



SENATE BILL No. 1216

September 13, 1994, Introduced by Senator GOUGEON and
referred to the Committee on Judiciary

A bill to amend sections 303, 310d, 312f, 319b, 321a, 323, 625, 625a, 625b, 625c, 625h, 625i, 625m, 727, and 732 of Act No 300 of the Public Acts of 1949, entitled as amended "Michigan vehicle code," sections 303, 323, 625, 625b, and 732 as amended by Act No 359 of the Public Acts of 1993, sections 310d and 625i as amended by Act No 99 of the Public Acts of 1991, section 312f as amended by Act No 180 of the Public Acts of 1992, sections 319b and 625c as amended by Act No 100 of the Public Acts of 1991, section 321a as amended by Act No 95 of the Public Acts of 1991, section 625a as amended by Act No 229 of the Public Acts of 1993, section 625h as amended by Act No 98 of the Public Acts of 1991, section 625m as added by Act No 94 of the Public Acts of 1991, and section 727 as amended by Act No 301 of the Public Acts of 1993, being sections 257 303, 257 310d, 257 312f, 257 319b,

257 321a, 257 323, 257 625, 257 625a, 257 625b, 257 625c,
257 625h, 257 625i, 257 625m, 257 727, and 257 732 of the
Michigan Compiled Laws

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Sections 303, 310d, 312f, 319b, 321a, 323, 625,
2 625a, 625b, 625c, 625h, 625i, 625m, 727, and 732 of Act No 300
3 of the Public Acts of 1949, sections 303, 323, 625, 625b, and 732
4 as amended by Act No 359 of the Public Acts of 1993,
5 sections 310d and 625i as amended by Act No 99 of the Public
6 Acts of 1991, section 312f as amended by Act No 180 of the
7 Public Acts of 1992, sections 319b and 625c as amended by Act
8 No 100 of the Public Acts of 1991, section 321a as amended by
9 Act No 95 of the Public Acts of 1991, section 625a as amended by
10 Act No 229 of the Public Acts of 1993, section 625h as amended
11 by Act No 98 of the Public Acts of 1991, section 625m as added
12 by Act No 94 of the Public Acts of 1991, and section 727 as
13 amended by Act No 301 of the Public Acts of 1993 being sections
14 257 303, 257 310d, 257 312f, 257 319b, 257 321a, 257 323,
15 257 625, 257 625a, 257 625b, 257 625c, 257 625h, 257 625i,
16 257 625m, 257 727, and 257 732 of the Michigan Compiled Laws, are
17 amended to read as follows

18 Sec 303 (1) The secretary of state shall not issue a
19 license under this act to any of the following

20 (a) A person, as an operator, who is less than 18 years of
21 age, except that the secretary of state may issue a license to a
22 person who is not less than 16 years of age and who has
23 satisfactorily passed a driver education course and examination

1 given by a public school or nonpublic school of this or another
2 state offering a course approved by the department of education,
3 or an equivalent course and examination as prescribed in section
4 811 The secretary of state may issue to a person not less than
5 14 years of age a restricted license as provided in this act
6 This subdivision shall not apply to a person who has been the
7 holder of a valid driver's license issued by another state, ter-
8 ritory, or possession of the United States or another sovereignty
9 for at least 1 year immediately before application for a driver's
10 license under this act

11 (b) A person, as a chauffeur, who is less than 18 years of
12 age, except that the secretary of state may issue a license to a
13 person who is not less than 16 years of age and who has satisfac-
14 torily passed a driver education course and examination given by
15 a public school or nonpublic school of this or another state
16 offering a course approved by the department of education, or an
17 equivalent course and examination as prescribed in section 811

18 (c) A person whose license has been suspended during the
19 period for which the license was suspended

20 (d) A person who has been convicted under section 625(4) or
21 (5)

22 (e) A person who is an habitual violator of the criminal
23 laws relating to operating a vehicle while impaired by or under
24 the influence of intoxicating liquor or a controlled substance or
25 a combination of intoxicating liquor and a controlled substance,
26 or with a blood alcohol content of 0.10% or more by weight of
27 alcohol Convictions of any of the following, whether under a

1 law of this state, a local ordinance substantially corresponding
2 to a law of this state, or a law of another state substantially
3 corresponding to a law of this state, shall be prima facie evi-
4 dence that the person is an habitual violator as described in
5 this subdivision

6 (1) Any combination of 2 convictions within 7 years for 1 or
7 more of the following

8 (A) A violation of section 625(1), (4), ~~or~~ (5), OR (6)

9 (B) A violation of former section 625(1) or (2)

10 (11) Any combination of 3 convictions within 10 years for 1
11 or more of the following

12 (A) A violation of section 625(1), (3), (4), ~~or~~ (5), OR
13 (6)

14 (B) A violation of former section 625(1) or (2) or former
15 section 625b

16 (f) A person who in the opinion of the secretary of state is
17 afflicted with or suffering from a physical or mental disability
18 or disease which prevents that person from exercising reasonable
19 and ordinary control over a motor vehicle while operating the
20 motor vehicle upon the highways

21 (g) A person who is unable to understand highway warning or
22 direction signs in the English language

23 (h) A person who is an habitually reckless driver Four
24 convictions of reckless driving under this act or any other law
25 of this state relating to reckless driving or under a local ordi-
26 nance of this state or a law of another state which defines the
27 term "reckless driving" substantially similar to the law of this

1 state shall be prima facie evidence that the person is an
2 habitually reckless driver

3 (i) A person who is an habitual criminal Two convictions
4 of a felony involving the use of a motor vehicle in this or
5 another state shall be prima facie evidence that the person is an
6 habitual criminal

7 (j) A person who is unable to pass a knowledge, skill, or
8 ability test administered by the secretary of state in connection
9 with the issuance of an original operator's or chauffeur's
10 license, original motorcycle indorsement, or an original or
11 renewal of a vehicle group designation or vehicle indorsement

12 (k) A person who has been convicted, received a probate
13 court disposition, or been determined responsible for 2 or more
14 moving violations under a law of this state, a local ordinance
15 substantially corresponding to a law of this state, or a law of
16 another state substantially corresponding to a law of this state,
17 within the preceding 3 years, if the violations occurred prior to
18 the issuance of an original license to the person in this or
19 another state

20 (l) A nonresident

21 (m) A person not licensed under this act who has been con-
22 victed of or received a probate court disposition for committing
23 a crime described in section 319, 324, or 904 A person shall be
24 denied a license under this subdivision for the length of time
25 that corresponds to the period of the licensing sanction that
26 would have been imposed under section 319, 324, or 904 if the
27 person had been licensed at the time of the violation

1 (n) A person not licensed under this act who has been
2 convicted of or received a probate court disposition for commit-
3 ting a crime described in section 319e A person shall be denied
4 a license under this subdivision for the length of time that cor-
5 responds to the period of the licensing sanction that would have
6 been imposed under section 319e if the person had been licensed
7 at the time of the violation

8 (2) Upon receipt of the appropriate records of conviction,
9 the secretary of state shall revoke the operator's or chauffeur's
10 license of a person having any of the following convictions,
11 whether under a law of this state, a local ordinance substan-
12 tially corresponding to a law of this state, or a law of another
13 state substantially corresponding to a law of this state

14 (a) Four convictions of reckless driving within 7 years

15 (b) Two convictions of a felony involving the use of a motor
16 vehicle within 7 years

17 (c) Any combination of 2 convictions within 7 years for 1 or
18 more of the following

19 (1) A violation of section 625(1)

20 (11) A violation of former section 625(1) or (2)

21 (111) A violation of section 625(4) or (5)

22 (d) One conviction under section 625(4) or (5)

23 (e) Any combination of 3 convictions within 10 years for 1
24 or more of the following

25 (1) A violation of section 625(1), (3), (4), ~~or~~ (5), OR

26 (6)

1 (11) A violation of former section 625(1) or (2) or former
2 section 625b

3 (3) The secretary of state shall revoke a license under sub-
4 section (2) notwithstanding a court order issued under section
5 625, section 625b, former section 625(1) or (2), or former sec-
6 tion 625b, or a local ordinance substantially corresponding to
7 section 625, section 625b, former section 625(1) or (2), or
8 former section 625b

9 (4) The secretary of state shall not issue a license under
10 this act to a person whose license has been revoked under this
11 act or denied under subsection (1)(d), (e), (h), or (i) until
12 both of the following occur

13 (a) The later of the following

14 (1) The expiration of not less than 1 year after the license
15 was revoked or denied

16 (11) The expiration of not less than 5 years after the date
17 of a subsequent revocation or denial occurring within 7 years
18 after the date of any prior revocation or denial

19 (b) The person meets the requirements of the department

20 (5) Multiple convictions, civil infraction determinations,
21 or probate court dispositions resulting from the same incident
22 shall be treated as a single violation for purposes of denial or
23 revocation of a license under this section

24 Sec 310d (1) A license issued under this act to a person
25 not previously licensed in this or in another state shall be des-
26 igned as probationary for 3 years after the date of issuance
27 During the first 12 months of probation, the license may be

1 suspended or probationary terms and conditions may be imposed
2 upon failure of the licensee to appear before a magistrate, as
3 provided in this chapter, or upon conviction of the licensee or
4 determination of the licensee's responsibility for a moving vio-
5 lation in this state The period of suspension or the probation-
6 ary terms and conditions shall not be for more than 12 months and
7 shall be determined by the secretary of state at an examination
8 of the driver by the secretary of state

9 (2) If a license is suspended or probationary terms and con-
10 ditions are imposed by a probate judge, the period during which
11 the suspension or probationary terms and conditions are in effect
12 shall be deducted from the period of suspension or probationary
13 terms and conditions imposed at an examination of the driver by
14 the secretary of state pursuant to subsection (1) If a license
15 is suspended or probationary terms and conditions are imposed by
16 the probate judge, the probate court shall include the suspen-
17 sion probationary terms, and conditions and the period during
18 which the suspension, probationary terms, and conditions apply,
19 on the abstract which the court forwards to the secretary of
20 state

21 (3) Upon completion of the first 12 months of probation, the
22 secretary of state may require a licensee to be reexamined by the
23 secretary of state if the licensee's driving record contains any
24 of the following

25 (a) A conviction, civil infraction determination, or probate
26 court disposition of a moving violation which was assessed 4 or
27 more points as provided in section 320a

1 (b) Three convictions, 3 civil infraction determinations, 3
2 probate court dispositions, or a combination of convictions,
3 civil infraction determinations, and probate court dispositions
4 which equals 3, for moving violations

5 (c) A total of 6 or more points as provided in section
6 320a

7 (d) A conviction, civil infraction determination, or probate
8 court disposition of a moving violation and an accident for which
9 the official police report indicates the licensee had been drink-
10 ing intoxicating liquor

11 (e) A conviction, civil infraction determination, or probate
12 court disposition of a moving violation and an accident for which
13 the official police report indicates a moving violation on the
14 part of the licensee

15 (f) Three accidents for which the official police report
16 indicates a moving violation on the part of the licensee

17 (g) A suspension pursuant to section 625f

18 (4) The probationary period shall be extended beyond 3 years
19 and the secretary of state may reexamine a licensee as provided
20 in subsection (3), if any of the following occur and are recorded
21 on the licensee's driving record during the last 10 months of the
22 probationary period

23 (a) A moving violation resulting in a conviction or civil
24 infraction determination

25 (b) An accident for which the official police report indi-
26 cates a moving violation on the part of the licensee

1 (c) An accident for which the official police report
2 indicates the licensee had been drinking intoxicating liquor

3 (d) A license suspension for a reason other than a mental or
4 physical disability

5 (5) The probationary period shall be extended pursuant to
6 subsection (4) until the licensee completes 10 consecutive months
7 without a moving violation, accident, or suspension enumerated in
8 subsection (4)

9 (6) The secretary of state, upon completion of a reexamina-
10 tion, may suspend or impose probationary terms and conditions on
11 the license of a probationary licensee, except that a reexamina-
12 tion for subsection (3)(d), (e), or (f) shall not result in a
13 license suspension or the imposition of probationary terms or
14 conditions

