

SENATE BILL NO. 853

January 27, 1998, Introduced by Senator VAN REGENMORTER
and SHUGARS and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 303, 310d, 319, 625, 625a, 625b, and 625c
(MCL 257.303, 257.310d, 257.319, 257.625, 257.625a, 57.625b, and
257.625c), sections 303 and 319 as amended by 1996 PA 587, sec-
tion 310d as amended by 1991 PA 99, sections 625 and 625a as
amended by 1996 PA 491, and sections 625b and 625c as amended by
1994 PA 450, and by adding section 5b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 5B. "CHEMICAL AGENT" MEANS THAT TERM AS DEFINED IN
2 SECTION 1 OF 1967 PA 119, MCL 752.271.

3 Sec. 303. (1) The secretary of state shall not issue a
4 license under this act to any of the following:

5 (a) A person, as an operator, who is less than 18 years of
6 age, except as otherwise provided in this act.

1 (b) A person, as a chauffeur, who is less than 18 years of
2 age, except as otherwise provided in this act.

3 (c) A person whose license has been suspended during the
4 period for which the license was suspended.

5 (d) A person who has been convicted of or received a probate
6 court disposition for a violation of section 625(4) or (5).

7 (e) A person who has been convicted of or received a probate
8 court disposition for negligent homicide, manslaughter, or murder
9 resulting from the operation of a motor vehicle.

10 (f) A person who is an habitual violator of the criminal
11 laws relating to operating a vehicle while impaired by or under
12 the influence of intoxicating liquor, a controlled substance, A
13 CHEMICAL AGENT, or ~~a~~ ANY combination of intoxicating liquor,
14 ~~and~~ a controlled substance, OR A CHEMICAL AGENT or with an
15 alcohol content of 0.10 grams or more per 100 milliliters of
16 blood, per 210 liters of breath, or per 67 milliliters of urine.
17 Convictions of any of the following, whether under a law of this
18 state, a local ordinance substantially corresponding to a law of
19 this state, or a law of another state substantially corresponding
20 to a law of this state, are prima facie evidence that the person
21 is an habitual violator as described in this subdivision:

22 (i) Any combination of 2 convictions within 7 years for any
23 of the following:

24 (A) A violation of section 625(1), (4), or (5).

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

1 (ii) Any combination of 3 convictions within 10 years for
2 any of the following if any of the convictions resulted from an
3 arrest on or after January 1, 1992:

4 (A) A violation of section 625(1), (3), (4), or (5).

5 (B) A violation of former section 625(1) or (2) or former
6 section 625b.

7 (g) A person who in the opinion of the secretary of state is
8 afflicted with or suffering from a physical or mental disability
9 or disease preventing that person from exercising reasonable and
10 ordinary control over a motor vehicle while operating the motor
11 vehicle upon the highways.

12 (h) A person who is unable to understand highway warning or
13 direction signs in the English language.

14 (i) A person who is an habitually reckless driver. Two con-
15 victions within 7 years of reckless driving under this act or any
16 other law of this state relating to reckless driving or under a
17 local ordinance of this state or a law of another state that
18 defines the term "reckless driving" substantially similarly to
19 the law of this state are prima facie evidence that the person is
20 an habitually reckless driver.

21 (j) A person who is an habitual criminal. Two convictions
22 of a felony in which a motor vehicle was used in this or another
23 state are prima facie evidence that the person is an habitual
24 criminal.

25 (k) A person who is unable to pass a knowledge, skill, or
26 ability test administered by the secretary of state in connection
27 with the issuance of an original operator's or chauffeur's

1 license, original motorcycle indorsement, or an original or
2 renewal of a vehicle group designation or vehicle indorsement.

3 (l) A person who has been convicted of, has received a pro-
4 bate court disposition for, or has been determined responsible
5 for 2 or more moving violations under a law of this state, a
6 local ordinance substantially corresponding to a law of this
7 state, or a law of another state substantially corresponding to a
8 law of this state within the preceding 3 years, if the violations
9 occurred before issuance of an original license to the person in
10 this or another state.

11 (m) A nonresident including a foreign exchange student.

12 (n) A person not licensed under this act who has been con-
13 victed of, has received a probate court disposition for, or has
14 been determined responsible for a crime or civil infraction
15 described in section 319, 324, or 904. A person shall be denied
16 a license under this subdivision for the length of time corre-
17 sponding to the period of the licensing sanction that would have
18 been imposed under section 319, 324, or 904 if the person had
19 been licensed at the time of the violation.

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

1 (p) A person not licensed under this act who is determined
2 to have violated section 33b(1) of the Michigan liquor control
3 act, ~~Act No. 8 of the Public Acts of the Extra Session of 1933,~~
4 ~~being section 436.33b of the Michigan Compiled Laws 1933 (EX~~
5 ~~SESS) PA 8, MCL 436.33B, or section 624a or 624b OF THIS ACT.~~
6 The person shall be denied a license under this subdivision for a
7 period of time that corresponds to the period of the licensing
8 sanction that would have been imposed under those sections had
9 the person been licensed at the time of the violation.

10 (q) A person who has been convicted of a violation of sec-
11 tion 602a(4) or (5) OF THIS ACT or ~~a violation of~~ section
12 479a(4) or (5) of the Michigan penal code, ~~Act No. 328 of the~~
13 ~~Public Acts of 1931, being section 750.479a of the Michigan~~
14 ~~Compiled Laws 1931 PA 328, MCL 750.479A.~~

15 (2) Upon receiving the appropriate records of conviction,
16 the secretary of state shall revoke the operator's or chauffeur's
17 license of a person having any of the following, whether under a
18 law of this state, a local ordinance substantially corresponding
19 to a law of this state, or a law of another state substantially
20 corresponding to a law of this state:

21 (a) Two convictions of reckless driving in violation of sec-
22 tion 626 within 7 years.

23 (b) Two convictions of a felony in which a motor vehicle was
24 used within 7 years.

25 (c) Any combination of 2 convictions within 7 years for any
26 of the following:

- 1 (i) A violation of section 625(1).
2 (ii) A violation of former section 625(1) or (2).
3 (iii) A violation of section 625(4) or (5).
4 (iv) Negligent homicide, manslaughter, or murder resulting
5 from the operation of a motor vehicle.
6 (d) One conviction under section 625(4) or (5).
7 (e) One conviction of negligent homicide, manslaughter, or
8 murder resulting from the operation of a motor vehicle.
9 (f) Any combination of 3 convictions within 10 years for any
10 of the following if any of the convictions resulted from an
11 arrest on or after January 1, 1992:
12 (i) A violation of section 625(1), (3), (4), or (5).
13 (ii) A violation of former section 625(1) or (2) or former
14 section 625b.
15 (iii) Negligent homicide, manslaughter, or murder resulting
16 from the operation of a motor vehicle.
17 (g) A CONVICTION FOR A violation of section 602a(4) or (5)
18 of this act or section 479a(4) or (5) of the Michigan penal code,
19 ~~Act No. 328 of the Public Acts of 1931, being section 750.479a~~
20 ~~of the Michigan Compiled Laws~~ 1931 PA 328, MCL 750.479A.
21 (3) The secretary of state shall revoke a license under sub-
22 section (2) notwithstanding a court order issued under section
23 625, section 625b, former section 625(1) or (2), or former sec-
24 tion 625b or a local ordinance substantially corresponding to
25 section 625, section 625b, former section 625(1) or (2), or
26 former section 625b.

1 (4) The secretary of state shall not issue a license under
2 this act to a person whose license has been revoked under this
3 act or denied under subsection (1)(d), (e), (f), (i), ~~or~~ (j),
4 OR (Q) until both of the following occur:

5 (a) ~~The~~ EXPIRATION OF THE later of the following:

6 (i) ~~The expiration of not~~ NOT less than 1 year after the
7 license was revoked or denied.

8 (ii) ~~The expiration of not~~ NOT less than 5 years after the
9 date of a subsequent revocation or denial occurring within 7
10 years after the date of any prior revocation or denial.

11 (b) The person meets the requirements of the department.

12 (5) Multiple convictions or civil infraction determinations
13 resulting from the same incident shall be treated as a single
14 violation for purposes of denial or revocation of a license under
15 this section.

16 (6) As used in this section, "felony in which a motor vehi-
17 cle was used" means a felony during the commission of which the
18 person operated a motor vehicle and while operating the vehicle
19 presented real or potential harm to persons or property and 1 or
20 more of the following circumstances existed:

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

22 (b) The vehicle was used to transport a victim of the
23 felony.

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

25 (d) The vehicle was necessary for the commission of the
26 felony.

