

Public Act 61 of 2003

Effective September 30, 2003

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending sections 303, 310d, 310e, 319, 320a, 624b, 625, 625a, 625c, 625f, 625g, 625i, 625k, 625l, 625m, and 904d (MCL 257.303, 257.310d, 257.310e, 257.319, 257.320a, 257.624b, 257.625, 257.625a, 257.625c, 257.625f, 257.625g, 257.625i, 257.625k, 257.625l, 257.625m, and 257.904d), section 303 as amended by 2002 PA 422, sections 310d and 625g as amended by 1999 PA 73, section 310e as amended by 2002 PA 554, section 319 as amended by 2002 PA 534, section 320a as amended by 2002 PA 149, section 624b as amended by 1998 PA 349, sections 625 and 625m as amended by 2000 PA 460, section 625a as amended by 1998 PA 351, section 625c as amended by 1998 PA 350, section 625f as amended by 1994 PA 450, section 625i as amended by 1998 PA 354, sections 625k and 625l as amended by 1998 PA 340, and section 904d as amended by 2001 PA 159, and by adding section 1d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1d. "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

Sec. 303. (1) The secretary of state shall not issue a license under this act to any of the following persons described in subdivisions (a) through (l):

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

- (c) A person whose license is suspended, revoked, denied, or canceled in any state. If the suspension, revocation, denial, or cancellation is not from the jurisdiction that issued the last license to the person, the secretary of state may issue a license after the expiration of 5 years from the effective date of the most recent suspension, revocation, denial, or cancellation.
- (d) A person who in the opinion of the secretary of state is afflicted with or suffering from a physical or mental disability or disease preventing that person from exercising reasonable and ordinary control over a motor vehicle while operating the motor vehicle upon the highways.
- (e) A person who is unable to understand highway warning or direction signs in the English language.
- (f) A person who is unable to pass a knowledge, skill, or ability test administered by the secretary of state in connection license, original motorcycle indorsement, or an original or renewal of a vehicle group designation or vehicle indorsement.
- (g) A person who has been convicted of, has received a juvenile disposition for, or has been determined responsible for 2 or more moving violations under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state within the preceding 3 years, if the violations occurred before issuance of an original license to the person in this or another state.
- (h) A nonresident including a foreign exchange student.
- (i) A person who has failed to answer a citation or notice to appear in court or for any matter pending or fails to comply with an order or judgment of the court, including, but not limited to, paying all fines, costs, fees, and assessments, in violation of section 321a, until that person answers the citation or notice to appear in court or for any matter pending or complies with an order or judgment of the court, including, but not limited to, paying all fines, costs, fees, and assessments, as provided under section 321a.
- (j) A person not licensed under this act who has been convicted of, has received a juvenile disposition for, or has been determined responsible for a crime or civil infraction described in section 319, 324, or 904. A person shall be denied a license under this subdivision for the length of time corresponding to the period of the licensing sanction that would have been imposed under section 319, 324, or 904 if the person had been licensed at the time of the violation.
- (k) A person not licensed under this act who has been convicted of or received a juvenile disposition for committing a crime described in section 319e. A person shall be denied a license under this subdivision for the length of time that corresponds to the period of the licensing sanction that would have been imposed under section 319e if the person had been licensed at the time of the violation.

- (l) A person not licensed under this act who is determined to have violated section 33b(1) of former 1933 (Ex Sess) PA 8, section 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or section 624a or 624b of this act. The person shall be denied a license under this subdivision for a period of time that corresponds to the period of the licensing sanction that would have been imposed under those sections had the person been licensed at the time of the violation.
 - (m) The secretary of state may deny issuance of an operator's license until the age of 17 to a person not licensed under this act who was convicted of or received a juvenile disposition for violating or attempting to violate section 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a school when he or she was less than 14 years of age. A person not issued a license under this subdivision is not eligible to begin graduated licensing training until he or she attains 16 years of age.
 - (n) The secretary of state may deny issuance of an operator's license to a person less than 21 years of age not licensed under this act who was convicted of or has received a juvenile disposition for violating or attempting to violate section 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a school when he or she was 14 years of age or older, until 3 years after the date of the conviction or juvenile disposition. A person not issued a license under this subdivision is not eligible to begin graduated licensing training or otherwise obtain an original operator's or chauffeur's license until 3 years after the date of the conviction or juvenile disposition.
- (2) Upon receiving the appropriate records of conviction, the secretary of state shall revoke the operator's or chauffeur's license of a person and deny issuance of an operator's or chauffeur's license to a person having any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:
- (a) Any combination of 2 convictions within 7 years for reckless driving in violation of section 626.
 - (b) Any combination of 2 or more convictions within 7 years for any of the following:
 - (i) A felony in which a motor vehicle was used.
 - (ii) A violation or attempted violation of section 601b(2) or (3), section 601c(1) or (2), section 602a(4) or (5), section 617, section 653a(3) or (4), or section 904(4) or (5).
 - (iii) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.
 - (iv) A violation or attempted violation of section 479a(4) or (5) of the Michigan penal code, 1931 PA 328, MCL 750.479a.

- (c) Any combination of 2 convictions within 7 years for any of the following or a combination of 1 conviction for a violation or attempted violation of section 625(6) and 1 conviction for any of the following within 7 years:
- (i) A violation or attempted violation of section ~~625(1), (3), (4), (5), or (7)~~.
 - ~~(ii) A violation of former section 625(1) or (2) or former section 625b.~~
 - ~~(iii) A violation or attempted violation of section 625m: **625, except a violation of section 625(2), or a violation of any prior enactment of section 625 in which the defendant operated a vehicle while under the influence of intoxicating or alcoholic liquor or a controlled substance, or a combination of intoxicating or alcoholic liquor and a controlled substance, or while visibly impaired, or with an unlawful bodily alcohol content.**~~
 - (ii) A violation or attempted violation of section 625m.**
 - (iii) Former section 625b.**
- (d) One conviction for a violation or attempted violation of section 315(5), section 601b(3), section 601c(2), section 602a(4) or (5), section 617, section 625(4) or (5), section 653a(4), or 27 section 904(4) or (5).
- (e) One conviction of negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.
- (f) One conviction for a violation or attempted violation of section 479a(4) or (5) of the Michigan penal code, 1931 PA 328, MCL 750.479a.
- (g) Any combination of 3 convictions within 10 years for any of the following or 1 conviction for a violation or attempted violation of section 625(6) and any combination of 2 convictions for any of the following within 10 years, if any of the convictions resulted from an arrest on or after January 1, 1992:
- (i) A violation or attempted violation of section ~~625(1), (3), (4), (5), or (7)~~.
 - ~~(ii) A violation of former section 625(1) or (2) or former section 625b.~~
 - ~~(iii) A violation or attempted violation of section 625m: **625, except a violation of section 625(2), or a violation of any prior enactment of section 625 in which the defendant operated a vehicle while under the influence of intoxicating or alcoholic liquor or a controlled substance, or a combination of intoxicating or alcoholic liquor and a controlled substance, or while visibly impaired, or with an unlawful bodily alcohol content.**~~
 - (ii) A violation or attempted violation of section 625m.**
 - (iii) Former section 625b.**

- (3) The secretary of state shall revoke a license under subsection (2) notwithstanding a court order unless the court order complies with section 323.
- (4) The secretary of state shall not issue a license under this act to a person whose license has been revoked under this act or revoked and denied under subsection (2) until all of the following occur, as applicable:
 - (a) The later of the following:
 - (i) The expiration of not less than 1 year after the license was revoked or denied.
 - (ii) The expiration of not less than 5 years after the date of a subsequent revocation or denial occurring within 7 years after the date of any prior revocation or denial.
 - (b) For a denial under subsection (2)(a), (b), (c), and (g), the person rebuts by clear and convincing evidence the presumption resulting from the prima facie evidence that he or she is a habitual offender. The convictions that resulted in the revocation and denial constitute prima facie evidence that he or she is a habitual offender.
 - (c) The person meets the requirements of the department.
- (5) Multiple convictions or civil infraction determinations resulting from the same incident shall be treated as a single violation for purposes of denial or revocation of a license under this section.
- (6) As used in this section, "felony in which a motor vehicle was used" means a felony during the commission of which the person operated a motor vehicle and while operating the vehicle presented real or potential harm to persons or property and 1 or more of the following circumstances existed:
 - (a) The vehicle was used as an instrument of the felony.
 - (b) The vehicle was used to transport a victim of the felony.
 - (c) The vehicle was used to flee the scene of the felony.
 - (d) The vehicle was necessary for the commission of the felony.