15 (7) For 24 months immediately after a licensee's probation-
16 ary period, the secretary of state may require the licensee to be
17 reexamined by the secretary of state if the licensee's driver
18 record has a total of 9 or more points, as provided in section
19 320a, imposed in a period of 2 years and if the licensee's record
20 contains 1 or more of the following

21 (a) A conviction or probate court disposition, for a viola-
22 tion of section 625(1) OR (6), or former section 625(1) or (2), a
23 local ordinance substantially corresponding to section 625(1) OR
24 (6), or former section 625(1) or (2), or a law of another state
25 substantially corresponding to section 625(1) OR (6), or former
26 section 625(1) or (2)

1 (b) A conviction or probate court disposition for driving
2 while visibly impaired due to consumption of intoxicating liquor,
3 a controlled substance, or a combination of intoxicating liquor
4 and a controlled substance

5 (c) A suspension of the licensee's license pursuant to sec-
6 tion 625f

7 (d) An accident for which the official police report indi-
8 cates a moving violation on the part of the licensee

9 (e) An accident for which the official police report indi-
10 cates the licensee had been drinking intoxicating liquor

11 (8) The secretary of state, upon completion of a reexamina-
12 tion pursuant to subsection (7), may suspend the license of the
13 licensee, except that a reexamination for subsection (7)(d) or
14 (e) shall not result in a license suspension or restriction

15 (9) If a licensee fails to appear for a reexamination sched-
16 uled by the secretary of state pursuant to this section, the
17 licensee's license may be suspended immediately and remain sus-
18 pended until the licensee appears for a reexamination by the sec-
19 retary of state

20 (10) Notice of a reexamination required under this section
21 shall be given by first class mail to the last known address of
22 the licensee

23 (11) For purposes of this section

24 (a) Upon conviction for a moving violation, the date of the
25 arrest for the violation shall be used in determining whether the
26 conviction occurred within the probationary period

1 (b) Upon entry of a civil infraction determination for a
2 moving violation, the date of issuance of a citation for a civil
3 infraction shall be used in determining whether the civil infrac-
4 tion determination occurred within the probationary period

5 (c) Information of a reexamination shall not be placed on a
6 driver's record unless the secretary of state suspends a license
7 or imposes probationary terms and conditions

8 (d) A suspension shall be considered part of a driving
9 record from the date the suspension is imposed until the suspen-
10 sion is terminated

11 (e) The date of the official police report shall be used in
12 determining whether a licensee was driving a motor vehicle
13 involved in an accident for which the official police report
14 indicates a moving violation on the part of the licensee or indi-
15 cates the licensee had been drinking intoxicating liquor

16 Sec 312f (1) Except as otherwise provided in this sec-
17 tion a person shall be not less than 18 years of age before he
18 or she is issued a vehicle group designation or indorsement,
19 other than a motorcycle indorsement, on an operator's or
20 chauffeur's license and, as provided in this section, the person
21 shall pass knowledge and driving skills tests that comply with
22 minimum federal standards prescribed in 49 C F R part 383 A
23 person operating a vehicle to be used for farming purposes only
24 may obtain a group A, a group B, or an F vehicle group designa-
25 tion if he or she is not less than 16 years of age Each written
26 examination given an applicant for a vehicle group designation or
27 indorsement on an operator's or chauffeur's license shall include

1 subjects designed to cover the type or general class of vehicle
2 to be operated A person shall pass an examination that includes
3 a driving test designed to test competency of the applicant for
4 an original vehicle group designation and passenger indorsement
5 on an operator's or chauffeur's license to drive that type or
6 general class of vehicle upon the highways of this state with
7 safety to that person and other persons and property The secre-
8 tary of state shall waive the driving skills test for a person
9 operating a vehicle that is used under the conditions described
10 in section 312e(4)(a) to (d) unless the vehicle has a gross vehi-
11 cle weight rating of 26,001 pounds or more on the power unit and
12 is to be used to carry hazardous materials on which a placard is
13 required under 49 C F R parts 100 to 199 The driving test may
14 be waived if the applicant has a valid license, indorsement, or
15 vehicle group designation to operate that type or group of vehi-
16 cle in another state, except that the driving test for a vehicle
17 group designation or passenger vehicle indorsement may not be
18 waived unless the applicant has a valid license with the appro-
19 priate vehicle group designation or passenger vehicle indorsement
20 in another state issued in compliance with the commercial motor
21 vehicle safety act of 1986, title XII of Public Law 99-570, 100
22 Stat 3207-170

23 (2) The secretary of state shall waive the knowledge test
24 and the driving skills test and issue a 1-year seasonal
25 restricted vehicle group designation for an otherwise qualified
26 person who desires to operate a group B or a group C vehicle for
27 a farm related service industry under the following conditions

1 (a) An applicant shall possess a good driving record
2 However, an applicant who has not held an operator's or
3 chauffeur's license for at least 1 year is not eligible for a
4 waiver An applicant who has between 1 and 2 years of driving
5 experience shall possess a good driving record for his or her
6 entire driving history An applicant who has more than 2 years
7 of driving experience shall possess a good driving record for the
8 2 years immediately preceding application for a waiver

9 (b) The seasons for which the seasonal restricted vehicle
10 group designation is issued shall be from April 2 to June 30 and
11 from September 2 to November 30 only of a 12-month period or, at
12 the option of the applicant, for not more than 180 days from the
13 date of issuance in a 12-month period ~~subsequent to 1992~~ A
14 seasonal restricted vehicle group designation under this subsec-
15 tion shall be issued, suspended, revoked, canceled, or renewed in
16 accordance with this act The good driving record shall be con-
17 firmed before each season and 180-day period

18 (c) The commercial motor vehicle for which the seasonal
19 restricted vehicle group designation is issued shall be operated
20 only on routes within 150 miles from the place of business to the
21 farm or farms being served

22 (d) The commercial motor vehicle for which the seasonal
23 restricted vehicle group designation is issued shall not trans-
24 port a quantity of hazardous materials on which a placard is
25 required except for the following

26 (1) Diesel motor fuel in quantities of 1,000 gallons or
27 less

1 (11) Liquid fertilizers in quantities of 3,000 gallons or
2 less

3 (111) Solid fertilizers that are not transported with any
4 organic substance

5 (e) The commercial motor vehicle for which a seasonal
6 restricted vehicle group designation is issued shall not include
7 a bus or school bus

8 (3) The secretary of state may enter into an agreement with
9 another public or private person or agency to conduct a skills
10 test required under this section, section 312e, or 49 C F R part
11 383

12 (4) The secretary of state shall not issue a vehicle group
13 designation to an applicant for an original vehicle group design-
14 nation to whom 1 or more of the following apply

15 (a) The applicant has had his or her license suspended or
16 revoked for a reason other than as provided in section 321a, 515,
17 or 801c in the 36 months immediately preceding application,
18 except that a vehicle group designation may be issued if the sus-
19 pension or revocation was due to a temporary medical condition or
20 failure to appear at a reexamination as provided in section 320

21 (b) The applicant was convicted of or incurred a bond for-
22 feiture in relation to a 6-point violation as provided in section
23 320a in the 24 months immediately preceding application, or a
24 violation of section 625(3) OR (6), or former section 625b, or a
25 local ordinance substantially corresponding to section 625(3) OR
26 (6) or former section 625b in the 24 months immediately preceding
27 application, if the violation occurred while the applicant was

1 operating a type of vehicle that is operated under a vehicle
2 group designation

3 (c) The applicant is listed on the national driver register,
4 the commercial driver license information system, or the driving
5 records of the state in which the applicant was previously
6 licensed as being disqualified from operating a commercial motor
7 vehicle or as having a license suspended, revoked, canceled, or
8 denied

9 (d) The applicant is listed on the national driver register,
10 the commercial driver license information system, or the driving
11 records of the state in which the applicant was previously
12 licensed as having had a license suspended, revoked, or canceled
13 in the 36 months immediately preceding application if a suspen-
14 sion or revocation would have been imposed under this act had the
15 applicant been licensed in this state in the original instance
16 This subdivision does not apply to a suspension or revocation
17 that would have been imposed due to a temporary medical condition
18 or pursuant to section 321a, 515, or 801c

19 (e) The applicant is subject to a suspension or revocation
20 under section 319b or would have been subject to a suspension or
21 revocation under section 319b if the applicant had been issued a
22 vehicle group designation

23 (f) The applicant has been disqualified from operating a
24 commercial motor vehicle under title XII of Public Law 99-570,
25 100 Stat 3207-170 or the applicant's license to operate a com-
26 mercial motor vehicle has been suspended, revoked, denied, or

1 canceled within 36 months immediately preceding the date of
2 application

3 (5) The secretary of state shall only consider bond forfei-
4 tures under subsection (4)(b) for violations that occurred on or
5 after January 1, 1990 when determining the applicability of sub-
6 section (4)

7 (6) If an applicant for an original vehicle group designa-
8 tion was previously licensed in another jurisdiction, the secre-
9 tary of state shall request a copy of the applicant's driving
10 record from that jurisdiction If 1 or more of the conditions
11 described in subsection (4) exist in that jurisdiction when the
12 secretary of state receives the copy, the secretary of state
13 shall cancel all vehicle group designations on the person's
14 operator's or chauffeur's license

15 (7) Subsection (4)(a), (b), (d), and (f) do not apply to an
16 applicant for an original vehicle group designation who at the
17 time of application has a valid class 1, class 2, or class 3
18 indorsement under this act or a valid license to operate a com-
19 mercial motor vehicle issued by any state in compliance with
20 title XII of Public Law 99-570

21 (8) As used in this section

22 (a) "Farm related service industry" means custom harvesters,
23 farm retail outlets and suppliers, agri-chemical business, or
24 livestock feeders

25 (b) "Good driving record" means the criteria required under
26 regulations described at 49 C F R 383 77 and 57 F R 75, P
27 13650 (April 17, 1992)

1 Sec 319b (1) The secretary of state shall immediately
2 suspend or revoke, as applicable, all vehicle group designations
3 on the operator's or chauffeur's license of a person upon receiv-
4 ing notice of a conviction, bond forfeiture, or civil infraction
5 determination of the person, or notice that a court or adminis-
6 trative tribunal has found the person responsible, for a viola-
7 tion described in this section of a law of this state, a local
8 ordinance substantially corresponding to a law of this state, or
9 a law of another state substantially corresponding to a law of
10 this state, or notice that the person has refused to submit to a
11 chemical test of his or her blood, breath, or urine for the pur-
12 pose of determining the amount of alcohol or presence of a con-
13 trolled substance or both in the person's blood while the person
14 was operating a commercial motor vehicle as required by a law or
15 local ordinance of this or another state The period of suspen-
16 sion or revocation is as follows

17 (a) Suspension for 60 days if the licensee is convicted of
18 or found responsible for 2 serious traffic violations while oper-
19 ating a commercial motor vehicle arising from separate incidents
20 within 36 months

21 (b) Suspension for 120 days if the licensee is convicted of
22 or found responsible for 3 serious traffic violations while oper-
23 ating a commercial motor vehicle arising from separate incidents
24 within 36 months

25 (c) Suspension for 1 year if the licensee is convicted of or
26 found responsible for 1 of the following

1 (1) A violation of section 625(1), (3), (4), ~~or~~ (5), OR
2 (6), section 625m, or former section 625(1) or (2), or former
3 section 625b, or a local ordinance substantially corresponding to
4 section 625(1), ~~or~~ (3), OR (6), section 625m, or former section
5 625(1) or (2), or former section 625b, or a law of another state
6 substantially corresponding to section 625(1), (3), (4), ~~or~~
7 (5), OR (6), section 625m, or former section 625(1) or (2), or
8 former section 625b, while operating a commercial motor vehicle

9 (11) Leaving the scene of an accident involving a commercial
10 motor vehicle operated by the licensee

11 (111) A felony in which a commercial motor vehicle was
12 used

13 (1v) A refusal to submit to a chemical test of his or her
14 blood, breath, or urine for the purpose of determining the amount
15 of alcohol or presence of a controlled substance or both in his
16 or her blood while he or she was operating a commercial motor
17 vehicle as required by a law or local ordinance of this state or
18 another state

19 (v) A 6-point violation as provided in section 320a while
20 operating a commercial motor vehicle