1 Sec. 310d. (1) A license issued under this act to a person
2 not previously licensed in this or in another state shall be
3 designated as probationary for 3 years after the date of
4 issuance. During the first 12 months of probation, the license
5 may be suspended or probationary terms and conditions may be
6 imposed upon THE LICENSEE'S failure ~~of the licensee~~ to appear
7 before a magistrate, as provided in this chapter, or upon convic-
8 tion of the licensee or determination of the licensee's responsi-
9 bility for a moving violation in this state. The SUSPENSION
10 period ~~of suspension~~ or the probationary terms and conditions
11 shall not be for more than 12 months and shall be determined by
12 the secretary of state at an examination of the driver by the
13 secretary of state.

14 (2) If a license is suspended or probationary terms and con-
15 ditions are imposed by a probate judge OR JUDGE OF THE FAMILY
16 DIVISION OF CIRCUIT COURT, the period during which the suspension
17 or probationary terms and conditions are in effect shall be
18 deducted from the period of suspension or probationary terms and
19 conditions imposed at an examination of the driver by the secre-
20 tary of state pursuant to subsection (1). If a license is sus-
21 pended or probationary terms and conditions are imposed by ~~the~~
22 ~~probate~~ THAT judge, the ~~probate~~ court shall include the sus-
23 pension, probationary terms, and conditions, and the period
24 during which the suspension, probationary terms, and conditions
25 apply, on the abstract ~~which the court forwards~~ FORWARDED to
26 the secretary of state.

1 (3) Upon completion of the first 12 months of probation, the
2 secretary of state may require a licensee to be reexamined by the
3 secretary of state if the licensee's driving record contains any
4 of the following:

5 (a) A conviction ~~,~~ OR civil infraction determination ~~,~~ or
6 ~~probate court disposition of~~ FOR a moving violation FOR which
7 ~~was assessed~~ 4 or more points WERE ASSESSED as provided in sec-
8 tion 320a.

9 (b) Three convictions ~~,~~ OR 3 civil infraction determina-
10 tions ~~,~~ ~~3 probate court dispositions,~~ or ~~a~~ ANY combination of
11 convictions ~~,~~ AND civil infraction determinations ~~,~~ and ~~pro-~~
12 ~~bate court dispositions which~~ THAT equals 3, for moving
13 violations.

14 (c) A total of 6 or more points as provided in section
15 320a.

16 (d) A conviction ~~,~~ OR civil infraction determination ~~,~~ or
17 ~~probate court disposition of~~ FOR a moving violation and an acci-
18 dent for which the official police report indicates the licensee
19 had been drinking intoxicating liquor.

20 (e) A conviction ~~,~~ OR civil infraction determination ~~,~~ or
21 ~~probate court disposition of~~ FOR a moving violation and an acci-
22 dent for which the official police report indicates a moving vio-
23 lation on the part of the licensee.

24 (f) Three accidents for which the official police report
25 indicates a moving violation on the part of the licensee.

26 (g) A suspension ~~pursuant to~~ UNDER section 625f.

1 (4) The probationary period shall be extended beyond 3 years
2 and the secretary of state may reexamine a licensee as provided
3 in subsection (3) ~~—~~, if any of the following occur and are
4 recorded on the licensee's driving record during the last 10
5 months of the probationary period:

6 (a) A moving violation resulting in a conviction or civil
7 infraction determination.

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

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

12 (d) A license suspension for a reason other than a mental or
13 physical disability.

14 (5) The probationary period shall be extended ~~pursuant to~~
15 UNDER subsection (4) until the licensee completes 10 consecutive
16 months without a moving violation, accident, or suspension enu-
17 merated in subsection (4).

18 (6) ~~The secretary of state, upon~~ UPON completion of a
19 reexamination, THE SECRETARY OF STATE may suspend or impose pro-
20 bationary terms and conditions on the license of a probationary
21 licensee, except that a reexamination for subsection (3)(d), (e),
22 or (f) shall not result in a license suspension or the imposition
23 of probationary terms or conditions.

24 (7) For 24 months immediately after a licensee's probation-
25 ary period, the secretary of state may require the licensee to be
26 reexamined by the secretary of state if the licensee's driver
27 record has a total of 9 or more points, as provided in section

1 320a, imposed in a period of 2 years and if the licensee's record
2 contains 1 or more of the following:

3 (a) A conviction ~~or probate court disposition,~~ for a vio-
4 lation of section 625(1) or former section 625(1) or (2), a local
5 ordinance substantially corresponding to section 625(1) or former
6 section 625(1) or (2), or a law of another state substantially
7 corresponding to section 625(1) or former section 625(1) or (2).

8 (b) A conviction ~~or probate court disposition~~ for driving
9 while visibly impaired due to consumption of intoxicating liquor,
10 a controlled substance, A CHEMICAL AGENT or ~~a~~ ANY combination
11 of intoxicating liquor, ~~and~~ a controlled substance, OR A CHEMI-
12 CAL AGENT.

13 (c) A suspension of the licensee's license ~~pursuant to~~
14 UNDER section 625f.

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

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

19 (8) ~~The secretary of state, upon~~ UPON completion of a
20 reexamination ~~pursuant to~~ UNDER subsection (7), THE SECRETARY
21 OF STATE may suspend the license of the licensee, except that a
22 reexamination for subsection (7)(d) or (e) shall not result in a
23 license suspension or restriction.

24 (9) If a licensee fails to appear for a reexamination sched-
25 uled by the secretary of state pursuant to this section, the
26 licensee's license may be suspended immediately and remain

1 suspended until the licensee appears for a reexamination by the
2 secretary of state.

3 (10) Notice of a reexamination required under this section
4 shall be given by first class mail to the last known address of
5 the licensee.

6 (11) For purposes of this section:

7 (a) Upon conviction for a moving violation, the date of the
8 arrest for the violation shall be used in determining whether the
9 conviction occurred ~~within~~ DURING the probationary period.

10 (b) Upon entry of a civil infraction determination for a
11 moving violation, the date of issuance of a citation for a civil
12 infraction shall be used in determining whether the civil infrac-
13 tion determination occurred ~~within~~ DURING the probationary
14 period.

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

18 (d) A suspension ~~shall be considered~~ IS part of a driving
19 record from the date the suspension is imposed until the suspen-
20 sion is terminated.

21 (e) The date of the official police report shall be used in
22 determining whether a licensee was driving a motor vehicle DURING
23 THE PROBATIONARY PERIOD THAT WAS involved in an accident for
24 which the official police report indicates a moving violation on
25 the part of the licensee or indicates the licensee had been
26 drinking intoxicating liquor.

1 Sec. 319. (1) The secretary of state shall immediately
2 suspend a person's license for not less than 90 days or more than
3 2 years upon receiving a record of the person's conviction for
4 any of the following crimes or attempts to commit any of the fol-
5 lowing crimes, whether the conviction is under a law of this
6 state, a local ordinance substantially corresponding to a law of
7 this state, or a law of another state substantially corresponding
8 to a law of this state:

9 (a) Fraudulently altering or forging documents pertaining to
10 motor vehicles, in violation of section 257.

11 (b) Perjury or making a false certification to the secretary
12 of state under any law requiring the registration of a motor
13 vehicle or regulating the operation of a motor vehicle on a
14 highway.

15 (c) A violation of section 413 or 414 of the Michigan penal
16 code, ~~Act No. 328 of the Public Acts of 1931, being sections~~
17 ~~750.413 and 750.414 of the Michigan Compiled Laws~~ 1931 PA 328,
18 MCL 750.413 AND 750.414, or a violation of section 1 of ~~Act~~
19 ~~No. 214 of the Public Acts of 1931, being section 752.191 of the~~
20 ~~Michigan Compiled Laws~~ 1931 PA 214, MCL 752.191.

21 (d) A conviction for reckless driving in violation of sec-
22 tion 626.

23 (e) Failing to stop and disclose identity at the scene of an
24 accident resulting in death or injury in violation of section 617
25 or 617a.

26 (f) A felony in which a motor vehicle was used. As used in
27 this section, "felony in which a motor vehicle was used" means a

1 felony during the commission of which the person convicted
2 operated a motor vehicle and while operating the vehicle
3 presented real or potential harm to persons or property and 1 or
4 more of the following circumstances existed:

5 (i) The vehicle was used as an instrument of the felony.

6 (ii) The vehicle was used to transport a victim of the
7 felony.

8 (iii) The vehicle was used to flee the scene of the felony.

9 (iv) The vehicle was necessary for the commission of the
10 felony.