Sec. 310d. (1) A license issued under this act to a person not previously licensed in this or in another state shall be designated as probationary for 3 years after the date of issuance. During the first 12 months of probation, the license may be suspended or probationary terms and conditions may be imposed upon failure of the licensee to appear before a magistrate, as provided in this chapter, or upon conviction of the licensee or determination of the licensee's responsibility for a moving violation in this state. The period of suspension or the probationary terms and conditions shall not be for more than 12 months and shall be determined by the secretary of state at an examination of the driver by the secretary of state.

- (2) Upon completion of the first 12 months of probation, the secretary of state may require a licensee to be reexamined by the secretary of state if the licensee's driving record contains any of the following:
 - (a) A conviction or civil infraction determination for a moving violation that was assessed 4 or more points as provided in section 320a.
 - (b) Three convictions or 3 civil infraction determinations, or a combination of convictions and civil infraction determinations that equals 3, for moving violations.
 - (c) A total of 6 or more points as provided in section 320a.
 - (d) A conviction or civil infraction determination for a moving violation and an accident for which the official police report indicates the licensee had been drinking intoxicating **alcoholic** liquor.
 - (e) A conviction or civil infraction determination for a moving violation and an accident for which the official police report indicates a moving violation on the part of the licensee.
 - (f) Three accidents for which the official police report indicates a moving violation on the part of the licensee.
 - (g) A suspension pursuant to section 625f.
- (3) The probationary period shall be extended beyond 3 years and the secretary of state may reexamine a licensee as provided in subsection (2) if any of the following occur and are recorded on the licensee's driving record during the last 10 months of the probationary period:
 - (a) A moving violation resulting in a conviction or civil infraction determination.
 - (b) An accident for which the official police report indicates a moving violation on the part of the licensee.
 - (c) An accident for which the official police report indicates the licensee had been drinking intoxicating **alcoholic** liquor.
 - (d) A license suspension for a reason other than a mental or physical disability.
- (4) The probationary period shall be extended pursuant to subsection (3) until the licensee completes 10 consecutive months without a moving violation, accident, or suspension enumerated in subsection (3).
- (5) Upon completion of a reexamination, the secretary of state may suspend or impose probationary terms and conditions on the license of a probationary licensee, except that a reexamination for subsection (2)(d), (e), or (f) shall not result in a license suspension or the imposition of probationary terms or conditions.
- (6) For 24 months immediately after a licensee's probationary period, the secretary of state may require the licensee to be reexamined by the secretary of state if the licensee's driver record has a total of 9 or more points, as provided in section 320a, imposed in a period of 2 years and if the licensee's record contains 1 or more of the following:

- (a) A conviction for a violation or **attempted violation** of ~~section 625(1), (3), (4), (5), (6), or (7), section 625m, former section 625(1) or (2), or former section 625b, a local ordinance corresponding to section 625(1), (3), or (6), section 625m, former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), (5), (6), or (7), section 625m, former section 625(1) or (2), or former section 625b.~~ **any of the following:**
- (i) **Section 625, except a violation of section 625(2), or a violation of any prior enactment of section 625 in which the defendant operated a vehicle while under the influence of intoxicating or alcoholic liquor or a controlled substance, or a combination of intoxicating or alcoholic liquor and a controlled substance, or while visibly impaired, or with an unlawful bodily alcohol content.**
 - (ii) **A violation or attempted violation of section 625m.**
 - (iii) **Former section 625b.**
 - (iv) **A local ordinance substantially corresponding to a conviction described in this subdivision.**
 - (v) **A law of another state substantially corresponding to a conviction described in this subdivision.**
- ~~(b) A conviction for driving while visibly impaired due to consumption of intoxicating liquor, a controlled substance, or a combination of intoxicating liquor and a controlled substance.~~
- (b)** ~~(c)~~ A suspension of the licensee's license pursuant to section 625f.
- (c)** ~~(d)~~ An accident for which the official police report indicates a moving violation on the part of the licensee.
- (d)** ~~(e)~~ An accident for which the official police report indicates the licensee had been drinking ~~intoxicating~~ **alcoholic** liquor.
- (7) Upon completion of a reexamination under subsection (6), the secretary of state may suspend the license of the licensee, except that a reexamination for subsection (6)(d) or (e) shall not result in a license suspension or restriction.
- (8) If a licensee fails to appear for a reexamination scheduled by the secretary of state pursuant to this section, the licensee's license may be suspended immediately and remain suspended until the licensee appears for a reexamination by the secretary of state.
- (9) Notice of a reexamination required under this section shall be given by first-class mail to the last known address of the licensee.
- (10) For purposes of this section:
- (a) Upon conviction for a moving violation, the date of the violation shall be used in determining whether the conviction occurred within the probationary period.

- (b) Upon entry of a civil infraction determination for a moving violation, the date of the violation shall be used in determining whether the civil infraction determination occurred within the probationary period.
- (c) Information of a reexamination shall not be placed on a driver's record unless the secretary of state suspends a license or imposes probationary terms and conditions.
- (d) A suspension shall be considered part of a driving record from the date the suspension is imposed until the suspension is terminated.
- (e) The date of the official police report shall be used in determining whether a licensee was driving a motor vehicle involved in an accident for which the official police report indicates a moving violation on the part of the licensee or indicates the licensee had been drinking ~~intoxicating~~ **alcoholic** liquor.

- Sec. 310e.** (1) Except as otherwise provided in this act, an operator's or chauffeur's license issued to a person who is 17 years of age or less shall be in a form as prescribed in section 310 beginning July 1, 2003, and is valid only upon the issuance of a graduated driver license.
- (2) The secretary of state shall designate graduated licensing provisions in a manner that clearly indicates that the person is subject to the appropriate provisions described in this section.
 - (3) Except as otherwise provided in section 303, a person who is not less than 14 years and 9 months of age may be issued a level 1 graduated licensing status to operate a motor vehicle if the person has satisfied all of the following conditions:
 - (a) Passed a vision test and met health standards as prescribed by the secretary of state.
 - (b) Successfully completed segment 1 of a driver education course approved by the department of education including a minimum of 6 hours of on-the-road driving time with the instructor.
 - (c) Received written approval of a parent or legal guardian.
 - (4) A person issued a level 1 graduated licensing status may operate a motor vehicle only when accompanied either by a licensed parent or legal guardian or, with the permission of the parent or legal guardian, a licensed driver 21 years of age or older. Except as otherwise provided in this section, a person is restricted to operating a motor vehicle with a level 1 graduated licensing status for not less than 6 months.
 - (5) A person may be issued a level 2 graduated licensing status to operate a motor vehicle if the person has satisfied all of the following conditions:
 - (a) Had a level 1 graduated licensing status for not less than 6 months.
 - (b) Successfully completed segment 2 of a driver education course approved by the department of education.

