



# HOUSE BILL No. 5596

May 31 1994 Introduced by Reps Wetters Byrum Bullard Randall DeMars and Freeman and referred to the Committee on Judiciary

A bill to amend section 625b of Act No 300 of the Public Acts of 1949 entitled as amended

Michigan vehicle code

as amended by Act No 359 of the Public Acts of 1993 being section 257 625b of the Michigan Compiled Laws

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Section 625b of Act No 300 of the Public Acts  
2 of 1949 as amended by Act No 359 of the Public Acts of 1993  
3 being section 257 625b of the Michigan Compiled Laws is amended  
4 to read as follows

5 Sec 625b (1) A person arrested for a misdemeanor viola-  
6 tion of section 625(1) or (3) or section 625m, or a local ordi-  
7 nance substantially corresponding to section 625(1) or (3), or  
8 section 625m shall be arraigned on the citation complaint or  
9 warrant not more than 14 days after the date of arrest or, if an

1 arrest warrant is reissued not more than 14 days after the  
2 reissued arrest warrant is served

3 (2) The court shall schedule a pretrial conference between  
4 the prosecuting attorney the defendant and the defendant s  
5 attorney in each case in which the defendant is charged with a  
6 misdemeanor violation of section 625(1) or (3), or section 625m  
7 or a local ordinance substantially corresponding to section  
8 625(1) or (3), or section 625m The pretrial conference shall be  
9 held not more than 35 days after the date of the person s arrest  
10 for the violation or if an arrest warrant is reissued, not more  
11 than 35 days after the date the reissued arrest warrant is  
12 served, unless the court has only 1 judge who sits in more than 1  
13 location in that district, in which case the pretrial conference  
14 shall be held not more than 42 days after the date of the  
15 person s arrest for the violation or if an arrest warrant is  
16 reissued, not more than 42 days after the date the reissued  
17 arrest warrant is served The court shall order the defendant to  
18 attend the pretrial conference and may accept a plea by the  
19 defendant at the conclusion of the pretrial conference The  
20 court may adjourn the pretrial conference upon the motion of a  
21 party for good cause shown Not more than 1 adjournment shall be  
22 granted to a party and the length of an adjournment shall not  
23 exceed 14 days The court shall except for delay attributable  
24 to the unavailability of the defendant a witness, or material  
25 evidence or due to an interlocutory appeal or exceptional cir-  
26 cumstances, but not a delay caused by docket congestion finally  
27 adjudicate, by a plea of guilty or nolo contendere or the entry

1 of a verdict or by other final disposition, a case in which the  
2 defendant is charged with a misdemeanor violation of  
3 section 625(1) or (3), or section 625m, or a local ordinance sub-  
4 stantially corresponding to section 625(1) or (3), or  
5 section 625m, within 77 days after the person is arrested for the  
6 violation or if an arrest warrant is reissued not more than 77  
7 days after the date the reissued arrest warrant is served

8 (3) Before accepting a plea of guilty or nolo contendere  
9 under section 625 or a local ordinance substantially correspond-  
10 ing to section 625(1), (2), or (3), the court shall advise the  
11 accused of the maximum possible term of imprisonment and the max-  
12 imum possible fine that may be imposed for the violation and  
13 shall advise the defendant that the maximum possible license  
14 sanctions that may be imposed will be based upon the master driv-  
15 ing record maintained by the secretary of state pursuant to  
16 section 204a

17 (4) Before imposing sentence other than court-ordered  
18 license sanctions for a violation of section 625(1) (3), (4)  
19 or (5) or a local ordinance substantially corresponding to sec-  
20 tion 625(1) or (3) the court shall order the person to undergo  
21 screening and assessment by a person or agency designated by the  
22 office of substance abuse services to determine whether the  
23 person is likely to benefit from rehabilitative services, includ-  
24 ing alcohol or drug education and alcohol or drug treatment  
25 programs As part of the sentence the court may order the  
26 person to participate in and successfully complete 1 or more  
27 appropriate rehabilitative programs The person shall pay for

1 the costs of the screening, assessment and rehabilitative  
2 services

3 (5) Immediately upon acceptance by the court of a plea of  
4 guilty or nolo contendere or upon entry of a verdict of guilty  
5 for a violation of section 625(1) (3) (4) or (5) or a local  
6 ordinance substantially corresponding to section 625(1) or (3)  
7 whether or not the person is eligible to be sentenced as a multi-  
8 ple offender the court shall consider all prior convictions cur-  
9 rently entered upon the Michigan driving record of the person  
10 except those convictions which upon motion by the defendant are  
11 determined by the court to be constitutionally invalid, and shall  
12 impose the following licensing sanctions