11 (2) The secretary of state shall suspend the license of a
12 person convicted of malicious destruction resulting from the
13 operation of a motor vehicle under section 382 of the Michigan
14 penal code, ~~Act No. 328 of the Public Acts of 1931, being sec-~~
15 ~~tion 750.382 of the Michigan Compiled Laws~~ 1931 PA 328, MCL
16 750.382, for not more than 1 year as ordered by the court as part
17 of the sentence.

18 (3) The secretary of state shall immediately suspend a
19 person's license for the period specified in the abstract of con-
20 viction upon receiving the person's license and abstract of con-
21 viction forwarded to the secretary of state pursuant to section
22 367c of the Michigan penal code, ~~Act No. 328 of the Public Acts~~
23 ~~of 1931, being section 750.367c of the Michigan Compiled Laws~~
24 1931 PA 328, MCL 750.367C.

25 (4) Except as otherwise provided in subsection (9), if a
26 court has not ordered a suspension of a person's license under
27 this act for a violation described in ~~subdivision (a), (b), (c),~~

1 ~~or (d)~~ THIS SUBSECTION for a period equal to or greater than the
2 suspension period prescribed under ~~subdivision (a), (b), (c), or~~
3 ~~(d)~~ THIS SUBSECTION for the violation, the secretary of state
4 shall suspend the license as follows, notwithstanding a court
5 order issued under section 625(1), (3), or (6), section 625b,
6 former section 625(1) or (2), or former section 625b or a local
7 ordinance substantially corresponding to section 625(1), (3), or
8 (6), section 625b, former section 625(1) or (2), or former sec-
9 tion 625b:

10 (a) For not less than 90 days or more than 1 year upon
11 receiving a record of the person's conviction for a violation of
12 section 625(3), a local ordinance substantially corresponding to
13 section 625(3), or a law of another state substantially corre-
14 sponding to section 625(3) if the person has no prior convictions
15 within 7 years for a violation of section 625(1), (3), (4), or
16 (5), former section 625(1) or (2), or former section 625b, a
17 local ordinance substantially corresponding to section 625(1) or
18 (3), former section 625(1) or (2), or former section 625b, or a
19 law of another state substantially corresponding to section
20 625(1), (3), (4), or (5), former section 625(1) or (2), or former
21 section 625b. However, if the person is convicted of a violation
22 of section 625(3), a local ordinance substantially corresponding
23 to section 625(3), or a law of another state substantially corre-
24 sponding to section 625(3) for operating a vehicle when, due to
25 the consumption of a controlled substance or ~~a combination of~~
26 ~~intoxicating liquor and~~ a controlled substance IN COMBINATION
27 WITH INTOXICATING LIQUOR OR A CHEMICAL AGENT, OR BOTH, the

1 person's ability to operate the vehicle was visibly impaired, the
2 secretary of state shall suspend the person's license under this
3 subdivision for not less than 6 months or more than 1 year.

4 (b) For not less than 6 months or more than 2 years upon
5 receiving a record of the person's conviction if the person has
6 the following convictions, whether under the law of this state, a
7 local ordinance substantially corresponding to a law of this
8 state, or a law of another state substantially corresponding to a
9 law of this state:

10 (i) One conviction under section 625(1) or former section
11 625(1) or (2).

12 (ii) Any combination of 2 convictions under section 625(3)
13 or former section 625b within a 7-year period.

14 (iii) One conviction under section 625(1) or former section
15 625(1) or (2) and 1 conviction under section 625(3) or former
16 section 625b within a 7-year period.

17 (iv) One conviction under section 625(4) or (5) followed by
18 1 conviction under section 625(3) within a 7-year period.

19 (c) For not less than 30 days or more than 90 days upon
20 receiving a record of the person's conviction for a violation of
21 section 625(6), a local ordinance substantially corresponding to
22 section 625(6), or a law of another state substantially corre-
23 sponding to section 625(6) if the person has no prior convictions
24 within 7 years for a violation of section 625(1), (3), (4), (5),
25 or (6), former section 625(1) or (2), or former section 625b, a
26 local ordinance substantially corresponding to section 625(1),
27 (3), or (6), former section 625(1) or (2), or former section

1 625b, or a law of another state substantially corresponding to
2 section 625(1), (3), (4), (5), or (6), former section 625(1) or
3 (2), or former section 625b.

4 (d) For not less than 90 days or more than 1 year upon
5 receiving a record of the person's conviction for a violation of
6 section 625(6), a local ordinance substantially corresponding to
7 section 625(6), or a law of another state substantially corre-
8 sponding to section 625(6) if the person has 1 or more prior con-
9 victions within 7 years for a violation of section 625(1), (3),
10 (4), (5), or (6), former section 625(1) or (2), or former section
11 625b, a local ordinance substantially corresponding to section
12 625(1), (3), or (6), 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), (5), or (6), former section 625(1)
15 or (2), or former section 625b.

16 (5) Upon receiving a certificate of conviction under section
17 33b(2) of the Michigan liquor control act, ~~Act No. 8 of the~~
18 ~~Public Acts of the Extra Session of 1933, being section 436.33b~~
19 ~~of the Michigan Compiled Laws~~ 1933 (EX SESS) PA 8, MCL 436.33B,
20 or a local ordinance or law of another state substantially corre-
21 sponding to ~~section 33b(2) of Act No. 8 of the Public Acts of~~
22 ~~the Extra Session of 1933~~ THAT SECTION, the secretary of state
23 shall suspend pursuant to court order the person's operator's or
24 chauffeur's license for 90 days. A suspension under this subsec-
25 tion shall be in addition to any other suspension of the person's
26 license.

1 (6) Upon receiving the record of a person's conviction for a
2 violation of section 602a(2) or (3) of this act or section
3 479a(2) or (3) of ~~Act No. 328 of the Public Acts of 1931, being~~
4 ~~section 750.479a of the Michigan Compiled Laws~~ THE MICHIGAN
5 PENAL CODE, 1931 PA 328, MCL 750.479A, the secretary of state
6 immediately shall suspend the person's license for the period
7 ordered by the court as part of the sentence or disposition.

8 (7) Upon receiving an abstract of conviction for a violation
9 of section 33b(1) of ~~Act No. 8 of the Public Acts of the Extra~~
10 ~~Session of 1933, being section 436.33b of the Michigan Compiled~~
11 ~~Laws~~ THE MICHIGAN LIQUOR CONTROL ACT, 1933 (EX SESS) PA 8, MCL
12 436.33B, or section 624a or 624b OF THIS ACT or a local ordinance
13 substantially corresponding to those sections, the secretary of
14 state shall suspend the person's operator's or chauffeur's
15 license for the period of time described in section 33b(4) of
16 ~~Act No. 8 of the Public Acts of the Extra Session of 1933~~ THE
17 MICHIGAN LIQUOR CONTROL ACT, 1933 (EX SESS) PA 8, MCL 436.33B, or
18 section 624a or 624b notwithstanding any court order to the con-
19 trary and, if applicable, issue a restricted license as ordered
20 by the court in the manner provided for in ~~section 33b of Act~~
21 ~~No. 8 of the Public Acts of the Extra Session of 1933 or section~~
22 ~~624a or 624b~~ THOSE SECTIONS. If the person does not possess an
23 operator's or chauffeur's license, the secretary of state shall
24 deny the person's application for an operator's or chauffeur's
25 license for the applicable suspension period.

26 (8) Except as provided in subsection (10), a suspension
27 under this section shall be imposed notwithstanding a court order

1 issued under section 625(1), (3), (4), (5), or (6) or section
2 625b or a local ordinance substantially corresponding to
3 section 625(1), (3), or (6) or section 625b.

4 (9) If the secretary of state receives records of more than
5 1 conviction of a person resulting from the same incident, a sus-
6 pension shall be imposed only for the violation to which the
7 longest period of suspension applies under this section.

8 (10) The secretary of state may waive a suspension of a
9 person's license imposed under subsection ~~-(4)(a), (b), (c), or~~
10 ~~(d)~~ (4) if the person submits proof that a court in another
11 state revoked, suspended, or restricted his or her license for a
12 period equal to or greater than the period of a suspension pre-
13 scribed under subsection ~~-(4)(a), (b), (c), or (d)~~ (4) for the
14 violation and that the revocation, suspension, or restriction was
15 served for the violation, or may grant a restricted license.

16 Sec. 625. (1) A person, whether licensed or not, shall not
17 operate a vehicle upon a highway or other place open to the gen-
18 eral public or generally accessible to motor vehicles, including
19 an area designated for the parking of vehicles, within this state
20 if either of the following applies:

21 (a) The person is under the influence of intoxicating
22 liquor, a controlled substance, A CHEMICAL AGENT, or ~~a~~ ANY com-
23 bination of intoxicating liquor, ~~and~~ a controlled substance, OR
24 A CHEMICAL AGENT.