- (c) Not incurred a moving violation resulting in a conviction or civil infraction determination or been involved in an accident for which the official police report indicates a moving violation on the part of the person during the 90-day period immediately preceding application.
 - (d) Presented a certification by the parent or guardian that he or she, accompanied by his or her licensed parent or legal guardian or, with the permission of the parent or legal guardian, any licensed driver 21 years of age or older, has accumulated a total of not less than 50 hours of behind-the-wheel experience including not less than 10 nighttime hours.
 - (e) Successfully completed a secretary of state approved performance road test. The secretary of state may enter into an agreement with another public or private person or agency, including a city, village, or township, to conduct this performance road test. This subdivision applies to a person 16 years of age or over only if the person has satisfied subdivisions (a), (b), (c), and (d).
- (6) A person issued a level 2 graduated licensing status under subsection (5) shall remain at level 2 for not less than 6 months and shall not operate a motor vehicle within this state from 12 midnight to 5 a.m. unless accompanied by a parent or legal guardian or a licensed driver over the age of 21 designated by the parent or legal guardian, or except when going to or from employment.
- (7) The provisions and provisional period described in subsection (4) or (6) shall be expanded or extended, or both, beyond the periods described in subsection (4) or (6) if any of the following occur and are recorded on the licensee's driving record during the provisional periods described in subsection (4) or (6) or any additional periods imposed under this subsection:
- (a) A moving violation resulting in a conviction, civil infraction determination, or probate court disposition.
 - (b) An accident for which the official police report indicates a moving violation on the part of the licensee.
 - (c) A license suspension for a reason other than a mental or physical disability.
 - (d) A violation of subsection (4) or (6).
- (8) The provisional period described in subsection (4) shall be extended under subsection (7) until the licensee completes 90 consecutive days without a moving violation, an accident in which a moving violation resulted, accident, suspension, or provisional period violation listed in subsection (7) or until age 18, whichever occurs first. The provisional period described in subsection (6) shall be extended under subsection (7) until the licensee completes 12 consecutive months without a moving violation, accident, suspension, or restricted period violation listed in subsection (7) or until age 18, whichever occurs first.
- (9) A person who is not less than 17 years of age may be issued a level 3 graduated licensing status under this subsection if the person has completed 12 consecutive months without a

moving violation, an accident in which a moving violation resulted, accident, suspension, or restricted period violation listed in subsection (7) while the person was issued a level 2 graduated licensing status under subsection (5).

- (10) Notice shall be given by first-class mail to the last known address of a licensee if the provisions are expanded or extended as described in subsection (7).
- (11) A person who violates subsection (4) or (6) is responsible for a civil infraction.
- (12) If a person is determined responsible for a violation of subsection (4) or (6), the secretary of state shall send written notification of any conviction or moving violation to a designated parent or guardian of the person.
- (13) For purposes of this section:
 - (a) Upon conviction for a moving violation, the date of the arrest for the violation shall be used in determining whether the conviction occurred within a provisional licensure period under this section.
 - (b) Upon entry of a civil infraction determination for a moving violation, the date of issuance of a citation for a civil infraction shall be used in determining whether the civil infraction determination occurred within a provisional licensure period under this section.
 - (c) The date of the official police report shall be used in determining whether a licensee was driving a motor vehicle involved in an accident for which the official police report indicates a moving violation on the part of the licensee or indicates the licensee had been drinking ~~intoxicating~~ **alcoholic** liquor.
- (14) A person shall have his or her graduated licensing status in his or her immediate possession at all times when operating a motor vehicle, and shall display the card upon demand of a police officer. A person who violates this subsection is responsible for a civil infraction.
- (15) This section does not apply to a person 15 years of age or older who is currently enrolled but has not completed a driver education course on April 1, 1997 or who has completed a driver education course but has not acquired his or her driver license on April 1, 1997.

Sec. 319. (1) The secretary of state shall immediately suspend a person's license as provided in this section upon receiving a record of the person's conviction for a crime described in this section, whether the conviction is under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state.

- (2) The secretary of state shall suspend the person's license for 1 year for any of the following crimes:
 - (a) Fraudulently altering or forging documents pertaining to motor vehicles in violation of section 257.

- (b) A violation of section 413 of the Michigan penal code, 1931 PA 328, MCL 750.413.
 - (c) A violation of section 1 of former 1931 PA 214, MCL 752.191, or section 626c
 - (d) A felony in which a motor vehicle was used. As used in this section, "felony in which a motor vehicle was used" means a felony during the commission of which the person convicted operated a motor vehicle and while operating the vehicle presented real or potential harm to persons or property and 1 or more of the following circumstances existed:
 - (i) The vehicle was used as an instrument of the felony.
 - (ii) The vehicle was used to transport a victim of the felony.
 - (iii) The vehicle was used to flee the scene of the felony.
 - (iv) The vehicle was necessary for the commission of the felony.
 - (e) A violation of section 602a(2) or (3) of this act or section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.479a.
- (3) The secretary of state shall suspend the person's license for 90 days for any of the following crimes:
- (a) Failing to stop and disclose identity at the scene of an accident resulting in injury in violation of section 617a.
 - (b) A violation of section 601b(2), section 601c(1), section 626, or section 653a(3).
 - (c) Malicious destruction resulting from the operation of a vehicle under section 382(1)(b), (c), or (d) of the Michigan penal code, 1931 PA 328, MCL 750.382.
 - (d) A violation of section 703(2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.
- (4) The secretary of state shall suspend the person's license for 30 days for malicious destruction resulting from the operation of a vehicle under section 382(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.382.
- (5) For perjury or making a false certification to the secretary of state under any law requiring the registration of a motor vehicle or regulating the operation of a vehicle on a highway, or for conduct prohibited under section 324(1) or a local ordinance substantially corresponding to section 324(1), the secretary shall suspend the person's license as follows:
- (a) If the person has no prior conviction for an offense described in this subsection within 7 years, for 90 days.
 - (b) If the person has 1 or more prior convictions for an offense described in this subsection within 7 years, for 1 year.
- (6) For a violation of section 414 of the Michigan penal code, 1931 PA 328, MCL 750.414, the secretary of state shall suspend the person's license as follows:
- (a) If the person has no prior conviction for that offense within 7 years, for 90 days.