21 (d) Suspension for 3 years if the licensee is convicted of
22 or found responsible for an offense enumerated in subdivision
23 (c)(1) to (1v) in which a commercial motor vehicle was used if
24 the vehicle was carrying hazardous material required to have a
25 placard pursuant to 49 C F R parts 100 to 199

26 (e) Revocation for not less than 10 years and until the
27 person is approved for the issuance of a vehicle group

1 designation if a licensee is convicted of or found responsible
2 for 1 of the following

3 (1) Any combination of 2 ~~violations under~~ ACTS ARISING OUT
4 OF SEPARATE INCIDENTS THAT VIOLATE section 625(1), (3), (4), ~~or~~
5 (5), OR (6), section 625m, or former section 625(1) or (2), or
6 former section 625b, a local ordinance substantially correspond-
7 ing to section 625(1), ~~or~~ (3), OR (6), section 625m, or former
8 section 625(1) or (2), or former section 625b, or a law of
9 another state substantially corresponding to section 625(1), (3),
10 (4), ~~or~~ (5), OR (6), section 625m, or former section 625(1) or
11 (2), or former section 625b while driving a commercial motor
12 vehicle

13 (11) Two violations of leaving the scene of an accident
14 involving a commercial motor vehicle operated by the licensee

15 (111) Two violations of a felony in which a commercial motor
16 vehicle was used

17 (1v) Two refusals of a request of a police officer to submit
18 to a chemical test of his or her blood, breath, or urine for the
19 purpose of determining the amount of alcohol or presence of a
20 controlled substance or both in his or her blood while he or she
21 was operating a commercial motor vehicle in this state or another
22 state, which refusals occurred in separate incidents

23 (v) Two violations, in any combination, of the offenses enu-
24 merated under subparagraph (1), (11), (111), or (1v) arising from
25 2 or more separate incidents

26 (v1) One violation of a felony in which a commercial motor
27 vehicle was used and that involved the manufacture, distribution,

1 or dispensing of a controlled substance or possession with intent
2 to manufacture, distribute, or dispense a controlled substance

3 (2) As used in this section

4 (a) "Felony in which a commercial motor vehicle was used"

5 means a felony during the commission of which the person con-
6 victed operated a commercial motor vehicle and while the person
7 was operating the vehicle 1 or more of the following circum-
8 stances existed

9 (1) The vehicle was used as an instrument of the felony

10 (11) The vehicle was used to transport a victim of the
11 felony

12 (111) The vehicle was used to flee the scene of the felony

13 (1v) The vehicle was necessary for the commission of the
14 felony

15 (b) "Serious traffic violation" means a traffic violation
16 that occurs in connection with an accident in which a person
17 died, careless driving, excessive speeding as defined in the fed-
18 eral administrative regulations promulgated to implement the com-
19 mercial motor vehicle safety act of 1986, title XII of Public Law
20 99-570, 100 Stat 3207-170, improper lane use, following too
21 closely, or any other serious traffic violation as defined in 49
22 C F R 383 5 or as prescribed under this act

23 (3) For the purpose of this section only, a bond forfeiture
24 or a determination by a court of original jurisdiction or by an
25 authorized administrative tribunal that a person has violated the
26 law is considered a conviction

1 (4) The secretary of state shall suspend or revoke a vehicle
2 group designation under subsection (1) notwithstanding a
3 suspension, restriction, revocation, or denial of an operator's
4 or chauffeur's license or vehicle group designation under another
5 section of this act or a court order issued under another section
6 of this act or a local ordinance substantially corresponding to
7 another section of this act

8 (5) The secretary of state, when determining the applicabil-
9 ity of conditions listed in this section, shall only consider
10 violations that occurred after January 1, 1990

11 Sec 321a (1) A person who fails to answer a citation, or
12 a notice to appear in court for a violation of this act or a
13 local ordinance substantially corresponding to a provision of
14 this act, or for any matter pending, or who fails to comply with
15 an order or judgment issued pursuant to section 907 is guilty of
16 a misdemeanor A violation of this subsection shall not be con-
17 sidered a violation for any purpose under section 320a

18 (2) Except as provided in subsection (3), 28 days or more
19 after the date of noncompliance with an order or judgment, the
20 court shall give notice by mail at the last known address of the
21 person that if the person fails to appear or fails to comply with
22 the order or judgment issued pursuant to section 907, including,
23 but not limited to, paying all fines and costs, within 14 days
24 after the notice is issued, the secretary of state shall suspend
25 the person's operator's or chauffeur's license If the person
26 fails to appear or fails to comply with the order or judgment
27 issued pursuant to section 907, including, but not limited to,

1 paying all fines and costs, within the 14-day period, the court
2 shall, within 14 days, inform the secretary of state, who shall
3 immediately suspend the license of the person and notify the
4 person of the suspension by regular mail at the person's last
5 known address

6 (3) If the person is charged with, or convicted of, a viola-
7 tion of section 625(1), (2), (3), (4), ~~or~~ (5), OR (6), or a
8 local ordinance substantially corresponding to section 625(1),
9 (2), ~~or~~ (3), OR (6), and the person fails to answer a citation
10 or a notice to appear in court, or for any matter pending, or
11 fails to comply with an order or judgment of the court, includ-
12 ing, but not limited to, paying all fines, costs, and crime
13 victim rights assessments, the court shall immediately give
14 notice by first-class mail sent to the person's last known
15 address that if the person fails to appear within 7 days after
16 the notice is issued, or fails to comply with the order or judg-
17 ment of the court, including, but not limited to, paying all
18 fines, costs, and crime victim rights assessments, within 14 days
19 after the notice is issued, the secretary of state shall suspend
20 the person's operator's or chauffeur's license If the person
21 fails to appear within the 7-day period, or fails to comply with
22 the order or judgment of the court, including, but not limited
23 to, paying all fines, costs, and crime victim rights assessments,
24 within the 14-day period, the court shall immediately inform the
25 secretary of state who shall immediately suspend the person's
26 operator's or chauffeur's license and notify the person of the

1 suspension by first-class mail sent to the person's last known
2 address

3 (4) A suspension imposed under subsection (2) or (3) shall
4 remain in effect until both of the following occur

5 (a) The court informs the secretary of state that the person
6 has appeared before the court and that all matters relating to
7 the violation or to the noncompliance with section 907 are
8 resolved

9 (b) The person has paid to the court a \$25 00 driver license
10 reinstatement fee The increase in the reinstatement fee from
11 \$10 00 to \$25 00 shall be imposed for a license that is suspended
12 on or after April 5, 1988 regardless of when the license was
13 suspended

14 (5) The court shall not notify the secretary of state, and
15 the secretary of state shall not suspend the person's license, if
16 the person fails to appear in response to a citation issued for,
17 or fails to comply with an order or judgment involving 1 or more
18 of the following infractions

19 (a) The parking or standing of a vehicle

20 (b) A pedestrian, passenger, or bicycle violation

21 (6) The court may notify a person who has done either of the
22 following, that if the person does not appear within 10 days
23 after the notice is issued, the court will inform the secretary
24 of state of the person's failure to appear

25 (a) Failed to answer 2 or more parking violation notices or
26 citations for violating a provision of this act or an ordinance
27 substantially corresponding to a provision of this act pertaining

1 to handicapper parking issued or served after the effective date
2 of the amendatory act that added this subdivision

3 (b) Failed to answer 6 or more parking violation notices or
4 citations, issued or served after March 31, 1981, regarding ille-
5 gal parking

6 (7) The secretary of state, upon being informed of the fail-
7 ure of a person to appear as provided in subsection (6), shall
8 not issue a license to the person until both of the following
9 occur

10 (a) The court informs the secretary of state that the person
11 has resolved all outstanding matters regarding the notices or
12 citations

13 (b) The person has paid to the court a \$25 00 driver license
14 reinstatement fee The increase in the reinstatement fee from
15 \$10 00 to \$25 00 shall be imposed for a license that is suspended
16 on or after April 5, 1988 regardless of when the license was
17 suspended If the court determines that the person is not
18 responsible for any of the parking violations for which the
19 person's license was suspended under this subsection the court
20 shall waive payment of the fee

21 (8) For the purposes of subsections (4)(a) and (7)(a), the
22 court shall give to the person a copy of the information being
23 transmitted to the secretary of state Upon showing that copy,
24 the person shall not be arrested or issued a citation for driving
25 on a suspended license on the basis of any matter resolved under
26 subsection (4)(a) or (7)(a), even if the information being sent

1 to the secretary of state has not yet been received or recorded
2 by the department

3 (9) Sixty percent of the driver license reinstatement fees
4 received under subsections (4)(b) and (7)(b) shall be transmitted
5 by the court to the secretary of state on a monthly basis The
6 funds received by the secretary of state pursuant to this subsec-
7 tion shall be deposited in the state general fund and shall be
8 used to defray the expenses of the secretary of state in process-
9 ing the suspension and reinstatement of driver licenses under
10 this section

11 Sec 323 (1) Except as provided in subsections (5) and
12 (9), a person who is aggrieved by a final determination of the
13 secretary of state denying the person an operator's or
14 chauffeur's license, a vehicle group designation, or an indorse-
15 ment on a license or revoking, suspending, or restricting an
16 operator's or chauffeur's license, vehicle group designation, or
17 an indorsement may petition for a review of the determination in
18 the circuit court in the county where the person was arrested if
19 the denial or suspension was imposed pursuant to section 625f or
20 pursuant to the order of a trial court under section 328 or, in
21 all other cases, in the circuit court in the county of residence
22 of the person The petition shall be filed within 63 days after
23 the determination is made except that for good cause shown the
24 court may allow the petition to be filed within 182 days after
25 the determination is made As provided in section 625f, a peace
26 officer who is aggrieved by a determination of a hearing officer
27 in favor of a person who requested a hearing under section 625f

1 may, with the consent of the prosecuting attorney, petition for
2 review of the determination in the circuit court in the county
3 where the arrest was made The petition shall be filed within 63
4 days after the determination is made except that for good cause
5 shown the court may allow the petition to be filed within 182
6 days after the determination is made

7 (2) Except as otherwise provided in this section, the cir-
8 cuit court shall enter an order setting the cause for hearing for
9 a day certain that is not more than 63 days after the date of the
10 order The order, together with a copy of the petition that
11 includes the person's full name, current address, birth date, and
12 driver's license number, and all supporting affidavits, shall be
13 served on the secretary of state's office in Lansing not less
14 than 20 days before the date set for the hearing If the person
15 is seeking a review of the record prepared pursuant to section
16 322 or section 625f, the service upon the secretary of state
17 shall be made not less than 50 days before the date set for the
18 hearing

19 (3) Except as otherwise provided in this section, the court
20 may take testimony and examine into all the facts and circum-
21 stances incident to the denial, suspension, restriction, or revo-
22 cation of the person's license The court may affirm, modify, or
23 set aside the restriction, suspension, revocation, or denial
24 except that the court shall not order the secretary of state to
25 issue a restricted or unrestricted chauffeur's license that would
26 permit a person to drive a truck or truck tractor, including a
27 trailer, that hauls a hazardous material The order of the court

1 shall be duly entered and the petitioner shall file a certified
2 copy of the order with the secretary of state's office in Lansing
3 within 7 days after entry of the order

4 (4) In reviewing a determination under section 625f, the
5 court shall confine its consideration to 1 or both of the
6 following

7 (a) A review of the record prepared pursuant to section
8 625f(3) to determine whether the hearing officer properly deter-
9 mined the issues enumerated in section 625f

10 (b) A determination of whether to order the issuance of a
11 restricted license as provided in section 323c

12 (5) This section does not apply to a denial, revocation,
13 suspension, or restriction imposed pursuant to a court order
14 issued as part of the sentence for a conviction under either of
15 the following

16 (a) Section 625, section 625m, former section 625(1) or (2),
17 or former section 625b, or a local ordinance substantially corre-
18 sponding to section 625(1), (2), ~~or~~ (3), OR (6), section 625m,
19 former section 625(1) or (2), or former section 625b

20 (b) Part 74 or section 17766a of the public health code, Act
21 No 368 of the Public Acts of 1978, being sections 333 7401 to
22 333 7461 and section 333 17766a of the Michigan Compiled Laws, or
23 a local ordinance that prohibits conduct prohibited under part 74
24 or section 17766a of Act No 368 of the Public Acts of 1978