25 (b) The person has an alcohol content of 0.10 grams or more
26 per 100 milliliters of blood, per 210 liters of breath, or per 67
27 milliliters of urine.

1 (2) The owner of a vehicle or a person in charge or in
2 control of a vehicle shall not authorize or knowingly permit the
3 vehicle to be operated upon a highway or other place open to the
4 general public or generally accessible to motor vehicles, includ-
5 ing an area designated for the parking of motor vehicles, within
6 this state by a person who is under the influence of intoxicating
7 liquor, a controlled substance, A CHEMICAL AGENT, or ~~a~~ ANY com-
8 bination of intoxicating liquor, ~~and~~ a controlled substance, OR
9 A CHEMICAL AGENT or who has an alcohol content of 0.10 grams or
10 more per 100 milliliters of blood, per 210 liters of breath, or
11 per 67 milliliters of urine.

12 (3) A person, whether licensed or not, shall not operate a
13 vehicle upon a highway or other place open to the general public
14 or generally accessible to motor vehicles, including an area des-
15 ignated for the parking of vehicles, within this state when, due
16 to the consumption of ~~an~~ intoxicating liquor, a controlled sub-
17 stance, A CHEMICAL AGENT, or ~~a~~ ANY combination of ~~an~~ intoxi-
18 cating liquor, ~~and~~ a controlled substance, OR A CHEMICAL AGENT,
19 the person's ability to operate the vehicle is visibly impaired.
20 If a person is charged with violating subsection (1), a finding
21 of guilty under this subsection may be rendered.

22 (4) A person, whether licensed or not, who operates a motor
23 vehicle in violation of subsection (1) or (3) and by the opera-
24 tion of that motor vehicle causes the death of another person is
25 guilty of a felony punishable by imprisonment for not more than
26 15 years or a fine of not less than \$2,500.00 or more than

1 \$10,000.00, or both. The judgment of sentence may impose the
2 sanction permitted under section 625n.

3 (5) A person, whether licensed or not, who operates a motor
4 vehicle in violation of subsection (1) or (3) and by the opera-
5 tion of that motor vehicle causes a serious impairment of a body
6 function of another person is guilty of a felony punishable by
7 imprisonment for not more than 5 years or a fine of not less than
8 \$1,000.00 or more than \$5,000.00, or both. The judgment of sen-
9 tence may impose the sanction permitted under section 625n. As
10 used in this subsection, "serious impairment of a body function"
11 includes, but is not limited to, 1 or more of the following:

- 12 (a) Loss of a limb or use of a limb.
13 (b) Loss of a hand, foot, finger, or thumb or use of a hand,
14 foot, finger, or thumb.
15 (c) Loss of an eye or ear or use of an eye or ear.
16 (d) Loss or substantial impairment of a bodily function.
17 (e) Serious visible disfigurement.
18 (f) A comatose state that lasts for more than 3 days.
19 (g) Measurable brain damage or mental impairment.
20 (h) A skull fracture or other serious bone fracture.
21 (i) Subdural hemorrhage or subdural hematoma.

22 (6) A person who is less than 21 years of age, whether
23 licensed or not, shall not operate a vehicle upon a highway or
24 other place open to the general public or generally accessible to
25 motor vehicles, including an area designated for the parking of
26 vehicles, within this state if the person has any bodily alcohol

1 content. As used in this subsection, "any bodily alcohol
2 content" means either of the following:

3 (a) An alcohol content of not less than 0.02 grams or more
4 than 0.07 grams per 100 milliliters of blood, per 210 liters of
5 breath, or per 67 milliliters of urine.

6 (b) Any presence of alcohol within a person's body resulting
7 from the consumption of intoxicating liquor, other than consump-
8 tion of intoxicating liquor as a part of a generally recognized
9 religious service or ceremony.

10 (7) If a person is convicted of violating subsection (1),
11 all of the following apply:

12 (a) Except as otherwise provided in subdivisions (b) and
13 (d), the person is guilty of a misdemeanor punishable by 1 or
14 more of the following:

15 (i) Community service for not more than 45 days.

16 (ii) Imprisonment for not more than 90 days.

17 (iii) A fine of not less than \$100.00 or more than \$500.00.

18 (b) If the violation occurs within 7 years of a prior con-
19 viction, the person shall be sentenced to pay a fine of not less
20 than \$200.00 or more than \$1,000.00 and either of the following:

21 (i) Community service for not less than 10 days or more than
22 90 days and may be imprisoned for not more than 1 year.

23 (ii) Imprisonment for not less than 48 consecutive hours or
24 more than 1 year and may be sentenced to community service for
25 not more than 90 days.

26 (c) A term of imprisonment imposed under subdivision (b)(ii)
27 shall not be suspended.

1 (d) If the violation occurs within 10 years of 2 or more
2 prior convictions, the person is guilty of a felony and shall be
3 sentenced to pay a fine of not less than \$500.00 or more than
4 \$5,000.00 and to either of the following:

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

7 (ii) Probation with imprisonment in the county jail for not
8 less than 30 days or more than 1 year. Not less than 48 hours of
9 the imprisonment imposed under this subparagraph shall be served
10 consecutively.

11 (e) The term of imprisonment imposed under subdivision (d)
12 shall not be suspended.

13 (f) The judgment of sentence under this subsection may
14 impose the sanction permitted under section 625n.

15 (g) As used in this subsection, "prior conviction" means a
16 conviction for a violation or attempted violation of subsection
17 (1), (4), or (5) or former section 625(1) or (2), a local ordi-
18 nance substantially corresponding to subsection (1) or former
19 section 625(1) or (2), or a law of another state substantially
20 corresponding to subsection (1), (4), or (5) or former section
21 625(1) or (2).

22 (8) A person who is convicted of violating subsection (2) is
23 guilty of a misdemeanor punishable by imprisonment for not more
24 than 90 days or a fine of not less than \$100.00 or more than
25 \$500.00, or both.

26 (9) If a person is convicted of violating subsection (3),
27 all of the following apply:

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

4 (i) Community service for not more than 45 days.

5 (ii) Imprisonment for not more than 90 days.

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

7 (b) If the violation occurs within 7 years of 1 prior con-
8 viction, the person shall be sentenced to pay a fine of not less
9 than \$200.00 or more than \$1,000.00, and either of the
10 following:

11 (i) Community service for not less than 10 days or more than
12 90 days and may be sentenced to imprisonment for not more than 1
13 year.

14 (ii) Imprisonment for not more than 1 year and may be sen-
15 tenced to community service for not more than 90 days.

16 (c) If the violation occurs within 10 years of 2 or more
17 prior convictions, the person shall be sentenced to pay a fine of
18 not less than \$200.00 or more than \$1,000.00, and either of the
19 following:

20 (i) Community service for not less than 10 days or more than
21 90 days and may be sentenced to imprisonment for not more than 1
22 year.

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

25 (d) The judgment of sentence under subdivision (b) or (c)
26 may impose the sanction permitted under section 625n.

1 (e) As used in this subsection, "prior conviction" means a
2 conviction for a violation or attempted violation of subsection
3 (1), (3), (4), or (5), former section 625(1) or (2), or former
4 section 625b, a local ordinance substantially corresponding to
5 subsection (1) or (3), former section 625(1) or (2), or former
6 section 625b, or a law of another state substantially correspond-
7 ing to subsection (1), (3), (4), or (5), former section 625(1) or
8 (2), or former section 625b.

9 (10) If a person is convicted of violating subsection (6),
10 all of the following apply:

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

14 (i) Community service for not more than 45 days.

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

16 (b) If the violation occurs within 7 years of 1 or more
17 prior convictions, the person may be sentenced to 1 or both of
18 the following:

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

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

21 (c) As used in this subsection, "prior conviction" means a
22 conviction for a violation or attempted violation of subsection
23 (1), (3), (4), (5), or (6), former section 625(1) or (2), or
24 former section 625b, a local ordinance substantially correspond-
25 ing to subsection (1), (3), or (6), former section 625(1) or (2),
26 or former section 625b, or a law of another state substantially

1 corresponding to subsection (1), (3), (4), (5), or (6), former
2 section 625(1) or (2), or former section 625b.

3 (11) In addition to imposing the sanctions prescribed under
4 subsection (4), (5), (7), (9), or (10), the court may order the
5 person to pay the costs of the prosecution under the code of
6 criminal procedure, ~~Act No. 175 of the Public Acts of 1927,~~
7 ~~being sections 760.1 to 776.22 of the Michigan Compiled Laws~~
8 1927 PA 175, MCL 760.1 TO 776.22.