- (b) If the person has 1 or more prior convictions for that offense within 7 years, for 1 year.
- (7) For a violation of section 624a or 624b of this act or section 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, the secretary of state shall suspend the person's license as follows:
- (a) If the person has 1 prior conviction for an offense described in this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, for 90 days. The secretary of state may issue the person a restricted license after the first 30 days of suspension.
 - (b) If the person has 2 or more prior convictions for an offense described in this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue the person a restricted license after the first 60 days of suspension.
- (8) The secretary of state shall suspend the person's license for a violation of section 625 or 625m as follows:
- (a) For 180 days for a violation of section 625(1) or (8) if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license during ~~all or~~ a specified portion of the suspension, except that the secretary of state shall not issue a restricted license during the first 30 days of suspension.
 - (b) For 90 days for a violation of section 625(3) if the person has no prior convictions within 7 years. However, if the person is convicted of a violation of section 625(3), for operating a vehicle when, due to the consumption of a controlled substance or a combination of ~~intoxicating~~ **alcoholic** liquor and a controlled substance, the person's ability to operate the vehicle was visibly impaired, the secretary of state shall suspend the person's license under this subdivision for 180 days. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension.
 - (c) For 30 days for a violation of section 625(6) if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension.
 - (d) For 90 days for a violation of section 625(6) if the person has 1 or more prior convictions for that offense within 7 years.
 - (e) For 180 days for a violation of section 625(7) if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license after the first 90 days of suspension.
 - (f) For 90 days for a violation of section 625m if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension.
- (9) For a violation of section 367c of the Michigan penal code, 1931 PA 328, MCL 750.367c, the secretary of state shall suspend the person's license as follows:

- (a) If the person has no prior conviction for an offense described in this subsection within 7 years, for 6 months.
 - (b) If the person has 1 or more convictions for an offense described in this subsection within 7 years, for 1 year.
- (10) For a violation of section 315(4), the secretary of state may suspend the person's license for 6 months.
- (11) For a violation or attempted violation of section 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a school, the secretary of state shall suspend the license of a person 14 years of age or over but less than 21 years of age until 3 years after the date of the conviction or juvenile disposition for the violation. The secretary of state may issue the person a restricted license after the first 365 days of suspension.
- (12) Except as provided in subsection (14), a suspension under this section shall be imposed notwithstanding a court order unless the court order complies with section 323.
- (13) If the secretary of state receives records of more than 1 conviction of a person resulting from the same incident, a suspension shall be imposed only for the violation to which the longest period of suspension applies under this section.
- (14) The secretary of state may waive a restriction, suspension, or revocation of a person's license imposed under this act if the person submits proof that a court in another state revoked, suspended, or restricted his or her license for a period equal to or greater than the period of a restriction, suspension, or revocation prescribed under this act for the violation and that the revocation, suspension, or restriction was served for the violation, or may grant a restricted license.
- (15) The secretary of state shall not issue a restricted license to a person whose license is suspended under this section unless a restricted license is authorized under this section and the person is otherwise eligible for a license.
- (16) The secretary of state shall not issue a restricted license to a person under subsection (8) that would permit the person to operate a commercial motor vehicle that transports hazardous material in amounts requiring a placard under the hazardous materials regulations, 49 C.F.R. parts 100 to 199.
- (17) A restricted license issued under this section shall permit the person to whom it is issued to drive under 1 or more of the following circumstances:
 - (a) In the course of the person's employment or occupation.
 - (b) To and from any combination of the following:
 - (i) The person's residence.
 - (ii) The person's work location.
 - (iii) An alcohol or drug education or treatment program as ordered by the court.
 - (iv) The court probation department.
 - (v) A court-ordered community service program.

- (vi) An educational institution at which the person is enrolled as a student.
 - (vii) A place of regularly occurring medical treatment for a serious condition for the person or a member of the person's household or immediate family.
- (18) While driving with a restricted license, the person shall carry proof of his or her destination and the hours of any employment, class, or other reason for traveling and shall display that proof upon a peace officer's request.
- (19) Subject to subsection (21), as used in subsection (8), "prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:
- (a) Except as provided in subsection (20), a violation or attempted violation of ~~section 625(1), (3), (4), (5), (6), or (7), section 625m, former section 625(1) or (2), or former section 625b:~~ **any of the following:**
 - (i) **Section 625, except a violation of section 625(2), or a violation of any prior enactment of section 625 in which the defendant operated a vehicle while under the influence of intoxicating or alcoholic liquor or a controlled substance, or a combination of intoxicating or alcoholic liquor and a controlled substance, or while visibly impaired, or with an unlawful bodily alcohol content.**
 - (ii) **Section 625m.**
 - (iii) **Former section 625b.**
 - (b) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.
- (20) Except for purposes of the suspensions described in subsection (8)(c) and (d), only 1 violation or attempted violation of section 625(6), a local ordinance substantially corresponding to section 625(6), or a law of another state substantially corresponding to section 625(6) may be used as a prior conviction.
- (21) If 2 or more convictions described in subsection (19) are convictions for violations arising out of the same transaction, only 1 conviction shall be used to determine whether the person has a prior conviction.

Sec. 320a. (1) The secretary of state, within 10 days after the receipt of a properly prepared abstract from this or another state, shall record the date of conviction, civil infraction determination, or probate court disposition, and the number of points for each, based on the following formula, except as otherwise provided in this section and section 629c:

- (a) Manslaughter, negligent homicide, or a felony resulting from the operation of a motor vehicle, ORV, or snowmobile.....6 points

- (b) A violation of section 601b(2) or (3), 601c(1) or (2), or 653a(3) or (4).....6 points
- (c) A violation of section 625(1), (4), (5), ~~or~~ (7), **or (8)**, section 81134 or 82127(1) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 and 324.82127, or a law or ordinance substantially corresponding to section 625(1), (4), (5), ~~or~~ (7), **or (8)**, or section 81134 or 82127(1) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 and 324.82127.....6 points
- (d) Failing to stop and disclose identity at the scene of an accident when required by law.....6 points
- (e) Operating a motor vehicle in violation of section 626.....6 points
- (f) Fleeing or eluding an officer.....6 points
- (g) Violation of section 627(9) pertaining to speed in a designated work area by exceeding the lawful maximum by more than 15 miles per hour.....5 points
- (h) Violation of any law other than the law described in subdivision (g) or ordinance pertaining to speed by exceeding the lawful maximum by more than 15 miles per hour.....4 points
- (i) Violation of section 625(3) or (6), section 81135 or 82127(3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81135 and 324.82127, or a law or ordinance substantially corresponding to section 625(3) or (6) or section 81135 or 82127(3) of the natural resources and environmental protection act, 1994 P A 4 5 1 , M C L 3 2 4 . 8 1 1 3 5 a n d 324.82127.....4 points
- (j) Violation of section 626a or a law or ordinance substantially corresponding to section 626a.....4 points
- (k) Violation of section 653a(2)..... 4 points
- (l) Violation of section 627(9) pertaining to speed in a designated work area by exceeding the lawful maximum by more than 10 but not more than 15 miles per hour.....4 points
- (m) Violation of any law other than the law described in subdivision (l) or ordinance pertaining to speed by exceeding the lawful maximum by more than 10 but not more than 15 miles per hour or careless driving in violation of section 626b or a law or ordinance substantially corresponding to section 626b.....3 points
- (n) Violation of section 627(9) pertaining to speed in a designated work area by exceeding the lawful maximum by 10 miles per hour or less.....3 points
- (o) Violation of any law other than the law described in subdivision (n) or ordinance pertaining to speed by exceeding the lawful maximum by 10 miles per hour or less.....2 points

- (a) Disobeying a traffic signal or stop sign, or improper passing.....3 points
 - (q) Violation of section 624a, 624b, or a law or ordinance substantially corresponding to section 624a or 624b.....2 points
 - (r) Violation of section 310e(4) or (6) or a law or ordinance substantially corresponding to section 310e(4) or (6).....2 points
 - (s) All other moving violations pertaining to the operation of motor vehicles reported under this section.....2 points
 - (t) A refusal by a person less than 21 years of age to submit to a preliminary breath test required by a peace officer under section 625a.....2 points
- (2) Points shall not be entered for a violation of section 310e(14), 311, 625m, 658, 717, 719, 719a, or 723.
 - (3) Points shall not be entered for bond forfeitures.
 - (4) Points shall not be entered for overweight loads or for defective equipment.
 - (5) If more than 1 conviction, civil infraction determination, or probate court disposition results from the same incident, points shall be entered only for the violation that receives the highest number of points under this section.
 - (6) If a person has accumulated 9 points as provided in this section, the secretary of state may call the person in for an interview as to the person's driving ability and record after due notice as to time and place of the interview. If the person fails to appear as provided in this subsection, the secretary of state shall add 3 points to the person's record.
 - (7) If a person violates a speed restriction established by an executive order issued during a state of energy emergency as provided by 1982 PA 191, MCL 10.81 to 10.89, the secretary of state shall enter points for the violation pursuant to subsection (1).
 - (8) The secretary of state shall enter 6 points upon the record of a person whose license is suspended or denied pursuant to section 625f. However, if a conviction, civil infraction determination, or probate court disposition results from the same incident, additional points for that offense shall not be entered.
 - (9) If a Michigan driver commits a violation in another state that would be a civil infraction if committed in Michigan, and a conviction results solely because of the failure of the Michigan driver to appear in that state to contest the violation, upon receipt of the abstract of conviction by the secretary of state, the violation shall be noted on the driver's record, but no points shall be assessed against his or her driver's license.

