

SENATE BILL NO. 844

May 01, 2024, Introduced by Senator GEISS and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending section 625 (MCL 257.625), as amended by 2021 PA 85.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 625. (1) A person, whether licensed or not, shall not
2 operate a vehicle on a highway or other place open to the general
3 public or generally accessible to motor vehicles, including an area
4 designated for the parking of vehicles, within this state if the
5 person is operating while intoxicated. As used in this section,

1 "operating while intoxicated" means any of the following:

2 (a) The person is under the influence of alcoholic liquor, a
3 controlled substance, or other intoxicating substance or a
4 combination of alcoholic liquor, a controlled substance, or other
5 intoxicating substance.

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

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

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

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

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

1 person has an alcohol content of 0.10 grams or more per 100
2 milliliters of blood, per 210 liters of breath, or per 67
3 milliliters of urine.

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

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

19 (4) A person, whether licensed or not, who operates a motor
20 vehicle in violation of subsection (1), (3), or (8) and by the
21 operation of that motor vehicle causes the death of another person
22 is guilty of a crime as follows:

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

1 sentence.

2 (b) If the violation occurs while the person has an alcohol
3 content of 0.17 grams or more per 100 milliliters of blood, per 210
4 liters of breath, or per 67 milliliters of urine, and within 7
5 years of a prior conviction, the person is guilty of a felony
6 punishable by imprisonment for not more than 20 years or a fine of
7 not less than \$2,500.00 or more than \$10,000.00, or both. The
8 judgment of sentence may impose the sanction permitted under
9 section 625n. If the vehicle is not ordered to be forfeited under
10 section 625n, the court shall order vehicle immobilization under
11 section 904d in the judgment of sentence.

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

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

28 (a) Except as provided in subdivision (b), the person is
29 guilty of a felony punishable by imprisonment for not more than 5

1 years or a fine of not less than \$1,000.00 or more than \$5,000.00,
2 or both. The judgment of sentence may impose the sanction permitted
3 under section 625n. If the vehicle is not ordered to be forfeited
4 under section 625n, the court shall order vehicle immobilization
5 under section 904d in the judgment of sentence.

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

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

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

1 (b) Any presence of alcohol within a person's body resulting
2 from the consumption of alcoholic liquor, other than consumption of
3 alcoholic liquor as a part of a generally recognized religious
4 service or ceremony.

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

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

12 (i) Except as provided in subparagraph (ii), a person who
13 violates this subdivision is guilty of a misdemeanor and must be
14 sentenced to pay a fine of not less than \$200.00 or more than
15 \$1,000.00 and to 1 or more of the following:

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

17 (B) Community service for not less than 30 days or more than
18 90 days.

19 (ii) If the violation occurs within 7 years of a prior
20 conviction or after 2 or more prior convictions, regardless of the
21 number of years that have elapsed since any prior conviction, a
22 person who violates this subdivision is guilty of a felony and must
23 be sentenced to pay a fine of not less than \$500.00 or more than
24 \$5,000.00 and to either of the following:

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

27 (B) Probation with imprisonment in the county jail for not
28 less than 30 days or more than 1 year and community service for not
29 less than 60 days or more than 180 days. Not less than 48 hours of

1 this imprisonment must be served consecutively.

2 (iii) A term of imprisonment imposed under subparagraph (ii) (A)
3 or (B) must not be suspended ~~unless the defendant agrees to~~
4 ~~participate in a specialty court program and successfully completes~~
5 ~~the program.~~**except as provided in subsection (29).**

6 (b) ~~He or she~~**The person** shall not operate a vehicle in
7 violation of subsection (6) while another person who is less than
8 16 years of age is occupying the vehicle. A person who violates
9 this subdivision is guilty of a misdemeanor punishable as follows:

10 (i) Except as provided in subparagraph (ii), a person who
11 violates this subdivision may be sentenced to 1 or more of the
12 following:

13 (A) Community service for not more than 60 days.

14 (B) A fine of not more than \$500.00.

15 (C) Imprisonment for not more than 93 days.