9 (12) The court shall impose licensing sanctions pursuant to
10 section 625b.

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

16 (14) If the prosecuting attorney intends to seek an enhanced
17 sentence under subsection (7)(b) or (d), subsection (9)(b) or
18 (c), or subsection (10)(b) based upon the defendant having 1 or
19 more prior convictions, the prosecuting attorney shall include on
20 the complaint and information, or an amended complaint and infor-
21 mation, filed in district court, circuit court, recorder's court,
22 municipal court, or probate court a statement listing the
23 defendant's prior convictions.

24 (15) If a person is charged with a violation of subsection
25 (1) or (3), the court shall not permit the defendant to enter a
26 plea of guilty or nolo contendere to a charge of violating
27 subsection (6) in exchange for dismissal of the original charge.

1 This subsection does not prohibit the court from dismissing the
2 charge upon the prosecuting attorney's motion.

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

5 (a) An abstract of conviction.

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

7 (c) An admission by the defendant.

8 (17) A person who is convicted of an attempted violation of
9 subsection (1), (3), (4), (5), or (6) or a local ordinance sub-
10 stantially corresponding to subsection (1), (3), or (6) shall be
11 punished as if the offense had been completed.

12 (18) When assessing points and taking licensing action under
13 this act, the secretary of state and the court shall treat a con-
14 viction of an attempted violation of subsection (1), (3), (4),
15 (5), or (6) or a local ordinance substantially corresponding to
16 subsection (1), (3), or (6) or a law of another state substan-
17 tially corresponding to subsection (1), (3), (4), (5), or (6) the
18 same as if the offense had been completed.

19 (19) Except as otherwise provided in subsection (21), if a
20 person is charged with operating a vehicle while under the influ-
21 ence of a controlled substance or ~~a combination of intoxicating~~
22 ~~liquor and~~ a controlled substance IN COMBINATION WITH INTOXICAT-
23 ING LIQUOR OR A CHEMICAL AGENT, OR BOTH, in violation of
24 subsection (1) or a local ordinance substantially corresponding
25 to subsection (1), the court shall require the jury to return a
26 special verdict in the form of a written finding or, if the court
27 convicts the person without a jury or accepts a plea of guilty or

1 nolo contendere, the court shall make a finding as to whether the
2 person was under the influence of a controlled substance or ~~a~~
3 ~~combination of intoxicating liquor and~~ a controlled substance IN
4 COMBINATION WITH INTOXICATING LIQUOR OR A CHEMICAL AGENT, OR
5 BOTH, at the time of the violation.

6 (20) Except as otherwise provided in subsection (21), if a
7 person is charged with operating a vehicle while his or her abil-
8 ity to operate the vehicle was visibly impaired due to his or her
9 consumption of a controlled substance or ~~a combination of intox-~~
10 ~~icating liquor and~~ a controlled substance IN COMBINATION WITH
11 INTOXICATING LIQUOR OR A CHEMICAL AGENT, OR BOTH, in violation of
12 subsection (3) or a local ordinance substantially corresponding
13 to subsection (3), the court shall require the jury to return a
14 special verdict in the form of a written finding or, if the court
15 convicts the person without a jury or accepts a plea of guilty or
16 nolo contendere, the court shall make a finding as to whether,
17 due to the consumption of a controlled substance or ~~a combina-~~
18 ~~tion of intoxicating liquor and~~ a controlled substance IN COMBI-
19 NATION WITH INTOXICATING LIQUOR OR A CHEMICAL AGENT, OR BOTH, the
20 person's ability to operate a motor vehicle was visibly impaired
21 at the time of the violation.

22 (21) A special verdict described in subsections (19) and
23 (20) is not required if a jury is instructed to make a finding
24 solely as to either of the following:

25 (a) Whether the defendant was under the influence of a con-
26 trolled substance or ~~a combination of intoxicating liquor and~~ a

1 controlled substance IN COMBINATION WITH INTOXICATING LIQUOR OR A
2 CHEMICAL AGENT, OR BOTH, at the time of the violation.

3 (b) Whether the defendant was visibly impaired due to his or
4 her consumption of a controlled substance or ~~a combination of~~
5 ~~intoxicating liquor and~~ a controlled substance IN COMBINATION
6 WITH INTOXICATING LIQUOR OR A CHEMICAL AGENT, OR BOTH, at the
7 time of the violation.

8 (22) If a jury or court ~~makes a finding~~ FINDS under sub-
9 section (19), (20), or (21) that the defendant operated a motor
10 vehicle under the influence of or while impaired due to the con-
11 sumption of a controlled substance or ~~a combination of~~ a con-
12 trolled substance ~~and an~~ IN COMBINATION WITH intoxicating
13 liquor OR A CHEMICAL AGENT, OR BOTH, the court shall do both of
14 the following:

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

16 (b) On a form or forms prescribed by the state court admin-
17 istrator, forward to the department of state police a record that
18 specifies the penalties imposed by the court, including any term
19 of imprisonment, any licensing sanction imposed under
20 section 625b, and any sanction imposed under section 625n.

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

25 (24) In a prosecution for a violation of subsection (6), the
26 defendant bears the burden of proving that the consumption of
27 intoxicating liquor was a part of a generally recognized

1 religious service or ceremony by a preponderance of the
2 evidence.

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

5 (a) The peace officer has reasonable cause to believe the
6 person was, at the time of an accident in this state, the opera-
7 tor of a vehicle involved in the accident and was operating the
8 vehicle in violation of section 625(1), (3), or (6) or a local
9 ordinance substantially corresponding to section 625(1), (3), or
10 (6).

11 (b) The person is found in the driver's seat of a vehicle
12 parked or stopped on a highway or street within this state if any
13 part of the vehicle intrudes into the roadway and the peace offi-
14 cer has reasonable cause to believe the person was operating the
15 vehicle in violation of section 625(1), (3), or (6) or a local
16 ordinance substantially corresponding to section 625(1), (3), or
17 (6).

18 (2) A peace officer who has reasonable cause to believe
19 ~~that~~ a person was operating a vehicle upon a public highway or
20 other place open to the public or generally accessible to motor
21 vehicles, including an area designated for the parking of vehi-
22 cles, within this state and that the person by the consumption of
23 intoxicating liquor may have affected his or her ability to oper-
24 ate a vehicle, ~~or~~ reasonable cause to believe that a person was
25 operating a commercial motor vehicle within the state while the
26 person's blood, breath, or urine contained any measurable amount
27 of alcohol or while the person had any detectable presence of

1 intoxicating liquor, or reasonable cause to believe that a person
2 who is less than 21 years of age was operating a vehicle upon a
3 public highway or other place open to the public or generally
4 accessible to motor vehicles, including an area designated for
5 the parking of vehicles, within this state while the person had
6 any bodily alcohol content as ~~that term is~~ defined in section
7 625(6) ~~,~~ may require the person to submit to a preliminary
8 chemical breath analysis. The following provisions apply with
9 respect to a preliminary chemical breath analysis administered
10 pursuant to this subsection:

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

13 (b) The results of a preliminary chemical breath analysis
14 are admissible in a criminal prosecution for a crime enumerated
15 in section 625c(1) or in an administrative hearing for 1 or more
16 of the following purposes:

17 (i) To assist the court or hearing officer in determining a
18 challenge to the validity of an arrest. This subparagraph does
19 not limit the introduction of other competent evidence offered to
20 establish the validity of an arrest.

21 (ii) As evidence of the defendant's breath alcohol content,
22 if offered by the defendant.

23 (iii) As evidence of the defendant's breath alcohol content,
24 if offered by the prosecution to rebut testimony or other evi-
25 dence, including but not limited to testimony elicited on
26 cross-examination of a prosecution witness, that is offered or
27 elicited to prove that the defendant's breath alcohol content was

1 lower at the time of the charged offense than when a chemical
2 test was administered pursuant to subsection (6).

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

7 (d) Except as provided in subsection (5), a person who
8 refuses to submit to a preliminary chemical breath analysis upon
9 a PEACE OFFICER'S lawful request ~~by a peace officer~~ is respon-
10 sible for a civil infraction.

11 (3) A peace officer shall use the results of a preliminary
12 chemical breath analysis conducted pursuant to this section to
13 determine whether to order a person out-of-service under
14 section 319d. A peace officer shall order out-of-service as
15 required under section 319d a person who was operating a commer-
16 cial motor vehicle and who refuses to submit to a preliminary
17 chemical breath analysis as provided in this section. This sec-
18 tion does not limit use of other competent evidence by the peace
19 officer to determine whether to order a person out-of-service
20 under section 319d.