Sec. 624b. (1) A person less than 21 years of age shall not knowingly transport or possess alcoholic liquor in a motor vehicle as an operator or occupant unless the person is employed by a licensee under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, a common carrier designated by the liquor control commission under the

Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, the liquor control commission, or an agent of the liquor control commission and is transporting or having the alcoholic liquor in a motor vehicle under the person's control during regular working hours and in the course of the person's employment. This section does not prevent a person less than 21 years of age from knowingly transporting alcoholic liquor in a motor vehicle if a person at least 21 years of age is present inside the motor vehicle. A person who violates this subsection is guilty of a misdemeanor. As part of the sentence, the person may be ordered to perform community service and undergo substance abuse screening and assessment at his or her own expense as described in section 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.

- (2) Within 30 days after the conviction for a violation of subsection (1) by the operator of a motor vehicle, which conviction has become final, the arresting law enforcement officer or the officer's superior may make a complaint before the court from which the warrant was issued. The complaint shall be under oath and shall describe the motor vehicle in which alcoholic liquor was possessed or transported by the operator, who is less than 21 years of age, in committing the violation and requesting that the motor vehicle be impounded as provided in this section. Upon the filing of the complaint, the court shall issue to the owner of the motor vehicle an order to show cause why the motor vehicle should not be impounded. The order to show cause shall fix a date and time for a hearing, which shall not be less than 10 days after the issuance of the order. The order shall be served by delivering a true copy to the owner not less than 3 full days before the date of hearing or, if the owner cannot be located, by sending a true copy by certified mail to the last known address of the owner. If the owner is a nonresident of the state, service may be made upon the secretary of state as provided in section 403.
- (3) If the court determines upon the hearing of the order to show cause, from competent and relevant evidence, that at the time of the commission of the violation the motor vehicle was being driven by the person less than 21 years of age with the express or implied consent or knowledge of the owner in violation of subsection (1), and that the use of the motor vehicle is not needed by the owner in the direct pursuit of the owner's employment or the actual operation of the owner's business, the court may authorize the impounding of the vehicle for a period of not less than 15 days or more than 30 days. The court's order authorizing the impounding of the vehicle shall authorize a law enforcement officer to take possession without other process of the motor vehicle wherever located and to store the vehicle in a public or private garage at the expense and risk of the owner of the vehicle. The owner of the vehicle may appeal the order to the circuit court and the provisions governing the taking of appeals from judgments for damages apply to the appeal. This section does not prevent a bona fide lienholder from exercising rights under a lien.
- (4) A person who knowingly transfers title to a motor vehicle for the purpose of avoiding this section is guilty of a misdemeanor.
- (5) A law enforcement agency, upon determining that a person less than 18 years of age allegedly violated this section, shall notify the parent or parents, custodian, or guardian of

the person as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated this section is less than 18 years of age and may be made in person, by telephone, or by first-class mail.

~~(6) As used in this section, "alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.~~

Sec. 625. (1) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state **if the person is operating while intoxicated. As used in this section, "operating while intoxicated" means** either of the following applies:

(a) The person is under the influence of ~~intoxicating~~ **alcoholic** liquor, a controlled substance, or a combination of ~~intoxicating~~ **alcoholic** liquor and a controlled substance.

(b) The person has an alcohol content of ~~0.10~~ **0.08** grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, **or, beginning October 1, 2013, the person has an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.**

(2) ~~The owner of a vehicle or a person in charge or in control of a vehicle shall not authorize or knowingly permit the vehicle to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within this state by a person who is under the influence of intoxicating alcoholic liquor, a controlled substance, or a combination of intoxicating alcoholic liquor and a controlled substance, who has an alcohol content of 0.10 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or whose ability to operate the motor vehicle is visibly impaired due to the consumption of intoxicating alcoholic liquor, a controlled substance, or a combination of intoxicating alcoholic liquor and a controlled substance. **if any of the following apply:**~~

(a) The person is under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.

(b) The person has an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning October 1, 2013, the person has an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(c) The person's ability to operate the motor vehicle is visibly impaired due to the consumption of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.

- (3) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state when, due to the consumption of ~~intoxicating~~ **alcoholic** liquor, a controlled substance, or a combination of ~~intoxicating~~ **alcoholic** liquor and a controlled substance, the person's ability to operate the vehicle is visibly impaired. If a person is charged with violating subsection (1), a finding of guilty under this subsection may be rendered.
- (4) A person, whether licensed or not, who operates a motor vehicle in violation of subsection (1), ~~or~~ (3), **or (8)** and by the operation of that motor vehicle causes the death of another person is guilty of a crime as follows:
- (a) Except as provided in subdivision (b), the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not less than \$2,500.00 or more than \$10,000.00, or both. The judgment of sentence may impose the sanction permitted under section 625n. If the vehicle is not ordered forfeited under section 625n, the court shall order vehicle immobilization under section 904d in the judgment of sentence.
- (b) If, at the time of the violation, the person is operating a motor vehicle in a manner proscribed under section 653a and causes the death of a police officer, firefighter, or other emergency response personnel, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not less than \$2,500.00 or more than \$10,000.00, or both. This subdivision applies regardless of whether the person is charged with the violation of section 653a. The judgment of sentence may impose the sanction permitted under section 625n. If the vehicle is not ordered forfeited under section 625n, the court shall order vehicle immobilization under section 904d in the judgment of sentence.
- (5) A person, whether licensed or not, who operates a motor vehicle in violation of subsection (1), ~~or~~ (3), **or (8)** and by the operation of that motor vehicle causes a serious impairment of a body function of another person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not less than \$1,000.00 or more than \$5,000.00, or both. The judgment of sentence may impose the sanction permitted under section 625n. If the vehicle is not ordered forfeited under section 625n, the court shall order vehicle immobilization under section 904d in the judgment of sentence. ~~As used in this subsection, "serious impairment of a body function" includes, but is not limited to, 1 or more of the following:~~
- (a) ~~Loss of a limb or use of a limb.~~
- (b) ~~Loss of a hand, foot, finger, or thumb or use of a hand, foot, finger, or thumb.~~
- (c) ~~Loss of an eye or ear or use of an eye or ear.~~
- (d) ~~Loss or substantial impairment of a bodily function.~~
- (e) ~~Serious visible disfigurement.~~