13 (a) For a conviction under section 625(4) or (5) the court  
14 shall order the secretary of state to revoke the operator s or  
15 chauffeur s license of the person and shall not order the secre-  
16 tary of state to issue a restricted license to the person

17 (b) For a conviction under section 625(1) or a local ordi-  
18 nance substantially corresponding to section 625(1)

19 (1) If the court finds that the person has no prior convic-  
20 tions within 7 years for a violation of section 625(1) (3) (4)  
21 or (5) or former section 625(1) or (2) or former section 625b  
22 a local ordinance substantially corresponding to section 625(1)  
23 or (3) or former section 625(1) or (2) or former section 625b,  
24 or a law of another state substantially corresponding to section  
25 625(1), (3), (4), or (5), or former section 625(1) or (2) or  
26 former section 625b the court shall order the secretary of state  
27 to suspend the operator s or chauffeur s license of the person

1 for a period of not less than 6 months or more than 2 years If  
2 the court finds compelling circumstances under subsection (9)  
3 sufficient to warrant the issuance of a restricted license to a  
4 person, the court may order the secretary of state to issue to  
5 the person a restricted license during all or a specified portion  
6 of the period of suspension, except that a restricted license  
7 shall not be issued during the first 30 days of the period of  
8 suspension

9 (11) If the court finds that the person has 1 prior convic-  
10 tion within 7 years for a violation of section 625(3) or former  
11 section 625b a local ordinance substantially corresponding to  
12 section 625(3) or former section 625b or a law of another state  
13 substantially corresponding to section 625(3) or former  
14 section 625b the court shall order the secretary of state to  
15 suspend the operator s or chauffeur s license of the person for a  
16 period of not less than 6 months or more than 2 years If the  
17 court finds compelling circumstances under subsection (9) suffi-  
18 cient to warrant the issuance of a restricted license to a  
19 person the court may order the secretary of state to issue to  
20 the person a restricted license during all or any portion of the  
21 period of suspension except that a restricted license shall not  
22 be issued during the first 60 days of the period of suspension

23 (111) If the court finds that the person has 1 or more prior  
24 convictions within 7 years for a violation of section 625(1),  
25 (4) or (5), or former section 625(1) or (2), a local ordinance  
26 substantially corresponding to section 625(1) or former section  
27 625(1) or (2) or a law of another state substantially

1 corresponding to section 625(1), (4), or (5), or former section  
2 625(1) or (2) or that the person has 2 or more prior convictions  
3 within 10 years for a violation of section 625(1), (3), (4), or  
4 (5), or former section 625(1) or (2), or former section 625b, a  
5 local ordinance substantially corresponding to section 625(1) or  
6 (3), or former section 625(1) or (2), or former section 625b, or  
7 a law of another state substantially corresponding to section  
8 625(1), (3) (4), or (5) or former section 625(1) or (2) or  
9 former section 625b the court shall order the secretary of state  
10 to revoke the operator s or chauffeur's license of the person and  
11 shall not order the secretary of state to issue a restricted  
12 license to the person

13 (c) For a conviction under section 625(3) or a local ordi-  
14 nance substantially corresponding to section 625(3)

15 (1) If the court finds that the convicted person has no  
16 prior conviction within 7 years for a violation of section  
17 625(1), (3), (4), or (5), or former section 625(1) or (2), or  
18 former section 625b a local ordinance substantially correspond-  
19 ing to section 625(1) or (3) or former section 625(1) or (2) or  
20 former section 625b or a law of another state substantially cor-  
21 responding to section 625(1), (3) (4) or (5), or former section  
22 625(1) or (2) or former section 625b the court shall order the  
23 secretary of state to suspend the operator s or chauffeur s  
24 license of the person for a period of not less than 90 days or  
25 more than 1 year However if the person is convicted of a vio-  
26 lation of section 625(3) or a local ordinance substantially  
27 corresponding to section 625(3) for operating a vehicle when due

1 to the consumption of a controlled substance or a combination of  
2 intoxicating liquor and a controlled substance, the person's  
3 ability to operate the vehicle was visibly impaired the court  
4 shall order the secretary of state to suspend the operator's or  
5 chauffeur's license of the person for a period of not less than 6  
6 months or more than 1 year. If the court finds compelling cir-  
7 cumstances under subsection (9) sufficient to warrant the issu-  
8 ance of a restricted license to a person, the court may order the  
9 secretary of state to issue to the person a restricted license  
10 during all or a specified portion of the period of suspension.