21 (4) A person who was operating a commercial motor vehicle
22 and who is requested to submit to a preliminary chemical breath
23 analysis under this section shall be advised that refusing a
24 peace officer's request to take a test described in this section
25 is a misdemeanor punishable by imprisonment for not more than 90
26 days or a fine of not more than \$100.00, or both, and will result
27 in the issuance of a 24-hour out-of-service order.

1 (5) A person who was operating a commercial motor vehicle
2 and who refuses to submit to a preliminary chemical breath analy-
3 sis upon a peace officer's lawful request is guilty of a misde-
4 meanor punishable by imprisonment for not more than 90 days or a
5 fine of not more than \$100.00, or both.

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

9 (a) The amount of alcohol or THE presence of a controlled
10 substance or ~~both~~ CHEMICAL AGENT in a driver's blood or urine
11 or the amount of alcohol in a person's breath at the time alleged
12 as shown by chemical analysis of the person's blood, urine, or
13 breath is admissible into evidence in any civil or criminal
14 proceeding.

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

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

21 (ii) The results of the test are admissible in a judicial
22 proceeding as provided under this act and will be considered with
23 other competent evidence in determining the defendant's innocence
24 or guilt.

25 (iii) He or she is responsible for obtaining a chemical
26 analysis of a test sample obtained pursuant to his or her own
27 request.

1 (iv) If he or she refuses ~~the~~ A PEACE OFFICER'S request
2 ~~of a peace officer~~ to take a test described in subparagraph
3 (i), a test shall not be given without a court order, but the
4 peace officer may seek to obtain ~~such~~ a court order.

5 (v) Refusing a peace officer's request to take a test
6 described in subparagraph (i) will result in the suspension of
7 his or her operator's or chauffeur's license and vehicle group
8 designation or operating privilege and in the addition of 6
9 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~~ 1978 PA 368, MCL 333.16215, qualified
16 to withdraw blood and acting in a medical environment, may with-
17 draw blood at a peace officer's request to determine the amount
18 of alcohol or presence of a controlled substance or ~~both~~
19 CHEMICAL AGENT in the person's blood, as provided in this
20 subsection. Liability for a crime or civil damages predicated on
21 the act of withdrawing or analyzing blood and related procedures
22 does not attach to a licensed physician or individual operating
23 under the delegation of a licensed physician who withdraws or
24 analyzes blood or assists in the withdrawal or analysis in
25 accordance with this act unless the withdrawal or analysis is
26 performed in a negligent 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 a peace officer's request as provided in this section shall be
6 given a reasonable opportunity to have a person of his or her own
7 choosing administer 1 of the chemical tests described in this
8 subsection within a reasonable time after his or her detention.
9 The test results are admissible and shall be considered with
10 other competent evidence in determining the defendant's innocence
11 or guilt. If the person charged is administered a chemical test
12 by a person of his or her own choosing, the person charged is
13 responsible for obtaining a chemical analysis of the test
14 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 medical
18 treatment, the results of a chemical analysis of that sample are
19 admissible in any civil or criminal proceeding to show the amount
20 of alcohol or THE presence of a controlled substance or ~~both~~
21 CHEMICAL AGENT in the person's blood at the time alleged, regard-
22 less of whether the person had been offered or had refused a
23 chemical test. The medical facility or person performing the
24 chemical analysis shall disclose the results of the analysis to a
25 prosecuting attorney who requests the results for use in a crimi-
26 nal prosecution as provided in this subdivision. A medical
27 facility or person disclosing information in compliance with this

1 ~~subsection~~ SUBDIVISION is not civilly or criminally liable for
2 making the 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 to determine the amount of alcohol or the presence of a con-
7 trolled substance ~~,~~ or ~~both,~~ CHEMICAL AGENT 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 pursuant to 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~~ 1969 PA 306, MCL 24.201 TO
16 24.328, for the administration of chemical tests for the purposes
17 of this section. An instrument used for a preliminary chemical
18 breath analysis may be used for a chemical test described in this
19 subsection if approved under rules promulgated by the department
20 of state police.

21 (7) The provisions of subsection (6) relating to chemical
22 testing do not limit the introduction of any other competent evi-
23 dence bearing upon the question of whether a person was impaired
24 by ~~,~~ or under the influence of ~~,~~ intoxicating liquor, ~~or~~ a
25 controlled substance, A CHEMICAL AGENT, or ~~a~~ ANY combination of
26 intoxicating liquor, ~~and~~ a controlled substance, or A CHEMICAL
27 AGENT whether the person had an alcohol content of 0.10 grams or

1 more per 100 milliliters of blood, per 210 liters of breath, or,
2 per 67 milliliters of urine, or, if the person is less than 21
3 years of age, whether the person had any bodily alcohol content
4 AS DEFINED IN SECTION 625(6). ~~within his or her body. As used~~
5 ~~in this section, "any bodily alcohol content" means either of the~~
6 ~~following:~~

7 ~~(a) An alcohol content of not less than 0.02 grams or more~~
8 ~~than 0.07 grams per 100 milliliters of blood, per 210 liters of~~
9 ~~breath, or per 67 milliliters of urine.~~

10 ~~(b) Any presence of alcohol within a person's body resulting~~
11 ~~from the consumption of intoxicating liquor, other than consump-~~
12 ~~tion of intoxicating liquor as a part of a generally recognized~~
13 ~~religious service or ceremony.~~

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

23 (9) Except in a prosecution relating solely to a violation
24 of section 625(1)(b) or (6), the amount of alcohol in the
25 ~~driver's~~ DEFENDANT'S blood, breath, or urine at the time
26 alleged as shown by chemical analysis of the ~~person's~~

1 DEFENDANT'S blood, breath, or urine gives rise to the following
2 presumptions:

3 (a) If there were at the time 0.07 grams or less of alcohol
4 per 100 milliliters of the defendant's blood, per 210 liters of
5 the defendant's breath, or per 67 milliliters of the defendant's
6 urine, it is presumed that the defendant's ability to operate a
7 motor vehicle was not impaired due to the consumption of intoxi-
8 cating liquor and that the defendant was not under the influence
9 of intoxicating liquor.

10 (b) If there were at the time more than 0.07 grams but less
11 than 0.10 grams of alcohol per 100 milliliters of the defendant's
12 blood, per 210 liters of the defendant's breath, or per 67 milli-
13 liters of the defendant's urine, it is presumed that the
14 defendant's ability to operate a vehicle was impaired within the
15 provisions of section 625(3) due to the consumption of intoxicat-
16 ing liquor.

17 (c) If there were at the time 0.10 grams or more of alcohol
18 per 100 milliliters of the defendant's blood, per 210 liters of
19 the breath, or per 67 milliliters of the defendant's urine, it is
20 presumed that the defendant was under the influence of intoxicat-
21 ing liquor.

22 (10) A person's refusal to submit to a chemical test as pro-
23 vided in subsection (6) is admissible in a criminal prosecution
24 for a crime described in section 625c(1) only to show that a test
25 was offered to the defendant, but not as evidence in determining
26 the defendant's innocence or guilt. The jury shall be instructed
27 accordingly.

1 Sec. 625b. (1) A person arrested for a misdemeanor
2 violation of section 625(1), (3), or (6) or section 625m or a
3 local ordinance substantially corresponding to section 625(1),
4 (3), or (6) or section 625m shall be arraigned on the citation,
5 complaint, or warrant not more than 14 days after the arrest for
6 the violation or, if an arrest warrant is issued or reissued, not
7 more than 14 days after the issued or reissued arrest warrant is
8 served, whichever is later. The court shall not dismiss a case
9 or impose any other sanction for a failure to comply with this
10 time limit. The time limit does not apply to a violation of
11 section 625(1) punishable under section 625(7)(d) or a violation
12 of section 625(1), (3), or (6) or section 625m joined with a
13 felony charge.