25 (6) In reviewing a determination resulting in a denial or
26 revocation under section 303(1)(d) or (e) or 303(2)(c), (d), or
27 (e), the court shall confine its consideration to a review of the

1 record prepared pursuant to section 322 or the driving record
2 created under section 204a, and shall not grant relief pursuant
3 to subsection (3) The court shall set aside the determination
4 of the secretary of state only if substantial rights of the peti-
5 tioner have been prejudiced because the determination is any of
6 the following

7 (a) In violation of the Constitution of the United States,
8 of the state constitution of 1963, or of a statute

9 (b) In excess of the statutory authority or jurisdiction of
10 the secretary of state

11 (c) Made upon unlawful procedure resulting in material prej-
12 udice to the petitioner

13 (d) Not supported by competent, material, and substantial
14 evidence on the whole record

15 (e) Arbitrary, capricious, or clearly an abuse or unwar-
16 ranted exercise of discretion

17 (f) Affected by other substantial and material error of
18 law

19 (7) This section does not apply to a denial revocation
20 suspension, or restriction imposed pursuant to the financial
21 responsibility act contained in chapter V

22 (8) This section does not apply to a suspension, revocation,
23 or denial of a vehicle group designation imposed pursuant to
24 section 312f, 319a, or 319b

25 (9) This section does not apply to a suspension or denial of
26 a license imposed pursuant to section 303(1)(n) or 319e

1 Sec 625 (1) A person, whether licensed or not, shall not
2 operate a vehicle upon a highway or other place open to the
3 general public or generally accessible to motor vehicles, includ-
4 ing an area designated for the parking of vehicles, within this
5 state if either of the following applies

6 (a) The person is under the influence of intoxicating liquor
7 or a controlled substance, or a combination of intoxicating
8 liquor and a controlled substance

9 (b) The person has a blood alcohol content of 0 10% or more
10 by weight of alcohol

11 (2) The owner of a vehicle or a person in charge or in con-
12 trol of a vehicle shall not authorize or knowingly permit the
13 vehicle to be operated upon a highway or other place open to the
14 general public or generally accessible to motor vehicles, includ-
15 ing an area designated for the parking of motor vehicles, within
16 this state by a person who is under the influence of intoxicating
17 liquor or a controlled substance or a combination of intoxicat-
18 ing liquor and a controlled substance, or who has a blood alcohol
19 content of 0 10% or more by weight of alcohol

20 (3) A person, whether licensed or not, shall not operate a
21 vehicle upon a highway or other place open to the general public
22 or generally accessible to motor vehicles, including an area des-
23 igned for the parking of vehicles within this state when, due
24 to the consumption of an intoxicating liquor, a controlled sub-
25 stance, or a combination of an intoxicating liquor and a con-
26 trolled substance, the person's ability to operate the vehicle is
27 visibly impaired If a person is charged with violating

1 subsection (1), a finding of guilty under this subsection may be
2 rendered

3 (4) A person, whether licensed or not, who operates a motor
4 vehicle upon a highway or other place open to the general public
5 or generally accessible to motor vehicles, including an area des-
6 ignated for the parking of vehicles, within this state, under the
7 influence of intoxicating liquor or a controlled substance, or a
8 combination of intoxicating liquor and a controlled substance, or
9 with a blood alcohol content of 0 10% or more by weight of alco-
10 hol, and by the operation of that motor vehicle causes the death
11 of another person is guilty of a felony, punishable by imprison-
12 ment for not more than 15 years, or a fine of not less than
13 \$2,500 00 or more than \$10,000 00, or both

14 (5) A person, whether licensed or not, who operates a motor
15 vehicle upon a highway or other place open to the general public
16 or generally accessible to motor vehicles, including an area des-
17 ignated for the parking of vehicles, within this state, under the
18 influence of intoxicating liquor or a controlled substance, or a
19 combination of intoxicating liquor and a controlled substance or
20 with a blood alcohol content of 0 10% or more by weight of alco-
21 hol, and by the operation of that motor vehicle causes a
22 long-term incapacitating injury to another person is guilty of a
23 felony, punishable by imprisonment for not more than 5 years, or
24 a fine of not less than \$1,000 00 or more than \$5,000 00, or
25 both As used in this subsection, "long-term incapacitating
26 injury" means an injury that has caused a person to be in a
27 comatose state, a quadriplegic state, a hemiplegic state, or a

1 paraplegic state, which state is likely to continue for 1 year or
2 more

3 (6) A PERSON WHO COMMITS OR ATTEMPTS TO COMMIT A VIOLATION
4 UNDER SUBSECTION (1) OR (3) WHILE ANOTHER PERSON WHO IS LESS THAN
5 16 YEARS OF AGE IS OCCUPYING THE VEHICLE THAT THE PERSON IS OPER-
6 ATING AT THE TIME OF THE VIOLATION IS GUILTY OF A MISDEMEANOR
7 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF
8 NOT MORE THAN \$1,000 00, OR BOTH THIS SECTION DOES NOT PROHIBIT
9 A PERSON FROM BEING CHARGED WITH, CONVICTED OF, OR PUNISHED FOR
10 THE VIOLATION OF SUBSECTION (1) OR (3) THAT IS COMMITTED BY THE
11 PERSON WHILE VIOLATING THIS SUBSECTION

12 (7) ~~-(6)-~~ If a person is convicted of violating subsection
13 (1), the following shall apply

14 (a) Except as otherwise provided in subdivisions (b) and
15 (d), the person is guilty of a misdemeanor, and may be punished
16 by 1 or more of the following

17 (1) Service to the community for a period of not more than
18 45 days

19 (11) Imprisonment for not more than 90 days

20 (111) A fine of not less than \$100 00 or more than \$500 00

21 (b) If the violation occurs within 7 years of a prior con-
22 viction, the person shall be sentenced to both a fine of not less
23 than \$200 00 or more than \$1,000 00 and either of the following

24 (1) Performing service to the community for a period of not
25 less than 10 days or more than 90 days and may be imprisoned for
26 not more than 1 year

1 (11) Imprisonment for not less than 48 consecutive hours or
2 more than 1 year, and may be sentenced to service to the
3 community for a period of not more than 90 days

4 (c) A term of imprisonment imposed under subdivision (b)(11)
5 shall not be suspended

6 (d) If the violation occurs within 10 years of 2 or more
7 prior convictions, the person is guilty of a felony, and shall be
8 sentenced to imprisonment for not less than 1 year or more than 5
9 years, or a fine of not less than \$500 00 or more than \$5,000 00,
10 or both

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

17 (f) As used in this subsection, "prior conviction" means a
18 conviction for a violation of section 625(1), (4), or (5), or
19 former section 625(1) or (2) a local ordinance substantially
20 corresponding to section 625(1), or former section 625(1) or (2),
21 or a law of another state substantially corresponding to section
22 625(1), (4), or (5), or former section 625(1) or (2)

23 ~~(7) In addition to imposing the sanctions prescribed under~~
24 ~~subsections (4), (5), and (6), the court may, pursuant to the~~
25 ~~code of criminal procedure, Act No 175 of the Public Acts of~~
26 ~~1927, being sections 760 1 to 776 21 of the Michigan Compiled~~
27 ~~Laws, order the person to pay the costs of the prosecution~~

1 (G) ~~—(8)—~~ The court shall impose license sanctions pursuant
2 to section 625b

3 (8) ~~—(9)—~~ A person who is convicted of violating subsection
4 (2) is guilty of a misdemeanor, punishable by imprisonment for
5 not more than 90 days, or a fine of not less than \$100 00 or more
6 than \$500 00, or both

7 (9) ~~—(10)—~~ If a person is convicted of violating subsection
8 (3), the following shall apply

9 (a) Except as otherwise provided in subdivisions (b) and
10 (c), the person is guilty of a misdemeanor punishable by 1 or
11 more of the following

12 (1) Service to the community for a period of not more than
13 45 days

14 (11) Imprisonment for not more than 90 days

15 (111) A fine of not more than \$300 00

16 (b) If the violation occurs within 7 years of 1 prior con-
17 viction the person shall be sentenced to both a fine of not less
18 than \$200 00 or more than \$1,000 00, and either of the
19 following

20 (1) Performing service to the community for a period of not
21 less than 10 days or more than 90 days and may be sentenced to
22 imprisonment for not more than 1 year

23 (11) Imprisonment for not more than 1 year and may be sen-
24 tenced to community service for not more than 90 days

25 (c) If the violation occurs within 10 years of 2 or more
26 prior convictions, the person shall be sentenced to both a fine

1 of not less than \$200 00 or more than \$1,000 00, and either of
2 the following

3 (1) Performing service to the community for a period of not
4 less than 10 days or more than 90 days and may be sentenced to
5 imprisonment for not more than 1 year

6 (11) Imprisonment for not more than 1 year and may be sen-
7 tenced to community service for not more than 90 days

8 (d) As used in subdivisions (b) and (c), "prior conviction"
9 means a conviction for a violation of section 625(1), (3), (4),
10 ~~or~~ (5), or (6), OR former section 625(1) or (2), or former sec-
11 tion 625b or a local ordinance substantially corresponding to
12 section 625(1), or former section 625(1) or (2), or former sec-
13 tion 625b, or a law of another state substantially corresponding
14 to section 625(1), (3), (4), ~~or~~ (5), or (6), OR former section
15 625(1) or (2), or former section 625b

16 ~~(e) In addition to imposing the sanctions prescribed in~~
17 ~~subdivision (a), (b), or (c), the court may pursuant to the code~~
18 ~~of criminal procedure, Act No 175 of the Public Acts of 1927,~~
19 ~~order the person to pay the costs of the prosecution~~

20 (E) ~~(f)~~ The court shall order the secretary of state to
21 impose license sanctions pursuant to section 625b

22 (F) ~~(g)~~ A person sentenced to perform service to the com-
23 munity under this subsection shall not receive compensation, and
24 shall reimburse the state or appropriate local unit of government
25 for the cost of supervision incurred by the state or local unit
26 of government as a result of the person's activities in that
27 service

1 (10) IN ADDITION TO IMPOSING THE SANCTIONS PRESCRIBED IN
2 SUBSECTION (4), (5), (6), (7), OR (9), THE COURT MAY, PURSUANT TO
3 THE CODE OF CRIMINAL PROCEDURE, ACT NO 175 OF THE PUBLIC ACTS OF
4 1927, BEING SECTIONS 760 1 TO 776 21 OF THE MICHIGAN COMPILED
5 LAWS, ORDER THE PERSON TO PAY THE COSTS OF THE PROSECUTION

6 (11) If the prosecuting attorney intends to seek an enhanced
7 sentence under subsection ~~-(6)(b) or (d) or (10)(b) or (c)-~~
8 (7)(B) OR (D) OR (9)(B) OR (C) based upon the defendant having 1
9 or more prior convictions, the prosecuting attorney shall include
10 on the complaint and information filed in district court, circuit
11 court, recorder's court, municipal court, or probate court a
12 statement listing the defendant's prior convictions

13 (12) A prior conviction shall be established at sentencing
14 by 1 or more of the following

15 (a) An abstract of conviction

16 (b) A copy of the defendant's driving record

17 (c) An admission by the defendant

18 (13) A person who is convicted of an attempted violation of
19 subsection (1), ~~or~~ (3), OR (6), or a local ordinance substan-
20 tially corresponding to subsection (1), ~~or~~ (3), OR (6) shall be
21 punished as if the offense had been completed

22 (14) When assessing points and taking licensing action under
23 this act, the secretary of state and the court shall treat a con-
24 viction of an attempted violation of subsection (1), ~~or~~ (3), OR
25 (6), or a local ordinance substantially corresponding to subsec-
26 tion (1), ~~or~~ (3), OR (6), or a law of another state

1 substantially corresponding to subsection (1), ~~or~~ (3), OR (6)
2 the same as if the offense had been completed

3 (15) Except as otherwise provided in subsection (17), if a
4 person is charged with operating a vehicle while under the influ-
5 ence of a controlled substance or a combination of intoxicating
6 liquor and a controlled substance in violation of subsection (1)
7 OR (6), or a local ordinance substantially corresponding to
8 subsection (1) OR (6), the court shall require the jury to return
9 a special verdict in the form of a written finding or, if the
10 court convicts the person without a jury or accepts a plea of
11 guilty or nolo contendere, the court shall make a finding as to
12 whether the person was under the influence of a controlled sub-
13 stance or a combination of intoxicating liquor and a controlled
14 substance at the time of the violation