11 (11) If the court finds that the person has 1 prior convic-  
12 tion within 7 years for a violation of section 625(1) (3) (4)  
13 or (5) or former section 625(1) or (2), or former section 625b,  
14 a local ordinance substantially corresponding to section 625(1)  
15 or (3), or former section 625(1) or (2), or former section 625b,  
16 or a law of another state substantially corresponding to section  
17 625(1) (3) (4) or (5) or former section 625(1) or (2) or  
18 former section 625b, the court shall order the secretary of state  
19 to suspend the operator's or chauffeur's license of the person  
20 for a period of not less than 6 months or more than 2 years. If  
21 the court finds compelling circumstances under subsection (9)  
22 sufficient to warrant the issuance of a restricted license to a  
23 person, the court may order the secretary of state to issue to  
24 the person a restricted license during all or any portion of the  
25 suspension period except that a restricted license shall not be  
26 issued during the first 60 days of the period of suspension.

1        (111) If the court finds that the person has 2 or more prior  
 2 convictions within 10 years for a violation of section 625(1)  
 3 (3) (4), or (5) or former section 625(1) or (2) or former sec-  
 4 tion 625b, a local ordinance substantially corresponding to sec-  
 5 tion 625(1) or (3) or former section 625(1) or (2), or former  
 6 section 625b or a law of another state substantially correspond-  
 7 ing to section 625(1), (3), (4), or (5), or former section 625(1)  
 8 or (2) or former section 625b, the court shall order the secre-  
 9 tary of state to revoke the operator s or chauffeur s license of  
 10 the person and shall not order the secretary of state to issue a  
 11 restricted license to the person

12        (6) A restricted license issued pursuant to an order under  
 13 subsection (5) shall permit the person to whom it is issued to do  
 14 1 or more of the following

15        (a) Drive to and from the person s residence and work  
 16 location

17        (b) Drive in the course of the person s employment or  
 18 occupation

19        (c) Drive to and from the person s residence and an alcohol  
 20 or drug education or treatment program as ordered by the court

21        (d) Drive to and from the person s residence and the court  
 22 probation department or a court-ordered community service pro-  
 23 gram or both

24        (e) Drive to and from the person s residence and an educa-  
 25 tional institution at which the person is enrolled as a student

26        (7) The court may order that the restricted license issued  
 27 pursuant to subsection (5) include the requirement that the



1 person shall not operate a motor vehicle FOR NOT LESS THAN 12  
2 MONTHS unless the vehicle is equipped with a functioning ignition  
3 interlock device IF THE COURT ORDERS THE SECRETARY OF STATE TO  
4 ISSUE A RESTRICTED LICENSE TO A PERSON PURSUANT TO SUBSECTION  
5 (5)(B)(1) OR (11), THE COURT SHALL REQUIRE BY COURT ORDER THAT  
6 ISSUANCE OF THE RESTRICTED LICENSE INCLUDE THE INSTALLATION OF A  
7 FUNCTIONING IGNITION INTERLOCK DEVICE THAT MEETS OR EXCEEDS THE  
8 MODEL SPECIFICATIONS OF THE NATIONAL HIGHWAY TRAFFIC SAFETY  
9 ADMINISTRATION SET FORTH IN 57 F R P 11772 (APRIL 7 1992) ON  
10 EACH MOTOR VEHICLE THE PERSON OWNS OR INTENDS TO OPERATE THE  
11 COSTS OF WHICH SHALL BE BORNE BY THE PERSON WHOSE LICENSE IS  
12 RESTRICTED The device shall be set to render the motor vehicle  
13 inoperable if the device detects a blood alcohol content of 0.02%  
14 or more by weight of alcohol in the person who offers a breath  
15 sample The court may order installation of an ignition inter-  
16 lock device on any motor vehicle that the person owns or oper-  
17 ates the costs of which shall be borne by the person whose  
18 license is restricted THE SECRETARY OF STATE SHALL NOT ISSUE A  
19 RESTRICTED LICENSE UNDER SUBSECTION (5)(B)(1) OR (11) UNTIL VERI-  
20 FICATION OF INSTALLATION OF AN IGNITION INTERLOCK DEVICE IS  
21 RECEIVED BY THE SECRETARY OF STATE THE COURT SHALL REQUIRE  
22 PERIODIC MONITORING OF AN INSTALLED IGNITION INTERLOCK DEVICE BY  
23 THE MANUFACTURER OR INSTALLER IF MONITORING INDICATES THE  
24 DEVICE HAS BEEN CIRCUMVENTED THAT FACT SHALL IMMEDIATELY BE COM-  
25 MUNICATED TO THE COURT AND THE SECRETARY OF STATE