14 (2) The court shall schedule a pretrial conference between
15 the prosecuting attorney, the defendant, and the defendant's
16 attorney in each case in which the defendant is charged with a
17 misdemeanor violation of section 625(1), (3), or (6) or
18 section 625m or a local ordinance substantially corresponding to
19 section 625(1), (3), or (6) or section 625m. The pretrial con-
20 ference shall be held not more than 35 days after the person's
21 arrest for the violation or, if an arrest warrant is issued or
22 reissued, not more than 35 days after the issued or reissued
23 arrest warrant is served, whichever is later. If the court has
24 only 1 judge who sits in more than 1 location in that district,
25 the pretrial conference shall be held not more than 42 days after
26 the person's arrest for the violation or, if an arrest warrant is
27 issued or reissued, not more than 42 days after the date the

1 issued or reissued arrest warrant is served, whichever is later.
2 The court shall not dismiss a case or impose any other sanction
3 for a failure to comply with the applicable time limit. The 35-
4 and 42-day time limits do not apply to a violation of
5 section 625(1) punishable under section 625(7)(d) or a violation
6 of section 625(1), (3), or (6) or section 625m joined with a
7 felony charge. The court shall order the defendant to attend the
8 pretrial conference and may accept a plea by the defendant at the
9 conclusion of the pretrial conference. The court may adjourn the
10 pretrial conference upon the motion of a party for good cause
11 shown. Not more than 1 adjournment shall be granted to a party,
12 and the length of an adjournment shall not exceed 14 days.

13 (3) Except for delay attributable to the unavailability of
14 the defendant, a witness, or material evidence or due to an
15 interlocutory appeal or exceptional circumstances, but not a
16 delay caused by docket congestion, the court shall finally adju-
17 dicate, by a plea of guilty or nolo contendere, entry of a ver-
18 dict, or other final disposition, a case in which the defendant
19 is charged with a misdemeanor violation of section 625(1), (3),
20 or (6) or section 625m or a local ordinance substantially corre-
21 sponding to section 625(1), (3), or (6) or section 625m, within
22 77 days after the person is arrested for the violation or, if an
23 arrest warrant is issued or reissued, not more than 77 days after
24 the date the issued or reissued arrest warrant is served, which-
25 ever is later. The court shall not dismiss a case or impose any
26 other sanction for a failure to comply with this time limit. The
27 77-day time limit does not apply to a violation of section 625(1)

1 punishable under section 625(7)(d) or a violation of
2 section 625(1), (3), or (6) or section 625m joined with a felony
3 charge.

4 (4) Before accepting a plea of guilty or nolo contendere
5 under section 625 or a local ordinance substantially correspond-
6 ing to section 625(1), (2), (3), or (6), the court shall advise
7 the accused of the maximum possible term of imprisonment and the
8 maximum possible fine that may be imposed for the violation —
9 and shall advise the defendant that the maximum possible license
10 sanctions that may be imposed will be based upon the master driv-
11 ing record maintained by the secretary of state pursuant to
12 section 204a.

13 (5) Before imposing sentence, other than court-ordered
14 license sanctions, for a violation of section 625(1), (3), (4),
15 (5), or (6) or a local ordinance substantially corresponding to
16 section 625(1), (3), or (6), the court shall order the person to
17 undergo screening and assessment by a person or agency designated
18 by the office of substance abuse services to determine whether
19 the person is likely to benefit from rehabilitative services,
20 including alcohol or drug education and alcohol or drug treatment
21 programs. As part of the sentence, the court may order the
22 person to participate in and successfully complete 1 or more
23 appropriate rehabilitative programs. The person shall pay for
24 the costs of the screening, reassessment, and rehabilitative
25 services.

26 (6) Immediately upon acceptance by the court of a plea of
27 guilty or nolo contendere or upon entry of a verdict of guilty

1 for a violation of section 625(1), (3), (4), (5), or (6) or a
2 local ordinance substantially corresponding to section 625(1),
3 (3), or (6), whether or not the person is eligible to be sen-
4 tenced as a multiple offender, the court shall consider all prior
5 convictions currently entered upon the person's Michigan driving
6 record, except convictions the court determines upon the
7 defendant's motion to be constitutionally invalid, and shall
8 impose the following licensing sanctions:

9 (a) For a conviction under section 625(4) or (5), the court
10 shall order the secretary of state to revoke the person's
11 operator's or chauffeur's license and shall not order the secre-
12 tary of state to issue a restricted license to the person.

13 (b) For a conviction under section 625(1) or a local ordi-
14 nance substantially corresponding to section 625(1):

15 (i) If the court finds that the person has no prior convic-
16 tions within 7 years for a violation of section 625(1), (3), (4),
17 or (5), former section 625(1) or (2), or former section 625b, a
18 local ordinance substantially corresponding to section 625(1) or
19 (3), former section 625(1) or (2) or former section 625b, or a
20 law of another state substantially corresponding to section
21 625(1), (3), (4), or (5), former section 625(1) or (2), or former
22 section 625b, the court shall order the secretary of state to
23 suspend the person's operator's or chauffeur's license for not
24 less than 6 months or more than 2 years. If the court finds com-
25 pelling circumstances under subsection (10) sufficient to warrant
26 the issuance of a restricted license to a person, the court may
27 order the secretary of state to issue to the person a restricted

1 license during all or a specified portion of the suspension,
2 except that a restricted license shall not be issued during the
3 first 30 days of the suspension.

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

18 (iii) If the court finds that the person has 1 or more prior
19 convictions within 7 years for a violation of section 625(1),
20 (4), or (5) or former section 625(1) or (2), a local ordinance
21 substantially corresponding to section 625(1) or former section
22 625(1) or (2), or a law of another state substantially corre-
23 sponding to section 625(1), (4), or (5) or former section 625(1)
24 or (2), or that the person has 2 or more prior convictions within
25 10 years for a violation of section 625(1), (3), (4), or (5),
26 former section 625(1) or (2), or former section 625b, a local
27 ordinance substantially corresponding to section 625(1) or (3),

1 former section 625(1) or (2), or former section 625b, or a law of
2 another state substantially corresponding to section 625(1), (3),
3 (4), or (5), former section 625(1) or (2), or former section
4 625b, the court shall order the secretary of state to revoke the
5 person's operator's or chauffeur's license and shall not order
6 the secretary of state to issue a restricted license to the
7 person.

8 (c) For a conviction under section 625(3) or a local ordi-
9 nance substantially corresponding to section 625(3):

10 (i) If the court finds that the convicted person has no
11 prior conviction within 7 years for a violation of section
12 625(1), (3), (4), or (5), former section 625(1) or (2), or former
13 section 625b, a local ordinance substantially corresponding to
14 section 625(1) or (3), former section 625(1) or (2), or former
15 section 625b, or a law of another state substantially correspond-
16 ing to section 625(1), (3), (4), or (5), former section 625(1) or
17 (2), or former section 625b, the court shall order the secretary
18 of state to suspend the person's operator's or chauffeur's
19 license for not less than 90 days or more than 1 year. However,
20 if the person is convicted of a violation of section 625(3) or a
21 local ordinance substantially corresponding to section 625(3) for
22 operating a vehicle when, due to the consumption of a controlled
23 substance or ~~a combination of intoxicating liquor and~~ a con-
24 trolled substance IN COMBINATION WITH INTOXICATING LIQUOR OR A
25 CHEMICAL AGENT, OR BOTH, the person's ability to operate the
26 vehicle was visibly impaired, the court shall order the secretary
27 of state to suspend the operator's or chauffeur's license of the

1 person for not less than 6 months or more than 1 year. If the
2 court finds compelling circumstances under subsection (10) suffi-
3 cient to warrant the issuance of a restricted license to a
4 person, the court may order the secretary of state to issue to
5 the person a restricted license during all or a specified portion
6 of the suspension.

7 (ii) If the court finds that the person has 1 prior convic-
8 tion within 7 years for a violation of section 625(1), (3), (4),
9 or (5), former section 625(1) or (2), or former section 625b, a
10 local ordinance substantially corresponding to section 625(1) or
11 (3), former section 625(1) or (2), or former section 625b, or a
12 law of another state substantially corresponding to section
13 625(1), (3), (4), or (5), former section 625(1) or (2), or former
14 section 625b, the court shall order the secretary of state to
15 suspend the person's operator's or chauffeur's license for not
16 less than 6 months or more than 2 years. If the court finds com-
17 pelling circumstances under subsection (10) sufficient to warrant
18 the issuance of a restricted license to a person, the court may
19 order the secretary of state to issue to the person a restricted
20 license during all or any portion of the suspension, except that
21 a restricted license shall not be issued during the first 60 days
22 of the suspension.

23 (iii) If the court finds that the person has 2 or more prior
24 convictions within 10 years for a violation of section 625(1),
25 (3), (4), or (5), former section 625(1) or (2), or former section
26 625b, a local ordinance substantially corresponding to section
27 625(1) or (3), former section 625(1) or (2), or former section

1 625b, or a law of another state substantially corresponding to
2 section 625(1), (3), (4), or (5), former section 625(1) or (2),
3 or former section 625b, the court shall order the secretary of
4 state to revoke the person's operator's or chauffeur's license
5 and shall not order the secretary of state to issue a restricted
6 license to the person.