16 (ii) If the violation occurs within 7 years of a prior
17 conviction or after 2 or more prior convictions, regardless of the
18 number of years that have elapsed since any prior conviction, a
19 person who violates this subdivision must be sentenced to pay a
20 fine of not less than \$200.00 or more than \$1,000.00 and to 1 or
21 more of the following:

22 (A) Imprisonment for not less than 5 days or more than 1 year.
23 This term of imprisonment must not be suspended ~~unless the~~
24 ~~defendant agrees to participate in a specialty court program and~~
25 ~~successfully completes the program.~~**except as provided in subsection**
26 **(29).**

27 (B) Community service for not less than 30 days or more than
28 90 days.

29 (c) In the judgment of sentence under subdivision (a) (i) or

1 (b) (i), the court may, unless the vehicle is ordered to be forfeited
2 under section 625n, order vehicle immobilization as provided in
3 section 904d. In the judgment of sentence under subdivision (a) (ii)
4 or (b) (ii), the court shall, unless the vehicle is ordered to be
5 forfeited under section 625n, order vehicle immobilization as
6 provided in section 904d.

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

14 (8) A person, whether licensed or not, shall not operate a
15 vehicle on a highway or other place open to the general public or
16 generally accessible to motor vehicles, including an area
17 designated for the parking of vehicles, within this state if the
18 person has in ~~his or her~~**the person's** body any amount of a
19 controlled substance listed in schedule 1 under section 7212 of the
20 public health code, 1978 PA 368, MCL 333.7212, or a rule
21 promulgated under that section, or of a controlled substance
22 described in section 7214(a) (iv) of the public health code, 1978 PA
23 368, MCL 333.7214.

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

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

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

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

4 (iii) A fine of not less than \$100.00 or more than \$500.00, or,
5 if the person is ~~guilty~~**convicted** of violating subsection (1)(c), a
6 fine of not less than \$200.00 or more than \$700.00.

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

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

12 (ii) Community service for not less than 30 days or more than
13 90 days.

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

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

21 (ii) Probation with imprisonment in the county jail for not
22 less than 30 days or more than 1 year and community service for not
23 less than 60 days or more than 180 days. Not less than 48 hours of
24 the imprisonment imposed under this subparagraph must be served
25 consecutively.

26 (d) A term of imprisonment imposed under subdivision (b) or
27 (c) must not be suspended ~~unless the defendant agrees to~~
28 ~~participate in a specialty court program and successfully completes~~
29 ~~the program.~~**except as provided in subsection (29).**

1 (e) In the judgment of sentence under subdivision (a), the
2 court may order vehicle immobilization as provided in section 904d.
3 In the judgment of sentence under subdivision (b) or (c), the court
4 shall, unless the vehicle is ordered to be forfeited under section
5 625n, order vehicle immobilization as provided in section 904d.

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

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

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

13 (b) If the person operating the motor vehicle violated
14 subsection (4), a felony punishable by imprisonment for not more
15 than 5 years or a fine of not less than \$1,500.00 or more than
16 \$10,000.00, or both.

17 (c) If the person operating the motor vehicle violated
18 subsection (5), a felony punishable by imprisonment for not more
19 than 2 years or a fine of not less than \$1,000.00 or more than
20 \$5,000.00, or both.

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

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

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

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

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

29 (b) If the violation occurs within 7 years of 1 prior

1 conviction, the person must be sentenced to pay a fine of not less
2 than \$200.00 or more than \$1,000.00, and 1 or more of the
3 following:

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

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

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

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

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

19 (d) A term of imprisonment imposed under subdivision (b) or
20 (c) must not be suspended ~~unless the defendant agrees to~~
21 ~~participate in a specialty court program and successfully completes~~
22 ~~the program.~~ **except as provided in subsection (29).**

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

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

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

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

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

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

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

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

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

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

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

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

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

1 convictions.

2 (16) If a person is charged with a violation of subsection
3 (1), (3), (4), (5), (7), or (8) or section 625m, the court shall
4 not permit the defendant to enter a plea of guilty or nolo
5 contendere to a charge of violating subsection (6) in exchange for
6 dismissal of the original charge. This subsection does not prohibit
7 the court from dismissing the charge on the prosecuting attorney's
8 motion.

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

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

12 (b) An abstract of conviction.

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

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

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

17 (f) Information contained in a presentence report.

18 (g) An admission by the defendant.

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

1 or a combination of alcoholic liquor, a controlled substance, or
2 other intoxicating substance at the time of the violation.