15 (16) Except as otherwise provided in subsection (17), if a
16 person is charged with operating a vehicle while his or her abil-
17 ity to operate the vehicle was visibly impaired due to his or her
18 consumption of a controlled substance or a combination of intox-
19 icating liquor and a controlled substance in violation of
20 subsection (3) OR (6), or a local ordinance substantially corre-
21 sponding to subsection (3) OR (6), the court shall require the
22 jury to return a special verdict in the form of a written finding
23 or, if the court convicts the person without a jury or accepts a
24 plea of guilty or nolo contendere, the court shall make a finding
25 as to whether, due to the consumption of a controlled substance
26 or a combination of intoxicating liquor and a controlled

1 substance, the person's ability to operate a motor vehicle was
2 visibly impaired at the time of the violation

3 (17) A special verdict described in subsections (15) and
4 (16) is not required if a jury is instructed to make a finding
5 solely as to either of the following

6 (a) Whether the defendant was under the influence of a con-
7 trolled substance or of a combination of intoxicating liquor and
8 a controlled substance at the time of the violation

9 (b) Whether the defendant was visibly impaired due to his or
10 her consumption of a controlled substance or a combination of
11 intoxicating liquor and a controlled substance at the time of the
12 violation

13 (18) If a jury or court makes a finding under
14 subsection (15), (16), or (17) that the defendant operated a
15 motor vehicle under the influence of or while impaired due to the
16 consumption of a controlled substance, or combination of a con-
17 trolled substance and an intoxicating liquor, the court shall do
18 both of the following

19 (a) Report the finding to the secretary of state

20 (b) Forward to the department of state police, on a form or
21 forms prescribed by the state court administrator, a record that
22 specifies the penalties imposed by the court, including any term
23 of imprisonment and any licensing sanction imposed under
24 section 625b

25 (19) Except as otherwise provided by law, a record described
26 in subsection (18)(b) is a public record, and the department of

1 state police shall retain the information contained on that
2 record for a period of not less than 7 years

3 Sec 625a (1) A peace officer, without a warrant, may
4 arrest a person when the peace officer has reasonable cause to
5 believe that the person was, at the time of an accident, the
6 operator of a vehicle involved in the accident in this state
7 while in violation of section 625(1), (3), (4), ~~or~~ (5), OR (6)
8 or a local ordinance substantially corresponding to section
9 625(1), ~~or~~ (3), OR (6)

10 (2) A peace officer who has reasonable cause to believe that
11 a person was operating a vehicle upon a public highway or other
12 place open to the public or generally accessible to motor vehi-
13 cles, including an area designated for the parking of vehicles,
14 in this state, and that the person by the consumption of intox-
15 cating liquor may have affected his or her ability to operate a
16 vehicle, or reasonable cause to believe that a person was operat-
17 ing a commercial motor vehicle within the state while the
18 person's blood contained any measurable amount of alcohol by
19 weight or while the person had any detectable presence of intox-
20 cating liquor, may require the person to submit to a preliminary
21 chemical breath analysis The following provisions apply with
22 respect to a preliminary chemical breath analysis

23 (a) A peace officer may arrest a person based in whole or in
24 part upon the results of a preliminary chemical breath analysis

25 (b) The results of a preliminary chemical breath analysis
26 are admissible in a criminal prosecution for a crime enumerated
27 in section 625c(1) or in an administrative hearing solely to

1 assist the court or hearing officer in determining a challenge to
2 the validity of an arrest This subdivision does not limit the
3 introduction of other competent evidence offered to establish the
4 validity of an arrest

5 (c) A person who submits to a preliminary chemical breath
6 analysis remains subject to the requirements of sections 625c,
7 625d, 625e, and 625f for the purposes of chemical tests described
8 in those sections

9 (d) Except as provided in subsection (5), a person who
10 refuses to submit to a preliminary chemical breath analysis upon
11 a lawful request by a peace officer is responsible for a civil
12 infraction

13 (3) The results of a preliminary chemical breath analysis
14 conducted pursuant to this section shall be used by a police
15 officer to determine whether a person shall be ordered
16 out-of-service under section 319d A police officer shall order
17 out-of-service as required under section 319d a person who was
18 operating a commercial motor vehicle and who refuses to submit to
19 a preliminary chemical breath analysis as provided in this
20 section This section does not limit use of other competent evi-
21 dence by the police officer to determine whether a person shall
22 be ordered out-of-service under section 319d

23 (4) A person who was operating a commercial motor vehicle
24 and who is requested to submit to a preliminary chemical breath
25 analysis under this section shall be advised that refusal of the
26 request of a police officer to take a test described in this
27 section is a misdemeanor, punishable by imprisonment for not more

1 than 90 days, or a fine of not more than \$100 00, or both, and
2 will result in the issuance of a 24-hour out-of-service order

3 (5) A person who was operating a commercial motor vehicle
4 and who refuses to submit to a preliminary chemical breath analy-
5 sis upon a lawful request by a police officer is guilty of a mis-
6 demeanor, punishable by imprisonment for not more than 90 days,
7 or a fine of not more than \$100 00, or both

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

11 (a) The amount of alcohol or presence of a controlled sub-
12 stance or both in a driver's blood at the time alleged as shown
13 by chemical analysis of the person's blood, urine, or breath is
14 admissible into evidence in any civil or criminal proceeding

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

17 (1) That if he or she takes a chemical test of his or her
18 blood, urine, or breath administered at the request of a peace
19 officer, he or she has the right to demand that a person of his
20 or her own choosing administer 1 of the chemical tests that the
21 results of the test are admissible in a judicial proceeding as
22 provided under this act and will be considered with other compe-
23 tent evidence in determining the innocence or guilt of the
24 defendant and that he or she is responsible for obtaining a
25 chemical analysis of a test sample obtained pursuant to his or
26 her own request

1 (11) That if he or she refuses the request of a peace
2 officer to take a test described in subparagraph (1), a test
3 shall not be given without a court order, but the peace officer
4 may seek to obtain such a court order

5 (111) That his or her refusal of the request of a peace
6 officer to take a test described in subparagraph (1) will result
7 in the suspension of his or her operator's or chauffeur's license
8 and vehicle group designation or operating privilege, and in the
9 addition of 6 points to his or her driver record

10 (c) A sample or specimen of urine or breath shall be taken
11 and collected in a reasonable manner Only a licensed physician,
12 or an individual operating under the delegation of a licensed
13 physician under section 16215 of the Public Health Code, Act
14 No 368 of the Public Acts of 1978, being section 333 16215 of
15 the Michigan Compiled Laws, and qualified to withdraw blood
16 acting in a medical environment, at the request of a peace offi-
17 cer may withdraw blood for the purpose of determining the amount
18 of alcohol or presence of a controlled substance or both in the
19 person's blood, as provided in this subsection Liability for a
20 crime or civil damages predicated on the act of withdrawing or
21 analyzing blood and related procedures does not attach to a
22 licensed physician or individual operating under the delegation
23 of a licensed physician who withdraws or analyzes blood or
24 assists in the withdrawal or analysis in accordance with this act
25 unless the withdrawal or analysis is performed in a negligent
26 manner

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

15 (e) If, after an accident, the driver of a vehicle involved
16 in the accident is transported to a medical facility and a sample
17 of the driver's blood is withdrawn at that time for the purpose
18 of medical treatment, the results of a chemical analysis of that
19 sample are admissible in any civil or criminal proceeding to show
20 the amount of alcohol or presence of a controlled substance or
21 both in the person's blood at the time alleged, regardless of
22 whether the person had been offered or had refused a chemical
23 test The medical facility or person performing the chemical
24 analysis shall disclose the results of the analysis to a prose-
25 cuting attorney who requests the results for use in a criminal
26 prosecution as provided in this subdivision A medical facility
27 or person disclosing information in compliance with this

1 subsection is not civilly or criminally liable for making the
2 disclosure

3 (f) If, after an accident, the driver of a vehicle involved
4 in the accident is deceased, a sample of the decedent's blood
5 shall be withdrawn in a manner directed by the medical examiner
6 for the purpose of determining the amount of alcohol or the pres-
7 ence of a controlled substance, or both, in the decedent's
8 blood The medical examiner shall give the results of the chemi-
9 cal analysis of the sample to the law enforcement agency investi-
10 gating the accident, and that agency shall forward the results to
11 the department of state police

12 (g) The department of state police shall promulgate uniform
13 rules under the administrative procedures act of 1969, Act
14 No 306 of the Public Acts of 1969, being sections 24 201 to
15 24 328 of the Michigan Compiled Laws, for the administration of
16 chemical tests for the purposes of this section

17 (7) The provisions of subsection (6) relating to chemical
18 testing do not limit the introduction of any other competent evi-
19 dence bearing upon the question of whether or not a person was
20 impaired by, or under the influence of, intoxicating liquor or a
21 controlled substance, or a combination of intoxicating liquor and
22 a controlled substance, or whether the person had a blood alcohol
23 content of 0 10% or more by weight of alcohol

24 (8) If a chemical test described in subsection (6) is admin-
25 istered, the results of the test shall be made available to the
26 person charged or the person's attorney upon written request to
27 the prosecution, with a copy of the request filed with the

1 court The prosecution shall furnish the results at least 2 days
2 before the day of the trial The results of the test shall be
3 offered as evidence by the prosecution in that trial Failure to
4 fully comply with the request bars the admission of the results
5 into evidence by the prosecution

6 (9) Except in a prosecution relating solely to a violation
7 of section 625(1)(b), the amount of alcohol in the driver's blood
8 at the time alleged as shown by chemical analysis of the person's
9 blood, urine, or breath gives rise to the following
10 presumptions

11 (a) If there was at the time 0.07% or less by weight of
12 alcohol in the defendant's blood, it is presumed that the
13 defendant's ability to operate a motor vehicle was not impaired
14 due to the consumption of intoxicating liquor, and that the
15 defendant was not under the influence of intoxicating liquor

16 (b) If there was at the time in excess of 0.07% but less
17 than 0.10% by weight of alcohol in the defendant's blood, it is
18 presumed that the defendant's ability to operate a vehicle was
19 impaired within the provisions of section 625(3) due to the con-
20 sumption of intoxicating liquor

21 (c) If there was at the time 0.10% or more by weight of
22 alcohol in the defendant's blood, it is presumed that the
23 defendant was under the influence of intoxicating liquor

24 (10) A person's refusal to submit to a chemical test as pro-
25 vided in subsection (6) is admissible in a criminal prosecution
26 for a crime described in section 625c(1) only for the purpose of
27 showing that a test was offered to the defendant, but not as

1 evidence in determining innocence or guilt of the defendant The
2 jury shall be instructed accordingly

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

10 (2) The court shall schedule a pretrial conference between
11 the prosecuting attorney, the defendant, and the defendant's
12 attorney in each case in which the defendant is charged with a
13 misdemeanor violation of section 625(1), ~~or~~ (3), OR (6), or
14 section 625m, or a local ordinance substantially corresponding to
15 section 625(1), ~~or~~ (3), OR (6), or section 625m The pretrial
16 conference shall be held not more than 35 days after the date of
17 the person's arrest for the violation or if an arrest warrant is
18 reissued, not more than 35 days after the date the reissued
19 arrest warrant is served, unless the court has only 1 judge who
20 sits in more than 1 location in that district, in which case the
21 pretrial conference shall be held not more than 42 days after the
22 date of the person's arrest for the violation or, if an arrest
23 warrant is reissued, not more than 42 days after the date the
24 reissued arrest warrant is served The court shall order the
25 defendant to attend the pretrial conference and may accept a plea
26 by the defendant at the conclusion of the pretrial conference
27 The court may adjourn the pretrial conference upon the motion of