- ~~(f) A comatose state that lasts for more than 3 days.~~
 - ~~(g) Measurable brain damage or mental impairment.~~
 - ~~(h) A skull fracture or other serious bone fracture.~~
 - ~~(i) Subdural hemorrhage or subdural hematoma.~~
- (6) A person who is less than 21 years of age, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state if the person has any bodily alcohol content. As used in this subsection, "any bodily alcohol content" means either of the following:
- (a) An alcohol content of not less than 0.02 grams or more **but less** than ~~0.07~~ **0.08** grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, **or, beginning October 1, 2013, the person has an alcohol content of not less than 0.02 grams or more but less than 0.10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.**
 - (b) Any presence of alcohol within a person's body resulting from the consumption of intoxicating **alcoholic** liquor, other than consumption of intoxicating **alcoholic** liquor as a part of a generally recognized religious service or ceremony.
- (7) A person, whether licensed or not, is subject to the following requirements:
- (a) He or she shall not operate a vehicle in violation of subsection (1), (3), (4), ~~or (5)~~, **or (8)** while another person who is less than 16 years of age is occupying the vehicle. A person who violates this subdivision is guilty of a crime punishable as follows:
 - (i) Except as provided in subparagraph (ii), a person who violates this subdivision is guilty of a misdemeanor and shall be sentenced to pay a fine of not less than \$200.00 or more than \$1,000.00 and to 1 or more of the following:
 - (A) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.
 - (B) Community service for not less than 30 days or more than 90 days.
 - (ii) If the violation occurs within 7 years of a prior conviction or within 10 years of 2 or more prior convictions, a person who violates this subdivision is guilty of a felony and shall be sentenced to pay a fine of not less than \$500.00 or more than \$5,000.00 and to either of the following:
 - (A) Imprisonment under the jurisdiction of the department of corrections for not less than 1 year or more than 5 years.
 - (B) Probation with imprisonment in the county jail for not less than 30 days or more than 1 year and community service for not less than 60

days or more than 180 days. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

- (b) He or she shall not operate a vehicle in violation of subsection (6) while another person who is less than 16 years of age is occupying the vehicle. A person who violates this subdivision is guilty of a misdemeanor punishable as follows:
 - (i) Except as provided in subparagraph (ii), a person who violates this subdivision may be sentenced to 1 or more of the following:
 - (A) Community service for not more than 60 days.
 - (B) A fine of not more than \$500.00.
 - (C) Imprisonment for not more than 93 days.
 - (ii) If the violation occurs within 7 years of a prior conviction or within 10 years of 2 or more prior convictions, a person who violates this subdivision shall be sentenced to pay a fine of not less than \$200.00 or more than \$1,000.00 and to 1 or more of the following:
 - (A) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.
 - (B) Community service for not less than 30 days or more than 90 days.
- (c) In the judgment of sentence under subdivision (a)(i) or (b)(i), the court may, unless the vehicle is ordered forfeited under section 625n, order vehicle immobilization as provided in section 904d. In the judgment of sentence under subdivision (a)(ii) or (b)(ii), the court shall, unless the vehicle is ordered forfeited under section 625n, order vehicle immobilization as provided in section 904d.
- (d) This subsection does not prohibit a person from being charged with, convicted of, or punished for a violation of subsection (4) or (5) that is committed by the person while violating this subsection. However, points shall not be assessed under section 320a for both a violation of subsection (4) or (5) and a violation of this subsection for conduct arising out of the same transaction.

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

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

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

- (i) Community service for not more than ~~45 days~~ **360 hours**.
 - (ii) Imprisonment for not more than 93 days.
 - (iii) A fine of not less than \$100.00 or more than \$500.00.
- (b) If the violation occurs within 7 years of a prior conviction, the person shall be sentenced to pay a fine of not less than \$200.00 or more than \$1,000.00 and 1 or more of the following:
- (i) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of the term of imprisonment imposed under this subparagraph shall be served consecutively.
 - (ii) Community service for not less than 30 days or more than 90 days.
- (c) If the violation occurs within 10 years of 2 or more prior convictions, the person is guilty of a felony and shall be sentenced to pay a fine of not less than \$500.00 or more than \$5,000.00 and to either of the following:
- (i) Imprisonment under the jurisdiction of the department of corrections for not less than 1 year or more than 5 years.
 - (ii) Probation with imprisonment in the county jail for not less than 30 days or more than 1 year and community service for not less than 60 days or more than 180 days. Not less than 48 hours of the imprisonment imposed under this subparagraph shall be served consecutively.
- (d) A term of imprisonment imposed under subdivision (b) or (c) shall not be suspended.
- (e) In the judgment of sentence under subdivision (a), the court may order vehicle immobilization as provided in section 904d. In the judgment of sentence under subdivision (b) or (c), the court shall, unless the vehicle is ordered forfeited under section 625n, order vehicle immobilization as provided in section 904d.
- (f) In the judgment of sentence under subdivision (b) or (c), the court may impose the sanction permitted under section 625n.

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

- (a) Except as provided in subdivisions (b) and (c), a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not less than \$100.00 or more than \$500.00, or both.
- (b) If the person operating the motor vehicle violated subsection (4), a felony punishable by imprisonment for not more than 5 years or a fine of not less than \$1,500.00 or more than \$10,000.00, or both.
- (c) If the person operating the motor vehicle violated subsection (5), a felony punishable by imprisonment for not more than 2 years or a fine of not less than \$1,000.00 or more than \$5,000.00, or both.

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

- (a) Except as otherwise provided in subdivisions (b) and (c), the person is guilty of a misdemeanor punishable by 1 or more of the following:
 - (i) Community service for not more than ~~45 days~~ **360 hours**.
 - (ii) Imprisonment for not more than 93 days.
 - (iii) A fine of not more than \$300.00.
- (b) If the violation occurs within 7 years of 1 prior conviction, the person shall be sentenced to pay a fine of not less than \$200.00 or more than \$1,000.00, and 1 or more of the following:
 - (i) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of the term of imprisonment imposed under this subparagraph shall be served consecutively.
 - (ii) Community service for not less than 30 days or more than 90 days.
- (c) If the violation occurs within 10 years of 2 or more prior convictions, the person is guilty of a felony and shall be sentenced to pay a fine of not less than \$500.00 or more than \$5,000.00 and either of the following:
 - (i) Imprisonment under the jurisdiction of the department of corrections for not less than 1 year or more than 5 years.
 - (ii) Probation with imprisonment in the county jail for not less than 30 days or more than 1 year and community service for not less than 60 days or more than 180 days. Not less than 48 hours of the imprisonment imposed under this subparagraph shall be served consecutively.
- (d) A term of imprisonment imposed under subdivision (b) or (c) shall not be suspended.
- (e) In the judgment of sentence under subdivision (a), the court may order vehicle immobilization as provided in section 904d. In the judgment of sentence under subdivision (b) or (c), the court shall, unless the vehicle is ordered forfeited under section 625n, order vehicle immobilization as provided in section 904d.
- (f) In the judgment of sentence under subdivision (b) or (c), the court may impose the sanction permitted under section 625n.

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

- (a) Except as otherwise provided in subdivision (b), the person is guilty of a misdemeanor punishable by 1 or both of the following:
 - (i) Community service for not more than ~~45 days~~ **360 hours**.
 - (ii) A fine of not more than \$250.00.
- (b) If the violation occurs within 7 years of 1 or more prior convictions, the person may be sentenced to 1 or more of the following:
 - (i) Community service for not more than 60 days.

- (ii) A fine of not more than \$500.00.
- (iii) Imprisonment for not more than 93 days.

(13) ~~(12)~~ In addition to imposing the sanctions prescribed under this section, the court may order the person to pay the costs of the prosecution under the code of criminal procedure, 1927 PA 175, MCL 760.1 to ~~776.22~~ **777.69**.