7 (d) For a conviction under section 625(6) or a local ordi-
8 nance substantially corresponding to section 625(6):

9 (i) If the court finds that the convicted person has no
10 prior conviction within 7 years for a violation of section
11 625(1), (3), (4), (5), or (6), former section 625(1) or (2), or
12 former section 625b, a local ordinance substantially correspond-
13 ing to section 625(1), (3), or (6), former section 625(1) or (2),
14 or former section 625b, or a law of another state substantially
15 corresponding to section 625(1), (3), (4), (5), or (6), former
16 section 625(1) or (2), or former section 625b, the court shall
17 order the secretary of state to suspend the operator's or
18 chauffeur's license of the person for not less than 30 days or
19 more than 90 days. The court may order the secretary of state to
20 issue to the person a restricted license during all or a speci-
21 fied portion of the suspension.

22 (ii) If the court finds that the person has 1 or more prior
23 convictions within 7 years for a violation of section 625(1),
24 (3), (4), (5), or (6), former section 625(1) or (2), or former
25 section 625b, a local ordinance substantially corresponding to
26 section 625(1), (3), or (6), former section 625(1) or (2), or
27 former section 625b, or a law of another state substantially

1 corresponding to section 625(1), (3), (4), (5), or (6), former
2 section 625(1) or (2), or former section 625b, the court shall
3 order the secretary of state to suspend the operator's or
4 chauffeur's license of the person for not less than 90 days or
5 more than 1 year. The court may order the secretary of state to
6 issue to the person a restricted license during all or any por-
7 tion of the suspension, except that a restricted license shall
8 not be issued during the first 90 days of the suspension.

9 (7) A restricted license issued pursuant to an order under
10 subsection (6) shall permit the person to whom it is issued to
11 drive under 1 or more of the following circumstances:

12 (a) To and from the person's residence and work location.

13 (b) In the course of the person's employment or occupation.

14 (c) To and from the person's residence and an alcohol or
15 drug education or treatment program as ordered by the court.

16 (d) To and from the person's residence and the court proba-
17 tion department or a court-ordered community service program, or
18 both.

19 (e) To and from the person's residence and an educational
20 institution at which the person is enrolled as a student.

21 (f) To and from the person's residence or work location and
22 a place of regularly occurring medical treatment for a serious
23 condition for the person or a member of the person's household or
24 immediate family.

25 (8) The court may order that ~~the~~ A restricted license
26 issued ~~pursuant to~~ UNDER subsection (6) include the requirement
27 that the person shall not operate a motor vehicle unless the

1 vehicle is equipped with a functioning ignition interlock
2 device. The device shall be set to render the motor vehicle
3 inoperable if the device detects an alcohol content of 0.02 grams
4 or more per 210 liters of breath of the person who offers a
5 breath sample. The court may order installation of an ignition
6 interlock device on any motor vehicle ~~that~~ the person owns or
7 operates, the costs of which the person whose license is
8 restricted shall bear.

9 (9) The court shall not order the secretary of state under
10 subsection (6) to issue a restricted license that would permit a
11 person to operate a commercial motor vehicle that hauls hazardous
12 materials.

13 (10) The court shall not order the secretary of state to
14 issue a restricted license unless the person states under oath,
15 and the court ~~finds pursuant to~~ DETERMINES FROM testimony taken
16 in open court or ~~pursuant to~~ statements contained in a sworn
17 affidavit on a form prescribed by the state court administrator,
18 that both of the following are true:

19 (a) The person needs vehicular transportation to and from
20 his or her work location, place of alcohol or drug education
21 treatment, court probation department, court-ordered community
22 service program, or educational institution, or a place of regu-
23 larly occurring medical treatment for a serious condition, or in
24 the course of the person's employment or occupation.

25 (b) The person is unable to take public transportation and
26 does not have any family members or other individuals able to

1 provide transportation to a destination or for a purpose
2 described in subdivision (a).

3 (11) The court order issued under subsection (6) and the
4 restricted license shall indicate the permitted destinations of
5 the person or the permitted purposes for which the person may
6 operate a vehicle, the approved route or routes if specified by
7 the court, and permitted times of travel.

8 (12) Immediately upon acceptance by the court of a plea of
9 guilty or nolo contendere or upon entry of a verdict of guilty
10 for a violation of section 625(1), (3), (4), (5), or (6) or a
11 local ordinance substantially corresponding to section 625(1),
12 (3), or (6), the person shall surrender to the court his or her
13 operator's or chauffeur's license or permit. The court shall
14 immediately destroy the license or permit and forward an abstract
15 of conviction with court-ordered license sanctions to the secre-
16 tary of state. Upon ~~receipt of~~ RECEIVING, and pursuant to, the
17 abstract of conviction with court-ordered license sanctions, the
18 secretary of state shall suspend or revoke the person's license
19 and, if ordered by the court and the person is otherwise eligible
20 for a license, issue to the person a restricted license stating
21 the limited driving privileges indicated on the abstract. If the
22 judgment and sentence ~~is~~ ARE appealed to circuit court, the
23 court may ex parte order the secretary of state to stay the sus-
24 pension, revocation, or restricted license issued ~~pursuant to~~
25 UNDER this section pending the outcome of the appeal.

26 (13) In addition to any other suspension or revocation
27 ordered under this section and as part of the sentence imposed

1 upon a person who violates section 625(1), (3), (4), or (5) or a
2 local ordinance substantially corresponding to section 625(1) or
3 (3) while operating a commercial motor vehicle, the court shall
4 order the secretary of state to suspend the vehicle group desig-
5 nations on the person's operator's or chauffeur's license in
6 accordance with section 319b(1)(c). If the vehicle was trans-
7 porting hazardous material required to have a placard pursuant to
8 49 C.F.R. parts 100 to 199, the court shall order the secretary
9 of state to suspend the vehicle group designations on the
10 person's operator's or chauffeur's license in accordance with
11 section 319b(1)(d). The court shall not order the secretary of
12 state to issue a restricted license that would permit the person
13 to operate a commercial motor vehicle.

14 (14) 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 is~~ convicted of ~~a violation of~~ VIOLATING
17 section 625(1), (3), (4), or (5) or a local ordinance substan-
18 tially corresponding to section 625(1) or (3) while operating a
19 commercial motor vehicle within 10 years of a prior conviction,
20 the court shall order the secretary of state to revoke the vehi-
21 cle group designations on the person's operator's or chauffeur's
22 license in accordance with section 319b(1)(e). The court shall
23 not order the secretary of state to issue a restricted license
24 that would permit the person to operate a commercial motor
25 vehicle. As used in this subsection, "prior conviction" means a
26 conviction under section 625(1), (3), (4), or (5), former section
27 625(1) or (2), or former section 625b, a local ordinance

1 substantially corresponding to section 625(1) or (3), former
2 section 625(1) or (2), or former section 625b, or a law of
3 another state substantially corresponding to section 625(1), (3),
4 (4), or (5), former section 625(1) or (2), or former section 625b
5 involving the operation of a commercial motor vehicle, or a con-
6 viction under section 625m, a local ordinance substantially cor-
7 responding to section 625m, or a law of another state substan-
8 tially corresponding to section 625m.

9 (15) As used in this section, "work location" means, as
10 applicable, the specific place or places of employment or the
11 territory or territories regularly visited by the person in pur-
12 suance of the person's occupation, or both.

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

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

1 (b) ~~If the~~ THE person is arrested for felonious driving,
2 negligent homicide, manslaughter, or murder resulting from the
3 operation of a motor vehicle ~~,~~ and the peace officer had rea-
4 sonable grounds to believe the person was operating the vehicle
5 while impaired by or under the influence of intoxicating liquor,
6 ~~or~~ a controlled substance, A CHEMICAL AGENT, or ~~a~~ ANY combi-
7 nation of intoxicating liquor, ~~and~~ a controlled substance, or A
8 CHEMICAL AGENT, while having an alcohol content of 0.10 grams or
9 more per 100 milliliters of blood, per 210 liters of breath, or
10 per 67 milliliters of urine, or, if the person is less than 21
11 years of age, while having any bodily alcohol content. As used
12 in this subdivision, "any bodily alcohol content" means either of
13 the following:

14 (i) An alcohol content of not less than 0.02 grams or more
15 than 0.07 grams per 100 milliliters of blood, per 210 liters of
16 breath, or per 67 milliliters of urine.

17 (ii) Any presence of alcohol within a person's body result-
18 ing from the consumption of intoxicating liquor, other than con-
19 sumption of intoxicating liquor as part of a generally recognized
20 religious service or ceremony.

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

25 (3) The tests shall be administered as provided in section
26 625a(6).