1 a party for good cause shown Not more than 1 adjournment shall
2 be granted to a party, and the length of an adjournment shall not
3 exceed 14 days The court shall, except for delay attributable
4 to the unavailability of the defendant, a witness, or material
5 evidence, or due to an interlocutory appeal or exceptional cir-
6 cumstances, but not a delay caused by docket congestion, finally
7 adjudicate, by a plea of guilty or nolo contendere, or the entry
8 of a verdict, or by other final disposition, a case in which the
9 defendant is charged with a misdemeanor violation of
10 section 625(1), ~~or~~ (3), OR (6), or section 625m, or a local
11 ordinance substantially corresponding to section 625(1), ~~or~~
12 (3), OR (6), or section 625m, within 77 days after the person is
13 arrested for the violation or, if an arrest warrant is reissued,
14 not more than 77 days after the date the reissued arrest warrant
15 is served

16 (3) Before accepting a plea of guilty or nolo contendere
17 under section 625, or a local ordinance substantially correspond-
18 ing to section 625(1), (2), ~~or~~ (3), OR (6), the court shall
19 advise the accused of the maximum possible term of imprisonment
20 and the maximum possible fine that may be imposed for the viola-
21 tion, and shall advise the defendant that the maximum possible
22 license sanctions that may be imposed will be based upon the
23 master driving record maintained by the secretary of state pursu-
24 ant to section 204a

25 (4) Before imposing sentence, other than court-ordered
26 license sanctions, for a violation of section 625(1), (3), (4),
27 ~~or~~ (5), OR (6), or a local ordinance substantially

1 corresponding to section 625(1), ~~or~~ (3), OR (6), the court
2 shall order the person to undergo screening and assessment by a
3 person or agency designated by the office of substance abuse
4 services, to determine whether the person is likely to benefit
5 from rehabilitative services, including alcohol or drug education
6 and alcohol or drug treatment programs As part of the sentence,
7 the court may order the person to participate in and successfully
8 complete 1 or more appropriate rehabilitative programs The
9 person shall pay for the costs of the screening, assessment, and
10 rehabilitative services

11 (5) Immediately upon acceptance by the court of a plea of
12 guilty or nolo contendere or upon entry of a verdict of guilty
13 for a violation of section 625(1), (3), (4), ~~or~~ (5), OR (6), or
14 a local ordinance substantially corresponding to section 625(1),
15 ~~or~~ (3), OR (6), whether or not the person is eligible to be
16 sentenced as a multiple offender, the court shall consider all
17 prior convictions currently entered upon the Michigan driving
18 record of the person, except those convictions which, upon motion
19 by the defendant, are determined by the court to be constitution-
20 ally invalid, and shall impose the following licensing
21 sanctions

22 (a) For a conviction under section 625(4) or (5), the court
23 shall order the secretary of state to revoke the operator's or
24 chauffeur's license of the person and shall not order the secre-
25 tary of state to issue a restricted license to the person

26 (b) For a conviction under section 625(1) or a local
27 ordinance substantially corresponding to section 625(1)

1 (1) If the court finds that the person has no prior
2 convictions within 7 years for a violation of section 625(1),
3 (3), (4), ~~or~~ (5), OR (6), or former section 625(1) or (2), or
4 former section 625b, a local ordinance substantially correspond-
5 ing to section 625(1), ~~or~~ (3), OR (6), or former section 625(1)
6 or (2) or former section 625b, or a law of another state substan-
7 tially corresponding to section 625(1), (3), (4), ~~or~~ (5), OR
8 (6), or former section 625(1) or (2), or former section 625b, the
9 court shall order the secretary of state to suspend the
10 operator's or chauffeur's license of the person for a period of
11 not less than 6 months or more than 2 years If the court finds
12 compelling circumstances under subsection (9) sufficient to war-
13 rant the issuance of a restricted license to a person, the court
14 may order the secretary of state to issue to the person a
15 restricted license during all or a specified portion of the
16 period of suspension, except that a restricted license shall not
17 be issued during the first 30 days of the period of suspension
18 (11) If the court finds that the person has 1 prior convic-
19 tion within 7 years for a violation of section 625(3) OR (6) or
20 former section 625b, a local ordinance substantially correspond-
21 ing to section 625(3) OR (6) or former section 625b, or a law of
22 another state substantially corresponding to section 625(3) OR
23 (6) or former section 625b, the court shall order the secretary
24 of state to suspend the operator's or chauffeur's license of the
25 person for a period of not less than 6 months or more than
26 2 years If the court finds compelling circumstances under
27 subsection (9) sufficient to warrant the issuance of a restricted

1 license to a person, the court may order the secretary of state
2 to issue to the person a restricted license during all or any
3 portion of the period of suspension, except that a restricted
4 license shall not be issued during the first 60 days of the
5 period of suspension

6 (111) If the court finds that the person has 1 or more prior
7 convictions within 7 years for a violation of section 625(1),
8 (4), or (5), or former section 625(1) or (2), a local ordinance
9 substantially corresponding to section 625(1) or former section
10 625(1) or (2), or a law of another state substantially corre-
11 sponding to section 625(1), (4), or (5), or former section 625(1)
12 or (2), or that the person has 2 or more prior convictions within
13 10 years for ~~a violation of~~ ACTS ARISING OUT OF SEPARATE INCI-
14 DENTS THAT VIOLATE section 625(1), (3), (4), ~~or~~ (5), OR (6) or
15 former section 625(1) or (2), or former section 625b, a local
16 ordinance substantially corresponding to section 625(1), ~~or~~
17 (3) OR (6) or former section 625(1) or (2) or former section
18 625b, or a law of another state substantially corresponding to
19 section 625(1), (3), (4), ~~or~~ (5), OR (6), or former section
20 625(1) or (2), or former section 625b, the court shall order the
21 secretary of state to revoke the operator's or chauffeur's
22 license of the person and shall not order the secretary of state
23 to issue a restricted license to the person

24 (c) For a conviction under section 625(3) OR (6) or a local
25 ordinance substantially corresponding to section 625(3) OR (6)

26 (1) If the court finds that the convicted person has no
27 prior conviction within 7 years for a violation of section

1 625(1), (3), (4), ~~or~~ (5), OR (6), or former section 625(1) or
2 (2), or former section 625b, a local ordinance substantially cor-
3 responding to section 625(1), ~~or~~ (3), OR (6), or former section
4 625(1) or (2), or former section 625b, or a law of another state
5 substantially corresponding to section 625(1), (3), (4), ~~or~~
6 (5), OR (6), or former section 625(1) or (2), or former
7 section 625b, the court shall order the secretary of state to
8 suspend the operator's or chauffeur's license of the person for a
9 period of not less than 90 days or more than 1 year. However, if
10 the person is convicted of a violation of section 625(3) OR (6)
11 or a local ordinance substantially corresponding to
12 section 625(3) OR (6) for operating a vehicle when, due to the
13 consumption of a controlled substance or a combination of intoxi-
14 cating liquor and a controlled substance, the person's ability to
15 operate the vehicle was visibly impaired, the court shall order
16 the secretary of state to suspend the operator's or chauffeur's
17 license of the person for a period of not less than 6 months or
18 more than 1 year. If the court finds compelling circumstances
19 under subsection (9) sufficient to warrant the issuance of a
20 restricted license to a person, the court may order the secretary
21 of state to issue to the person a restricted license during all
22 or a specified portion of the period of suspension.

23 (11) If the court finds that the person has 1 prior convic-
24 tion within 7 years for a violation of section 625(1), (3), (4),
25 ~~or~~ (5), OR (6), or former section 625(1) or (2), or former sec-
26 tion 625b, a local ordinance substantially corresponding to
27 section 625(1), ~~or~~ (3), OR (6), or former section 625(1) or

1 (2), or former section 625b, or a law of another state
2 substantially corresponding to section 625(1), (3), (4), ~~or~~
3 (5), OR (6), or former section 625(1) or (2), or former
4 section 625b, the court shall order the secretary of state to
5 suspend the operator's or chauffeur's license of the person for a
6 period of not less than 6 months or more than 2 years If the
7 court finds compelling circumstances under subsection (9) suffi-
8 cient to warrant the issuance of a restricted license to a
9 person, the court may order the secretary of state to issue to
10 the person a restricted license during all or any portion of the
11 suspension period, except that a restricted license shall not be
12 issued during the first 60 days of the period of suspension

13 (111) If the court finds that the person has 2 or more prior
14 convictions within 10 years for ~~a violation of~~ ACTS ARISING OUT
15 OF SEPARATE INCIDENTS THAT VIOLATE section 625(1), (3), (4), ~~or~~
16 (5), OR (6), or former section 625(1) or (2), or former section
17 625b a local ordinance substantially corresponding to section
18 625(1), ~~or~~ (3), OR (6), or former section 625(1) or (2), or
19 former section 625b, or a law of another state substantially cor-
20 responding to section 625(1), (3), (4), ~~or~~ (5), OR (6), or
21 former section 625(1) or (2), or former section 625b, the court
22 shall order the secretary of state to revoke the operator's or
23 chauffeur's license of the person and shall not order the secre-
24 tary of state to issue a restricted license to the person

25 (6) A restricted license issued pursuant to an order under
26 subsection (5) shall permit the person to whom it is issued to do
27 1 or more of the following

1 (a) Drive to and from the person's residence and work
2 location

3 (b) Drive in the course of the person's employment or
4 occupation

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

7 (d) Drive to and from the person's residence and the court
8 probation department, or a court-ordered community service pro-
9 gram, or both

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

12 (7) The court may order that the restricted license issued
13 pursuant to subsection (5) include the requirement that the
14 person shall not operate a motor vehicle unless the vehicle is
15 equipped with a functioning ignition interlock device The
16 device shall be set to render the motor vehicle inoperable if the
17 device detects a blood alcohol content of 0.02% or more by weight
18 of alcohol in the person who offers a breath sample The court
19 may order installation of an ignition interlock device on any
20 motor vehicle that the person owns or operates, the costs of
21 which shall be borne by the person whose license is restricted

22 (8) The court shall not order the secretary of state under
23 subsection (5) to issue a restricted license that would permit a
24 person to operate a commercial motor vehicle that hauls hazardous
25 materials

26 (9) The court shall not order the secretary of state to
27 issue a restricted license unless the person states under oath,

1 and the court finds pursuant to testimony taken in open court or
2 pursuant to statements contained in a sworn affidavit on a form
3 prescribed by the state court administrator, that both of the
4 following are true

5 (a) The person needs vehicular transportation to and from
6 his or her work location, place of alcohol or drug education
7 treatment, court probation department, court-ordered community
8 service program, or educational institution, or in the course of
9 the person's employment or occupation

10 (b) The person is unable to take public transportation and
11 does not have any family members or other individuals able to
12 provide transportation to a destination or for a purpose
13 described in subdivision (a)

14 (10) The court order issued under subsection (5) and the
15 restricted license shall indicate the permitted destinations of
16 the person or the permitted purposes for which the person may
17 operate a vehicle, the approved route or routes if specified by
18 the court, and permitted times of travel

19 (11) As used in this section, "work location" means, as
20 applicable, either the specific place or places of employment, or
21 the territory or territories regularly visited by the person in
22 pursuance of the person's occupation, or both

23 (12) Immediately upon acceptance by the court of a plea of
24 guilty or nolo contendere or upon entry of a verdict of guilty
25 for a violation of section 625(1), (3), (4), ~~or~~ (5), OR (6), or
26 a local ordinance substantially corresponding to section 625(1),
27 ~~or~~ (3), OR (6), the person shall surrender to the court his or

1 her operator's or chauffeur's license or permit The court shall
2 immediately destroy the license or permit and forward an abstract
3 of conviction with court-ordered license sanctions to the secre-
4 tary of state Upon receipt of, and pursuant to, the abstract of
5 conviction with court-ordered license sanctions, the secretary of
6 state shall suspend or revoke the person's license and, if
7 ordered by the court and the person is otherwise eligible for a
8 license, issue to the person a restricted license stating the
9 limited driving privileges indicated on the abstract If the
10 judgment and sentence is appealed to circuit court, the court
11 may, ex parte, order the secretary of state to stay the suspen-
12 sion, revocation, or restricted license issued pursuant to this
13 section pending the outcome of the appeal

