charged is administered a chemical test by a
8 person of his or her own choosing, the person charged is
9 responsible for obtaining a chemical analysis of the test sample.

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

24 (f) If, after an accident, the driver of a vehicle involved in
25 the accident is deceased, a sample of the decedent's blood must be
26 withdrawn in a manner directed by the medical examiner to determine
27 the amount of alcohol or the presence of a controlled substance or
28 other intoxicating substance, or any combination of them, in the
29 decedent's blood. The medical examiner shall give the results of

1 the chemical analysis of the sample to the law enforcement agency
2 investigating the accident and that agency shall forward the
3 results to the department of state police.

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

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

14 (a) Whether the person was impaired by, or under the influence
15 of, alcoholic liquor, a controlled substance or other intoxicating
16 substance, or a combination of alcoholic liquor, a controlled
17 substance, or other intoxicating substance.

18 (b) Whether the person had an alcohol content of 0.08 grams or
19 more per 100 milliliters of blood, per 210 liters of breath, or per
20 67 milliliters of urine **or, beginning ~~October 1, 2021,~~ 5 years**
21 **after the state treasurer publishes a certification under section**
22 **625(28), the person had an alcohol content of 0.10 grams or more**
23 **per 100 milliliters of blood, per 210 liters of breath, or per 67**
24 **milliliters of urine.**

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

29 (i) An alcohol content of 0.02 grams or more but less than 0.08

1 grams per 100 milliliters of blood, per 210 liters of breath, or
2 per 67 milliliters of urine ~~or, beginning October 1, 2021, 5 years~~
3 ~~after the state treasurer publishes a certification under section~~
4 ~~625(28), the person had an alcohol content of 0.02 grams or more~~
5 ~~but less than 0.10 grams or more per 100 milliliters of blood, per~~
6 ~~210 liters of breath, or per 67 milliliters of urine.~~

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

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

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

25 (10) As used in this section:

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

28 (b) "Intoxicating substance" means that term as defined in
29 section 625.

1 Sec. 625g. (1) If a person refuses a chemical test offered
2 under section 625a(6), the peace officer who requested the person
3 to submit to the chemical test shall comply with subdivisions (a)
4 and (b). If a person submits to the chemical test or a chemical
5 test is performed under a court order and the test reveals an
6 unlawful alcohol content, or the presence of a controlled substance
7 or other intoxicating substance, or any combination of them, the
8 peace officer who requested the person to submit to the test shall
9 do all of the following, other than subdivision (b) (i):

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

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

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

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

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

25 (2) If a person submits to a chemical test offered under
26 section 625a(6) that requires an analysis of blood or urine and a
27 report of the results of that chemical test is not immediately
28 available, the peace officer who requested the person to submit to
29 the test shall comply with subsection (1) (a) and (b) (ii) and

1 indicate in the notice under subsection (1) (b) (ii) that a subsequent
2 chemical test is pending. If the report reveals an unlawful alcohol
3 content, or the presence of a controlled substance or other
4 intoxicating substance, or any combination of them, the peace
5 officer who requested the person to submit to the test shall
6 immediately comply with subsection (1) (b) (iii). If the report does
7 not reveal an unlawful alcohol content, or the presence of a
8 controlled substance or other intoxicating substance, or any
9 combination of them, the peace officer who requested the person to
10 submit to the test shall immediately notify the person of the test
11 results and immediately return the person's license or permit by
12 first-class mail to the address provided at the time of arrest.

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

15 (a) If the case is not prosecuted, for 90 days after issuance
16 or until the person's license or permit is suspended under section
17 625f, whichever occurs earlier. The prosecuting attorney shall
18 notify the secretary of state if a case referred to the prosecuting
19 attorney is not prosecuted. The arresting law enforcement agency
20 shall notify the secretary of state if a case is not referred to
21 the prosecuting attorney for prosecution.

22 (b) If the case is prosecuted, until the criminal charges
23 against the person are dismissed, the person is acquitted of those
24 charges, or the person's license or permit is suspended,
25 restricted, or revoked.

26 (4) As used in this section:

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

29 (b) "Intoxicating substance" means that term as defined in

1 section 625.

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

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

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

11 (iii) If the person tested is not a person described in
12 subparagraph (i) or (ii), 0.08 grams or more of alcohol per 100
13 milliliters of blood, per 210 liters of breath, or per 67
14 milliliters of urine **or, beginning ~~October 1, 2021,~~ 5 years after**
15 **the state treasurer publishes a certification under section**
16 **625(28), 0.10 grams or more of alcohol per 100 milliliters of**
17 **blood, per 210 liters of breath, or per 67 milliliters of urine.**

18 Sec. 625m. (1) A person, whether licensed or not, who has an
19 alcohol content of 0.04 grams or more but less than 0.08 grams per
20 100 milliliters of blood, per 210 liters of breath, or per 67
21 milliliters of urine **or, beginning ~~October 1, 2021,~~ 5 years after**
22 **the state treasurer publishes a certification under section**
23 **625(28), an alcohol content of 0.04 grams or more but less than**
24 **0.10 grams per 100 milliliters of blood, per 210 liters of breath,**
25 **or per 67 milliliters of urine,** shall not operate a commercial
26 motor vehicle within this state.

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

29 (a) The peace officer has reasonable cause to believe that the

1 person was, at the time of an accident, the driver of a commercial
2 motor vehicle involved in the accident and was operating the
3 vehicle in violation of this section or a local ordinance
4 substantially corresponding to this section.

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

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

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

21 (5) A person who violates this section or a local ordinance
22 substantially corresponding to this section within 10 years of 2 or
23 more prior convictions is guilty of a felony and must be sentenced
24 to pay a fine of not less than \$500.00 or more than \$5,000.00 and
25 to either of the following:

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

28 (b) Probation with imprisonment in the county jail for not
29 less than 30 days or more than 1 year and community service for not

1 less than 60 days or more than 180 days. Not less than 48 hours of
2 the imprisonment imposed under this subdivision must be served
3 consecutively.

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

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

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

13 (i) This section.

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

21 (iii) Former section 625b.

22 (iv) Section 601d or section 626(3) or (4).

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

26 (8) Only 1 violation or attempted violation of section 625(6),
27 a local ordinance substantially corresponding to section 625(6), or
28 a law of another state substantially corresponding to section
29 625(6) may be used as a prior conviction.

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

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

7 Enacting section 2. This amendatory act does not take effect
8 unless all of the following bills of the 101st Legislature are
9 enacted into law:

10 (a) House Bill No. 4220.

11 (b) House Bill No. 4309.