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

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

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

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

- (a) An abstract of conviction.
- (b) A copy of the defendant's driving record.
- (c) An admission by the defendant.

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

(19) ~~(18)~~ Except as otherwise provided in subsection ~~(19)~~ **(20)**, if a person is charged with operating a vehicle while his or her ability to operate the vehicle was visibly impaired due to his or her consumption of a controlled substance or a combination of ~~intoxicating~~ **alcoholic** liquor and a controlled substance in violation of subsection (3) or a local ordinance substantially corresponding to subsection (3), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether, due to the consumption of a controlled

substance or a combination of ~~intoxicating~~ **alcoholic** liquor and a controlled substance, the person's ability to operate a motor vehicle was visibly impaired at the time of the violation.

(20) ~~(19)~~ A special verdict described in subsections ~~(17) and (18)~~ **(18) and (19)** is not required if a jury is instructed to make a finding solely as to either of the following:

- (a) Whether the defendant was under the influence of a controlled substance or a combination of ~~intoxicating~~ **alcoholic** liquor and a controlled substance at the time of the violation.
- (b) Whether the defendant was visibly impaired due to his or her consumption of a controlled substance or a combination of ~~intoxicating~~ **alcoholic** liquor and a controlled substance at the time of the violation.

(21) ~~(20)~~ If a jury or court finds under subsection ~~(17), (18), or (19)~~, **or (20)** that the defendant operated a motor vehicle under the influence of or while impaired due to the consumption of a controlled substance or a combination of a controlled substance and an ~~intoxicating~~ **alcoholic** liquor, the court shall do both of the following:

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

(22) ~~(21)~~ Except as otherwise provided by law, a record described in subsection ~~(20)(b)~~ **(21)(b)** is a public record and the department of state police shall retain the information contained on that record for not less than 7 years.

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

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

(25) ~~(23)~~ Subject to subsection (25) (27), as used in this section, "prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

- (a) Except as provided in subsection ~~(24)~~ **(26)**, a violation or attempted violation of ~~subsection (1), (3), (4), (5), (6), or (7), section 625m, former section 625(1) or (2), or former section 625b:~~ **any of the following:**
 - (i) This section, except a violation of section 625(2), or a violation of any prior enactment of this section in which the defendant operated a**

vehicle while under the influence of intoxicating or alcoholic liquor or a controlled substance, or a combination of intoxicating or alcoholic liquor and a controlled substance, or while visibly impaired, or with an unlawful bodily alcohol content.

(ii) Section 625m.

(iii) Former section 625b.

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

~~(c) A violation of section 653a(4).~~

~~(26) (24)~~ Except for purposes of the enhancement described in subsection ~~(11)(b)~~ **(12)(b)**, only 1 violation or attempted violation of subsection (6), a local ordinance substantially corresponding to subsection (6), or a law of another state substantially corresponding to subsection (6) may be used as a prior conviction.

~~(27) (25)~~ If 2 or more convictions described in subsection ~~(23)~~ **(25)** are convictions for violations arising out of the same transaction, only 1 conviction shall be used to determine whether the person has a prior conviction.

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

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

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

(2) A peace officer who has reasonable cause to believe that a person was operating a vehicle upon a public highway or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state and that the person by the consumption of ~~intoxicating~~ **alcoholic** liquor may have affected his or her ability to operate a vehicle, or reasonable cause to believe that a person was operating a commercial motor vehicle within the state while the person's blood, breath, or urine contained any measurable amount of alcohol or while the person had any detectable presence of ~~intoxicating~~ **alcoholic** liquor, or reasonable cause to believe that a person who is less than 21 years of age was operating a vehicle upon a public highway or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state while the person had any bodily

alcohol content as that term is defined in section 625(6), may require the person to submit to a preliminary chemical breath analysis. The following provisions apply with respect to a preliminary chemical breath analysis administered under this subsection:

- (a) A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis.
 - (b) The results of a preliminary chemical breath analysis are admissible in a criminal prosecution for a crime enumerated in section 625c(1) or in an administrative hearing for 1 or more of the following purposes:
 - (i) To assist the court or hearing officer in determining a challenge to the validity of an arrest. This subparagraph does not limit the introduction of other competent evidence offered to establish the validity of an arrest.
 - (ii) As evidence of the defendant's breath alcohol content, if offered by the defendant to rebut testimony elicited on cross-examination of a defense witness that the defendant's breath alcohol content was higher at the time of the charged offense than when a chemical test was administered under subsection (6).
 - (iii) As evidence of the defendant's breath alcohol content, if offered by the prosecution to rebut testimony elicited on cross-examination of a prosecution witness that the defendant's breath alcohol content was lower at the time of the charged offense than when a chemical test was administered under subsection (6).
 - (c) A person who submits to a preliminary chemical breath analysis remains subject to the requirements of sections 625c, 625d, 625e, and 625f for purposes of chemical tests described in those sections.
 - (d) Except as provided in subsection (5), a person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a peace officer is responsible for a civil infraction.
- (3) A peace officer shall use the results of a preliminary chemical breath analysis conducted pursuant to this section to determine whether to order a person out-of-service under section 319d. A peace officer shall order out-of-service as required under section 319d a person who was operating a commercial motor vehicle and who refuses to submit to a preliminary chemical breath analysis as provided in this section. This section does not limit use of other competent evidence by the peace officer to determine whether to order a person out-of-service under section 319d.
- (4) A person who was operating a commercial motor vehicle and who is requested to submit to a preliminary chemical breath analysis under this section shall be advised that refusing a peace officer's request to take a test described in this section is a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both, and will result in the issuance of a 24-hour out-of-service order.

- (5) A person who was operating a commercial motor vehicle and who refuses to submit to a preliminary chemical breath analysis upon a peace officer's lawful request is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.
- (6) The following provisions apply with respect to chemical tests and analysis of a person's blood, urine, or breath, other than preliminary chemical breath analysis:
- (a) The amount of alcohol or presence of a controlled substance or both in a driver's blood or urine or the amount of alcohol in a person's breath at the time alleged as shown by chemical analysis of the person's blood, urine, or breath is admissible into evidence in any civil or criminal proceeding **and is presumed to be the same as at the time the person operated the vehicle.**
- (b) A person arrested for a crime described in section 625c(1) shall be advised of all of the following:
- (i) If he or she takes a chemical test of his or her blood, urine, or breath administered at the request of a peace officer, he or she has the right to demand that a person of his or her own choosing administer 1 of the chemical tests.
- (ii) The results of the test are admissible in a judicial proceeding as provided under this act and will be considered with other admissible evidence in determining the defendant's innocence or guilt.
- (iii) He or she is responsible for obtaining a chemical analysis of a test sample obtained pursuant to **at** his or her own request.
- (iv) If he or she refuses the request of a peace officer to take a test described in subparagraph (i), a test shall not be given without a court order, but the peace officer may seek to obtain a court order.
- (v) Refusing a peace officer's request to take a test described in subparagraph (i) will result in the suspension of his or her operator's or chauffeur's license and vehicle group designation or operating privilege and in the addition of 6 points to his or her driver record.
- (c) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or an individual operating under the delegation of a licensed physician under section 16215 of the public health code, 1978 PA 368, MCL 333.16215, qualified to withdraw blood and acting in a medical environment, may withdraw blood at a peace officer's request to determine the amount of alcohol or presence of a controlled substance or both in the person's blood, as provided in this subsection. Liability for a crime or civil damages predicated on the act of withdrawing or analyzing blood and related procedures does not attach to a licensed physician or individual operating under the delegation of a licensed physician who withdraws or analyzes blood or assists in the withdrawal

or analysis in accordance with this act unless the withdrawal or analysis is performed in a negligent manner.