14 (13) In addition to any other suspension or revocation
15 ordered under this section and as part of the sentence imposed
16 upon a person who violates section 625(1), (3), (4), ~~or~~ (5), OR
17 (6) or a local ordinance substantially corresponding to
18 section 625(1), ~~or~~ (3), OR (6) while operating a commercial
19 motor vehicle, the court shall order the secretary of state to
20 suspend the vehicle group designations on the person's operator's
21 or chauffeur's license in accordance with section 319b(1)(c),
22 except that if the vehicle was transporting hazardous material
23 required to have a placard pursuant to 49 C F R parts 100 to
24 199, the court shall order the secretary of state to suspend the
25 vehicle group designations on the person's operator's or
26 chauffeur's license in accordance with section 319b(1)(d) The
27 court shall not order the secretary of state to issue a

1 restricted license that would permit the person to operate a
2 commercial motor vehicle

3 (14) In addition to any other suspension or revocation
4 ordered under this section and as part of the sentence imposed
5 upon a person who is convicted of a violation of section 625(1),
6 (3), (4), ~~or~~ (5), OR (6), or a local ordinance substantially
7 corresponding to section 625(1), ~~or~~ (3), OR (6) while operating
8 a commercial motor vehicle within 10 years of a prior conviction,
9 the court shall order the secretary of state to revoke the vehi-
10 cle group designations on the person's operator's or chauffeur's
11 license in accordance with section 319b(1)(e) The court shall
12 not order the secretary of state to issue a restricted license
13 that would permit the person to operate a commercial motor
14 vehicle As used in this subsection, "prior conviction" means a
15 conviction under section 625(1), (3), (4), ~~or~~ (5), OR (6), or
16 former section 625(1) or (2), or former section 625b, a local
17 ordinance substantially corresponding to section 625(1), ~~or~~
18 (3), OR (6), or former section 625(1) or (2), or former section
19 625b, or a law of another state substantially corresponding to
20 section 625(1), (3), (4), ~~or~~ (5), OR (6), or former section
21 625(1) or (2), or former section 625b involving the operation of
22 a commercial motor vehicle, or a conviction under section 625m, a
23 local ordinance substantially corresponding to section 625m, or a
24 law of another state substantially corresponding to section
25 625m

26 Sec 625c (1) A person who operates a vehicle upon a
27 public highway or other place open to the general public or

1 generally accessible to motor vehicles, including an area
2 designated for the parking of vehicles, within this state is con-
3 sidered to have given consent to chemical tests of his or her
4 blood, breath, or urine for the purpose of determining the amount
5 of alcohol or presence of a controlled substance or both in his
6 or her blood, in all of the following circumstances

7 (a) If the person is arrested for a violation of section
8 625(1), (3), (4), ~~or~~ (5), OR (6), section 625a(5) or section
9 625m, or a local ordinance substantially corresponding to section
10 625(1), ~~or~~ (3), OR (6), section 625a(5), or section 625m

11 (b) If the person is arrested for felonious driving, negli-
12 gent homicide, manslaughter, or murder resulting from the opera-
13 tion of a motor vehicle, and the peace officer had reasonable
14 grounds to believe that the person was operating the vehicle
15 while impaired by or under the influence of intoxicating liquor
16 or a controlled substance or a combination of intoxicating liquor
17 and a controlled substance, or while having a blood alcohol con-
18 tent of 0.10% or more by weight of alcohol

19 (2) A person who is afflicted with hemophilia, diabetes, or
20 a condition requiring the use of an anticoagulant under the
21 direction of a physician is not considered to have given consent
22 to the withdrawal of blood

23 (3) The tests shall be administered as provided in section
24 625a(6)

25 Sec 625h (1) The drunk driving prevention equipment and
26 training fund is created as a separate fund in the state
27 treasury Money in the fund shall be expended only as provided

1 in subsection (2) The state treasurer shall credit to the fund
2 all money received for that purpose under section 320e, and as
3 otherwise provided by law The state treasurer shall invest
4 money in the fund in the same manner as surplus funds are
5 invested under section ~~143~~ 3 of Act No 105 of the Public Acts
6 of ~~1985~~ 1855, being section 21 143 of the Michigan Compiled
7 Laws Earnings from the fund shall be credited to the fund
8 Money in the fund at the end of the fiscal year shall remain in
9 the fund, and shall not revert to the general fund

10 (2) The department of state police shall administer the
11 fund Money in the fund shall be used only to administer the
12 fund, to purchase and maintain breath alcohol testing equipment,
13 and to provide training to law enforcement personnel of this
14 state in the use of that breath alcohol testing equipment

15 (3) The department of treasury shall, before November 1 of
16 each year, notify the department of state police of the balance
17 in the fund at the close of the preceding fiscal year

18 (4) The department of state police shall promulgate rules to
19 implement subsection (2)

20 (5) The drunk driving caseflow assistance fund is created as
21 a separate fund in the state treasury The purpose of the fund
22 is to promote the timely disposition of cases in which the
23 defendant is charged with a violation of section 625(1), ~~or~~
24 (3), OR (6), or a local ordinance substantially corresponding to
25 section 625(1), ~~or~~ (3), OR (6) Money in the fund shall be
26 expended only as provided in subsection (7)

1 (6) The state treasurer shall credit the drunk driving
2 caseflow assistance fund with deposits of proceeds from the
3 collection of revenue from license reinstatement fees as provided
4 for in section 320e, and all income from investment credited to
5 the fund by the state treasurer. The state treasurer may invest
6 money contained in the drunk driving caseflow assistance fund in
7 any manner authorized by law for the investment of state money.
8 However, an investment shall not interfere with any apportion-
9 ment, allocation, or payment of money as required by this
10 section. The state treasurer shall credit to the fund all income
11 earned as a result of an investment. Money in the fund at the
12 end of the fiscal year shall remain in the fund and shall not
13 revert to the general fund.

14 (7) The state court administrator, at the direction of the
15 supreme court and upon confirmation of the amount by the state
16 treasurer, shall distribute from the drunk driving caseflow
17 assistance fund the total amount available in a fiscal year to
18 each district of the district court and each municipal court as
19 provided in this section. The state court administrator, after
20 reimbursement of costs as provided in this subsection, shall dis-
21 tribute the balance of the drunk driving caseflow assistance fund
22 annually to each district of the district court and each municipi-
23 pal court in an amount determined by multiplying the amount
24 available for distribution by a fraction, the numerator of which
25 is the number of cases in which the defendant was charged with a
26 violation of section 625(1), ~~or~~ (3), OR (6) or a local
27 ordinance substantially corresponding to section 625(1), ~~or~~

1 (3), OR (6) in the prior calendar year in that district of the
2 district court or that municipal court as certified by the state
3 court administrator and the denominator of which is the total
4 number of cases in all districts of the district court and all
5 municipal courts in which the defendant was charged with a viola-
6 tion of section 625(1), ~~or~~ (3), OR (6) or a local ordinance
7 substantially corresponding to section 625(1), ~~or~~ (3), OR (6)
8 in the calendar year The state court administrative office
9 shall be reimbursed annually from the drunk driving caseflow
10 assistance fund for all reasonable costs associated with the
11 administration of this section, including judicial and staff
12 training, on-site management assistance, and software development
13 and conversion

14 Sec 6251 (1) The department of state police shall prepare
15 an annual report which shall be designated the Michigan annual
16 drunk driving audit The secretary of state, circuit court, dis-
17 trict court, probate court municipal courts and local units of
18 government in this state shall cooperate with the department of
19 state police to provide information necessary for the preparation
20 of the report A copy of the report prepared under this subsec-
21 tion shall be submitted to the governor, the secretary of the
22 senate, the clerk of the house of representatives, and the secre-
23 tary of state on June 1 of each year The report shall contain
24 for each county in the state all of the following information
25 applicable to the immediately preceding calendar year

26 (a) The number of alcohol related motor vehicle accidents
27 resulting in bodily injury, including a breakdown of the number

1 of those injuries occurring per capita of population and per road
2 mile in the county

3 (b) The number of alcohol related motor vehicle accidents
4 resulting in death, including the breakdown described in subdivi-
5 sion (a)

6 (c) The number of alcohol related motor vehicle accidents,
7 other than those enumerated in subdivisions (a) and (b), includ-
8 ing the breakdown described in subdivision (a)

9 (d) The number of arrests made for violations of section
10 625(1)(a) or (b) or local ordinances substantially corresponding
11 to section 625(1)(a) or (b)

12 (e) The number of arrests made for violations of section
13 625(3) OR (6) or local ordinances substantially corresponding to
14 section 625(3) OR (6)

15 (f) The number of arrests made for violations of
16 section 625(4) or (5)

17 (g) The number of operator's or chauffeur's licenses sus-
18 pended pursuant to section 625f

19 (h) The number of arrests made for violations of
20 section 625m or local ordinances substantially corresponding to
21 section 625m ~~This subdivision shall apply after December 31,~~
22 ~~1992~~

23 (2) The secretary of state shall compile a report of dispo-
24 sitions of charges for violations of section 625(1), (3), (4),
25 ~~or~~ (5), OR (6) or local ordinances substantially corresponding
26 to section 625(1), ~~or~~ (3), OR (6) or section 625m or local
27 ordinances substantially corresponding to section 625m by each

1 judge for inclusion in the annual report The report compiled by
2 the secretary of state shall include information regarding all of
3 the following

4 (a) The number of dismissals granted

5 (b) The number of convictions entered

6 (c) The number of acquittals entered

7 (d) The number of licenses suspended, revoked, or
8 restricted

9 (e) The average length of imprisonment imposed

10 (f) The average length of community service imposed in lieu
11 of imprisonment

12 (g) The average fine imposed

13 (3) The secretary of state shall enter into a contract with
14 the university of Michigan transportation research institute, in
15 which the university of Michigan transportation research insti-
16 tute shall evaluate the effect and impact of the 1991 legislation
17 addressing drunk and impaired driving in this state and report
18 its findings to the governor and the legislature not later than
19 October 1, 1994

20 Sec 625m (1) A person, whether licensed or not, whose
21 blood contains 0.04% or more but not more than 0.07% by weight of
22 alcohol shall not operate a commercial motor vehicle within the
23 state

24 (2) A police officer may, without a warrant, arrest a person
25 if the police officer has reasonable cause to believe that the
26 person was, at the time of an accident, the driver of a
27 commercial motor vehicle involved in the accident and was

1 operating the vehicle in violation of this section or of a local
2 ordinance substantially corresponding to this section

3 (3) A person who is convicted of a violation of this section
4 or a local ordinance substantially corresponding to this section
5 is guilty of a misdemeanor punishable by imprisonment for not
6 more than 90 days or a fine of not more than \$300 00, or both,
7 together with costs of the prosecution. As part of the sentence,
8 the court shall order the secretary of state to suspend the vehi-
9 cle group designations on the person's operator's or chauffeur's
10 license pursuant to section 319b(1)(c) or, if the vehicle was
11 carrying hazardous material required to have a placard pursuant
12 to 49 C F R parts 100 to 199, in accordance with section
13 319b(1)(d). The court shall not order the secretary of state to
14 issue a restricted license that would permit the person to oper-
15 ate a commercial motor vehicle

16 (4) A person who violates this section or a local ordinance
17 substantially corresponding to this section within 10 years of a
18 prior conviction may be sentenced to imprisonment for not more
19 than 1 year or a fine of not more than \$1,000 00, or both. As
20 part of the sentence, the court shall order the secretary of
21 state to revoke the vehicle group designations on the person's
22 operator's or chauffeur's license pursuant to section
23 319b(1)(e). The court shall not order the secretary of state to
24 issue a restricted license that would permit the person to oper-
25 ate a commercial motor vehicle. As used in this subsection,
26 "prior conviction" means a conviction for a violation of this
27 section, section 625(1), (3), (4), ~~or~~ (5), OR (6), former

1 section 625(1) or (2), or former section 625b a local ordinance
2 substantially corresponding to this section, section 625(1), ~~or~~
3 (3), OR (6), former section 625(1) or (2), or former section
4 625b or a law of another state substantially corresponding to
5 this section, section 625(1), (3), (4), ~~or~~ (5), OR (6), former
6 section 625(1) or (2), or former section 625b, while operating a
7 commercial motor vehicle

8 Sec 727 If a person is arrested without a warrant in any
9 of the following cases, the arrested person shall, without unrea-
10 sonable delay, be arraigned by the magistrate who is nearest or
11 most accessible within the judicial district as provided in
12 section 13 of chapter IV of the code of criminal procedure, Act
13 No 175 of the Public Acts of 1927, being section 764 13 of the
14 Michigan Compiled Laws, or, if a minor, taken before the probate
15 court within the county in which the offense charged is alleged
16 to have been committed