26 (8) The court shall not order the secretary of state under  
27 subsection (5) to issue a restricted license that would permit a

1 person to operate a commercial motor vehicle that hauls hazardous  
2 materials

3 (9) The court shall not order the secretary of state to  
4 issue a restricted license unless the person states under oath,  
5 and the court finds pursuant to testimony taken in open court or  
6 pursuant to statements contained in a sworn affidavit on a form  
7 prescribed by the state court administrator that both of the  
8 following are true

9 (a) The person needs vehicular transportation to and from  
10 his or her work location, place of alcohol or drug education  
11 treatment, SITE WHERE MONITORING OF THE IGNITION INTERLOCK DEVICE  
12 TAKES PLACE, court probation department court-ordered community  
13 service program or educational institution or in the course of  
14 the person s employment or occupation

15 (b) The person is unable to take public transportation and  
16 does not have any family members or other individuals able to  
17 provide transportation to a destination or for a purpose  
18 described in subdivision (a)

19 (10) The court order issued under subsection (5) and the  
20 restricted license shall indicate the permitted destinations of  
21 the person or the permitted purposes for which the person may  
22 operate a vehicle, the approved route or routes if specified by  
23 the court and permitted times of travel

24 (11) As used in this section work location means as  
25 applicable either the specific place or places of employment, or  
26 the territory or territories regularly visited by the person in  
27 pursuance of the person s occupation or both

1 (12) Immediately upon acceptance by the court of a plea of  
2 guilty or nolo contendere or upon entry of a verdict of guilty  
3 for a violation of section 625(1), (3), (4), or (5), or a local  
4 ordinance substantially corresponding to section 625(1) or (3),  
5 the person shall surrender to the court his or her operator s or  
6 chauffeur s license or permit The court shall immediately  
7 destroy the license or permit and forward an abstract of convic-  
8 tion with court-ordered license sanctions to the secretary of  
9 state Upon receipt of, and pursuant to, the abstract of convic-  
10 tion with court-ordered license sanctions, the secretary of state  
11 shall suspend or revoke the person's license and, if ordered by  
12 the court and the person is otherwise eligible for a license  
13 issue to the person a restricted license stating the limited  
14 driving privileges indicated on the abstract If the judgment  
15 and sentence is appealed to circuit court, the court may, ex  
16 parte, order the secretary of state to stay the suspension, revo-  
17 cation or restricted license issued pursuant to this section  
18 pending the outcome of the appeal

19 (13) In addition to any other suspension or revocation  
20 ordered under this section and as part of the sentence imposed  
21 upon a person who violates section 625(1) (3) (4) or (5) or a  
22 local ordinance substantially corresponding to section 625(1) or  
23 (3) while operating a commercial motor vehicle the court shall  
24 order the secretary of state to suspend the vehicle group desig-  
25 nations on the person s operator s or chauffeur s license in  
26 accordance with section 319b(1)(c) except that if the vehicle  
27 was transporting hazardous material required to have a placard

1 pursuant to 49 C F R parts 100 to 199, the court shall order the  
2 secretary of state to suspend the vehicle group designations on  
3 the person s operator's or chauffeur s license in accordance with  
4 section 319b(1)(d) The court shall not order the secretary of  
5 state to issue a restricted license that would permit the person  
6 to operate a commercial motor vehicle

7 (14) In addition to any other suspension or revocation  
8 ordered under this section and as part of the sentence imposed  
9 upon a person who is convicted of a violation of section 625(1),  
10 (3) (4), or (5) or a local ordinance substantially corresponding  
11 to section 625(1) or (3) while operating a commercial motor vehi-  
12 cle within 10 years of a prior conviction the court shall order  
13 the secretary of state to revoke the vehicle group designations  
14 on the person s operator s or chauffeur s license in accordance  
15 with section 319b(1)(e) The court shall not order the secretary  
16 of state to issue a restricted license that would permit the  
17 person to operate a commercial motor vehicle As used in this  
18 subsection, prior conviction means a conviction under section  
19 625(1) (3) (4) or (5) or former section 625(1) or (2) or  
20 former section 625b a local ordinance substantially correspond-  
21 ing to section 625(1) or (3) or former section 625(1) or (2) or  
22 former section 625b or a law of another state substantially cor-  
23 responding to section 625(1) (3), (4), or (5), or former section  
24 625(1) or (2), or former section 625b involving the operation of  
25 a commercial motor vehicle or a conviction under section 625m a  
26 local ordinance substantially corresponding to section 625m, or a

1 law of another state substantially corresponding to section  
2 625m