3 (19) Except as otherwise provided in subsection (20), if a
4 person is charged with operating a vehicle while ~~his or her~~ **the**
5 **person's** ability to operate the vehicle was visibly impaired due to
6 ~~his or her~~ **the person's** consumption of a controlled substance or
7 other intoxicating substance or a combination of alcoholic liquor,
8 a controlled substance, or other intoxicating substance in
9 violation of subsection (3) or a local ordinance substantially
10 corresponding to subsection (3), the court shall require the jury
11 to return a special verdict in the form of a written finding or, if
12 the court convicts the person without a jury or accepts a plea of
13 guilty or nolo contendere, the court shall make a finding as to
14 whether, due to the consumption of a controlled substance or a
15 combination of alcoholic liquor, a controlled substance, or other
16 intoxicating substance, the person's ability to operate a motor
17 vehicle was visibly impaired at the time of the violation.

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

21 (a) Whether the defendant was under the influence of a
22 controlled substance or a combination of alcoholic liquor, a
23 controlled substance, or other intoxicating substance at the time
24 of the violation.

25 (b) Whether the defendant was visibly impaired due to ~~his or~~
26 ~~her~~ **the defendant's** consumption of a controlled substance or a
27 combination of alcoholic liquor, a controlled substance, or other
28 intoxicating substance at the time of the violation.

29 (21) If a jury or court finds under subsection (18), (19), or

1 (20) that the defendant operated a motor vehicle under the
2 influence of or while impaired due to the consumption of a
3 controlled substance or a combination of a controlled substance, an
4 alcoholic liquor, or other intoxicating substance, the court shall
5 do both of the following:

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

7 (b) On a form or forms prescribed by the state court
8 administrator, forward to the department of state police a record
9 that specifies the penalties imposed by the court, including any
10 term of imprisonment, and any sanction imposed under section 625n
11 or 904d.

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

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

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

26 (25) As used in this section:

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

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

3 (A) The official United States Pharmacopoeia.

4 (B) The official Homeopathic Pharmacopoeia of the United
5 States.

6 (C) The official National Formulary.

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

11 (b) "Prior conviction" means a conviction for any of the
12 following, whether under a law of this state, a local ordinance
13 substantially corresponding to a law of this state, a law of the
14 United States substantially corresponding to a law of this state,
15 or a law of another state substantially corresponding to a law of
16 this state, subject to subsection (27):

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

19 (A) This section, except a violation of subsection (2), or a
20 violation of any prior enactment of this section in which the
21 defendant operated a vehicle while under the influence of
22 intoxicating or alcoholic liquor or a controlled substance, or a
23 combination of intoxicating or alcoholic liquor and a controlled
24 substance, or while visibly impaired, or with an unlawful bodily
25 alcohol content.

26 (B) Section 625m.

27 (C) Former section 625b.

28 (ii) Negligent homicide, manslaughter, or murder resulting from
29 the operation of a vehicle or an attempt to commit any of those

1 crimes.

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

3 (26) Except for purposes of the enhancement described in
4 subsection (12)(b), only 1 violation or attempted violation of
5 subsection (6), a local ordinance substantially corresponding to
6 subsection (6), or a law of another state substantially
7 corresponding to subsection (6) may be used as a prior conviction.

8 (27) If 2 or more convictions described in subsection (25) are
9 convictions for violations arising out of the same transaction,
10 only 1 conviction must be used to determine if the person has a
11 prior conviction.

12 (28) Not later than 30 days after this state no longer
13 receives annual federal highway construction funding conditioned on
14 compliance with a national blood alcohol limit, the state treasurer
15 shall certify that fact. The state treasurer shall publish a
16 certification under this subsection on the department of treasury's
17 website.

18 **(29) Beginning on the effective date of the amendatory act**
19 **that added this subsection, if the defendant agrees to participate**
20 **in and successfully completes a specialty court program, the term**
21 **of imprisonment or community service imposed may be suspended but**
22 **must not be less than the following:**

23 (a) If the violation occurs within 7 years of a prior
24 conviction, the term of imprisonment must not be suspended to less
25 than 5 days or community service must not be less than 30 days.

26 (b) If the violation occurs after 2 or more prior convictions,
27 regardless of the number of years that have elapsed since any prior
28 conviction, the term of imprisonment must not be suspended to less
29 than 10 days or community service must not be less than 60 days.

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