17 (a) The person is arrested upon a charge of negligent
18 homicide

19 (b) The person is arrested under section 625(1), (3), (4),
20 ~~or~~ (5), OR (6), or an ordinance substantially corresponding to
21 section 625(1), ~~or~~ (3), OR (6)

22 (c) A person is arrested under section 626 or an ordinance
23 substantially corresponding to that section If under the exist-
24 ing circumstances it does not appear that releasing the person
25 pending the issuance of a warrant will constitute a public
26 menace, the arresting officer may proceed as provided by
27 section 728

1 (d) A person arrested does not have in his or her immediate
2 possession a valid operator's or chauffeur's license or the
3 receipt described in section 311a If the arresting officer oth-
4 erwise satisfactorily determines the identity of the person and
5 the practicability of subsequent apprehension if the person fails
6 to voluntarily appear before a designated magistrate or probate
7 court as directed, the officer may release the person from cus-
8 tody with instructions to appear in court, given in the form of a
9 citation as prescribed by section 728

10 Sec 732 (1) Each municipal judge and each clerk of a
11 court of record shall keep a full record of every case in which a
12 person is charged with or cited for a violation of this act or of
13 a law corresponding to this act regulating the operation of vehi-
14 cles on highways

15 (2) Within 14 days after the conviction or forfeiture of
16 bail of a person, or entry of a civil infraction determination,
17 default judgment, or probate court order of disposition for a
18 child found to be within the provisions of chapter XIIIA of Act
19 No 288 of the Public Acts of 1939, being sections 712A 1 to
20 712A 28 of the Michigan Compiled Laws, upon a charge of, or
21 citation for, violating this act or a local ordinance correspond-
22 ing to this act regulating the operation of vehicles on highways,
23 and, for each case charging a violation of section 625(1), (3),
24 (4), ~~or~~ (5), OR (6), or a local ordinance substantially corre-
25 sponding to section 625(1), ~~or~~ (3), OR (6) in which the charge
26 is dismissed or the defendant is acquitted, except as provided in
27 subsection (15), the municipal judge or clerk of the court of

1 record shall prepare and immediately forward to the secretary of
2 state an abstract of the record of the court for the case The
3 abstract shall be certified by signature, stamp, or facsimile
4 signature by the person required to prepare the abstract to be
5 true and correct If a city or village department, bureau, or
6 person is authorized to accept a payment of money as a settlement
7 for a violation of a local ordinance corresponding to this act,
8 the city or village department, bureau, or person shall send a
9 full report of each case in which a person pays any amount of
10 money to the city or village department, bureau, or person to the
11 secretary of state upon a form prescribed by the secretary of
12 state

13 (3) The abstract or report required under this section shall
14 be made upon a form furnished by the secretary of state and shall
15 include all of the following

16 (a) The name, address, and date of birth of the person
17 charged or cited

18 (b) The number of the person's operator's or chauffeur's
19 license, if any

20 (c) The date and nature of the violation

21 (d) The type of vehicle driven at the time of the violation
22 and, if the vehicle is a commercial motor vehicle, that vehicle's
23 group designation and indorsement classification

24 (e) The date of the conviction, finding, forfeiture, judg-
25 ment, or determination

26 (f) Whether bail was forfeited

1 (g) Any license revocation, restriction, suspension, or
2 denial ordered by the court pursuant to this act

3 (h) Other information considered necessary to the secretary
4 of state

5 (4) The clerk of the court also shall forward an abstract of
6 the record of the court to the secretary of state upon the con-
7 viction of a person or entry of a probate court order of disposi-
8 tion for a child found to be within the provisions of chapter
9 XIIIA of Act No 288 of the Public Acts of 1939 involving any of
10 the following

11 (a) A violation of section 324, 413, 414, or 479a of the
12 Michigan penal code, Act No 328 of the Public Acts of 1931,
13 being sections 750 324, 750 413, 750 414, and 750 479a of the
14 Michigan Compiled Laws

15 (b) A violation of section 1 of Act No 214 of the Public
16 Acts of 1931, being section 752 191 of the Michigan Compiled
17 Laws

18 (c) An attempt to violate, a conspiracy to violate, or a
19 violation of part 74 or section 17766a of the public health code,
20 Act No 368 of the Public Acts of 1978, being sections 333 7401
21 to 333 7461 and 333 17766a of the Michigan Compiled Laws, or a
22 local ordinance that prohibits conduct prohibited under part 74
23 or section 17766a of Act No 368 of the Public Acts of 1978,
24 unless the convicted person is sentenced to life imprisonment or
25 a minimum term of imprisonment that exceeds 1 year for the
26 offense

1 (d) An attempt to commit any of the offenses described in
2 subdivision (a) or (b)

3 (5) As used in subsections (6) to (8), "felony in which a
4 motor vehicle was used" means a felony during the commission of
5 which the person operated a motor vehicle and while operating the
6 vehicle presented real or potential harm to persons or property
7 and 1 or more of the following circumstances existed

8 (a) The vehicle was used as an instrument of the felony

9 (b) The vehicle was used to transport a victim of the
10 felony

11 (c) The vehicle was used to flee the scene of the felony

12 (d) The vehicle was necessary for the commission of the
13 felony

14 (6) If a person is charged with a felony in which a motor
15 vehicle was used, other than a felony specified in subsection (4)
16 or section 319(1)(a) to (e), the prosecuting attorney shall
17 include the following statement on the complaint and information
18 filed in district or circuit court

19 "You are charged with the commission of a felony in which a
20 motor vehicle was used If you are convicted and the judge finds
21 that the conviction is for a felony in which a motor vehicle was
22 used, as defined in section 319 of the Michigan vehicle code, Act
23 No 300 of the Public Acts of 1949, being section 257 319 of the
24 Michigan Compiled Laws, your driver's license shall be suspended
25 by the secretary of state "

26 (7) If a child is accused of an act the nature of which
27 constitutes a felony in which a motor vehicle was used, other

1 than a felony specified in subsection (4) or section 319(1)(a) to
2 (e), the prosecuting attorney or juvenile court shall include on
3 the petition filed in the probate court

4 "You are accused of an act the nature of which constitutes a
5 felony in which a motor vehicle was used If the accusation is
6 found to be true and the judge or referee finds that the nature
7 of the act constitutes a felony in which a motor vehicle was
8 used, as defined in section 319 of the Michigan vehicle code, Act
9 No 300 of the Public Acts of 1949, being section 257 319 of the
10 Michigan Compiled Laws, your driver's license shall be suspended
11 by the secretary of state "

12 (8) If the judge or juvenile court referee determines as
13 part of the sentence or disposition that the felony for which the
14 defendant was convicted or adjudicated and with respect to which
15 notice was given pursuant to subsection (6) or (7) is a felony in
16 which a motor vehicle was used, the clerk of the court shall for-
17 ward an abstract of the court record of that conviction or adju-
18 dication to the secretary of state

19 (9) As used in subsections (10) and (11), "~~Felony~~ FELONY
20 in which a commercial motor vehicle was used" means a felony
21 during the commission of which the person operated a commercial
22 motor vehicle and while the person was operating the vehicle 1 or
23 more of the following circumstances existed

24 (a) The vehicle was used as an instrument of the felony

25 (b) The vehicle was used to transport a victim of the
26 felony

1 (c) The vehicle was used to flee the scene of the felony

2 (d) The vehicle was necessary for the commission of the
3 felony

4 (10) If a person is charged with a felony in which a commer-
5 cial motor vehicle was used and for which a vehicle group desig-
6 nation on a license is subject to suspension or revocation under
7 section 319b(1)(c)(111), 319b(1)(d), or 319b(1)(e)(111) or (v1),
8 the prosecuting attorney shall include the following statement on
9 the complaint and information filed in district or circuit
10 court

11 "You are charged with the commission of a felony in which a
12 commercial motor vehicle was used If you are convicted and the
13 judge finds that the conviction is for a felony in which a com-
14 mercial motor vehicle was used, as defined in section 319b of the
15 Michigan vehicle code, Act No 300 of the Public Acts of 1949,
16 being section 257 319b of the Michigan Compiled Laws, all vehicle
17 group designations on your driver's license shall be suspended or
18 revoked by the secretary of state "

19 (11) If the judge determines as part of the sentence that
20 the felony for which the defendant was convicted and with respect
21 to which notice was given pursuant to subsection (10) is a felony
22 in which a commercial motor vehicle was used, the clerk of the
23 court shall forward an abstract of the court record of that con-
24 viction to the secretary of state

25 (12) Every person required to forward abstracts to the sec-
26 retary of state under this section shall certify for the period
27 from January 1 through June 30 and for the period from July 1

1 through December 31 that all abstracts required to be forwarded
2 during the period have been forwarded The certification shall
3 be filed with the secretary of state not later than 28 days after
4 the end of the period covered by the certification The certifi-
5 cation shall be made upon a form furnished by the secretary of
6 state and shall include all of the following

7 (a) The name and title of the person required to forward
8 abstracts

9 (b) The court for which the certification is filed

10 (c) The time period covered by the certification

11 (d) The following statement

12 "I certify that all abstracts required by section 732 of the
13 Michigan vehicle code, MCL 257 732 MSA 9 2432, for the period
14 _____ through _____ have been forwarded to the secre-
15 tary of state "

16 (e) Other information the secretary of state considers
17 necessary

18 (f) The signature of the person required to forward
19 abstracts

20 (13) The failure, refusal, or neglect of a person to comply
21 with this section shall constitute misconduct in office and shall
22 be grounds for removal from office

23 (14) Except as provided in subsection (15), the secretary of
24 state shall keep all abstracts received under this section at the
25 secretary of state's main office and the abstracts shall be open
26 for public inspection during the office's usual business hours

1 Each abstract shall be entered upon the master driving record of
2 the person to whom it pertains

3 (15) Except for controlled substance offenses described in
4 subsection (4), the court shall not submit, and the secretary of
5 state shall discard and not enter on the master driving record,
6 an abstract for a conviction, civil infraction determination, or
7 probate court order of disposition for any of the following
8 offenses

9 (a) The parking or standing of a vehicle

10 (b) A nonmoving violation that is not the basis for the sec-
11 retary of state's suspension, revocation, or denial of an
12 operator's or chauffeur's license

13 (c) A violation of chapter II that is not the basis for the
14 secretary of state's suspension, revocation, or denial of an
15 operator's or chauffeur's license

16 (d) A pedestrian, passenger, or bicycle violation

17 (e) A violation of section 710e

18 (16) The secretary of state shall discard and not enter on
19 the master driving record an abstract for a bond forfeiture that
20 occurred outside this state. However, the secretary of state
21 shall retain and enter on the master driving record an abstract
22 of an out-of-state bond forfeiture for an offense that occurred
23 after January 1, 1990 in connection with the operation of a com-
24 mercial motor vehicle

25 (17) The secretary of state shall inform the courts of this
26 state of the nonmoving violations and violations of chapter II
27 that are used by the secretary of state as the basis for the

1 suspension, restriction, revocation, or denial of an operator's
2 or chauffeur's license

3 (18) If a conviction, civil infraction determination, or
4 probate court order of disposition is reversed upon appeal, the
5 person whose conviction, determination, or order of disposition
6 has been reversed may serve on the secretary of state a certified
7 copy of the order of reversal, and the secretary of state shall
8 enter the order in the proper book or index in connection with
9 the record of the conviction, civil infraction determination, or
10 probate court order of disposition

11 (19) The secretary of state may permit a city or village
12 department, bureau, person, or court to modify the requirement as
13 to the time and manner of reporting a conviction, civil infrac-
14 tion determination, settlement, or probate court order of dispo-
15 sition to the secretary of state if the modification will
16 increase the economy and efficiency of collecting and utilizing
17 the records If the permitted abstract of court record reporting
18 a conviction, civil infraction determination, settlement, or pro-
19 bate court order of disposition originates as a part of the writ-
20 ten notice to appear, authorized in section 728(1) or 742(1), the
21 form of the written notice and report shall be as prescribed by
22 the secretary of state