- (d) A chemical test described in this subsection shall be administered at the request of a peace officer having reasonable grounds to believe the person has committed a crime described in section 625c(1). A person who takes a chemical test administered at a peace officer's request as provided in this section shall be given a reasonable opportunity to have a person of his or her own choosing administer 1 of the chemical tests described in this subsection within a reasonable time after his or her detention. The test results are admissible and shall be considered with other admissible evidence in determining the defendant's innocence or guilt. If the person charged is administered a chemical test by a person of his or her own choosing, the person charged is responsible for obtaining a chemical analysis of the test sample.
 - (e) If, after an accident, the driver of a vehicle involved in the accident is transported to a medical facility and a sample of the driver's blood is withdrawn at that time for medical treatment, the results of a chemical analysis of that sample are admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance or both in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subdivision. A medical facility or person disclosing information in compliance with this subsection is not civilly or criminally liable for making the disclosure.
 - (f) If, after an accident, the driver of a vehicle involved in the accident is deceased, a sample of the decedent's blood shall be withdrawn in a manner directed by the medical examiner to determine the amount of alcohol or the presence of a controlled substance, or both, in the decedent's blood. The medical examiner shall give the results of the chemical analysis of the sample to the law enforcement agency investigating the accident and that agency shall forward the results to the department of state police.
 - (g) The department of state police shall promulgate uniform rules in compliance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the administration of chemical tests for the purposes of this section. An instrument used for a preliminary chemical breath analysis may be used for a chemical test described in this subsection if approved under rules promulgated by the department of state police.
- (7) The provisions of subsection (6) relating to chemical testing do not limit the introduction of any other admissible evidence bearing upon ~~the question of whether a person was impaired by, or under the influence of, intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or whether the person had an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per~~

~~67 milliliters of urine, or if the person is less than 21 years of age, whether the person had any bodily alcohol content within his or her body. As used in this section, "any bodily alcohol content" means either of the following:~~

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

~~(b) — Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor, other than consumption of intoxicating liquor as a part of a generally recognized religious service or ceremony. any of the following questions:~~

~~(a) Whether the person was impaired by, or under the influence of, alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.~~

~~(b) Whether the person had an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning October 1, 2013, the person had an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.~~

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

~~(i) An alcohol content of 0.02 grams or more but less than 0.08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning October 1, 2013, the person had an alcohol content of 0.02 grams or more but less than 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.~~

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

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

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

- (a) ~~If there were at the time 0.07 grams or less of alcohol per 100 milliliters of the defendant's blood, per 210 liters of the defendant's breath, or per 67 milliliters of the defendant's urine, it is presumed that the defendant's ability to operate a motor vehicle was not impaired due to the consumption of intoxicating liquor and that the defendant was not under the influence of intoxicating liquor.~~
- (b) ~~If there were at the time more than 0.07 grams but less than 0.10 grams of alcohol per 100 milliliters of the defendant's blood, per 210 liters of the defendant's breath, or per 67 milliliters of the defendant's urine, it is presumed that the defendant's ability to operate a vehicle was impaired within the provisions of section 625(3) due to the consumption of intoxicating liquor.~~
- (c) ~~If there were at the time 0.10 grams or more of alcohol per 100 milliliters of the defendant's blood, per 210 liters of the breath, or per 67 milliliters of the defendant's urine, it is presumed that the defendant was under the influence of intoxicating liquor.~~

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

Sec. 625c. (1) A person who operates a vehicle upon a public highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state is considered to have given consent to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood or urine or the amount of alcohol in his or her breath in all of the following circumstances:

- (a) If the person is arrested for a violation of section 625(1), (3), (4), (5), (6), ~~or (7),~~ **(8)**, section 625a(5), or section 625m or a local ordinance substantially corresponding to section 625(1), (3), ~~or (6),~~ **(8)**, section 625a(5), or section 625m.
- (b) If the person is arrested for felonious driving, negligent homicide, manslaughter, or murder resulting from the operation of a motor vehicle, and the peace officer had reasonable grounds to believe the person was operating the vehicle ~~while impaired by or under the influence of intoxicating liquor or a controlled substance or a combination of intoxicating liquor and a controlled substance, or while having an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or if the person is less than 21 years of age while having any bodily alcohol content. As used in this subdivision, "any bodily alcohol content" means either of the following:~~
 - (i) ~~An alcohol content of not less than 0.02 grams or more than 0.07 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.~~

(ii) ~~Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor, other than consumption of intoxicating liquor as part of a generally recognized religious service or ceremony.~~ **in violation of section 625.**

- (2) A person who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician is not considered to have given consent to the withdrawal of blood.
- (3) The tests shall be administered as provided in section 625a(6).

Sec. 625f. (1) If a person who refuses to submit to a chemical test pursuant to section 625d does not request a hearing within 14 days after the date of notice pursuant to section 625e, the secretary of state shall impose the following license sanctions:

- (a) If the person was operating a vehicle other than a commercial motor vehicle, suspend or deny the person's operator's or chauffeur's license or permit to drive, or nonresident operating privilege, for ~~6 months~~ **1 year** or, for a second or subsequent refusal within 7 years, for ~~1 year~~ **2 years**. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall not issue the person a license or permit for ~~6 months~~ **1 year** or, for a second or subsequent refusal within 7 years, for ~~1 year~~ **2 years**.
 - (b) If the person was operating a commercial motor vehicle, for the first refusal, suspend all vehicle group designations on the person's operator's or chauffeur's license or permit or nonresident privilege to operate a commercial motor vehicle or, if the person is a resident without a license or permit to operate a commercial motor vehicle in the state, not issue the person an operator's or chauffeur's license with vehicle group designations, for 1 year.
 - (c) If the person was operating a commercial motor vehicle, for a second or subsequent refusal that occurred in a separate incident from and within 10 years of a prior refusal, revoke all vehicle group designations on the person's operator's or chauffeur's license or permit or nonresident privilege to operate a commercial motor vehicle or, if the person is a resident without a license or permit to operate a commercial motor vehicle in the state, not issue the person an operator's or chauffeur's license with vehicle group designations, for not less than 10 years and until the person is approved for the issuance of a vehicle group designation.
 - (d) If the person was operating a commercial motor vehicle and was arrested for an offense enumerated in section 625c other than a violation of section 625a(5) or 625m, impose the license sanction described in subdivision (a) and the license sanction described in subdivision (b) or (c), as applicable.
- (2) If a hearing is requested, the secretary of state shall hold the hearing in the same manner and under the same conditions as provided in section 322. Not less than 5 days' notice of the hearing shall be mailed to the person requesting the hearing, to the peace officer who

filed the report under section 625d, and if the prosecuting attorney requests receipt of the notice, to the prosecuting attorney of the county where the arrest was made. The hearing officer may administer oaths, issue subpoenas for the attendance of necessary witnesses, and grant a reasonable request for an adjournment. Not more than 1 adjournment shall be granted to a party and the length of an adjournment shall not exceed 14 days. A hearing under this subsection shall be scheduled to be held within 45 days after the date of arrest for the violation. The hearing officer shall not impose any sanction for a failure to comply with these time limits.

- (3) Except for delay attributable to the unavailability of the defendant, a witness, or material evidence, or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, a hearing shall be finally adjudicated within 77 days after the date of arrest. The hearing officer shall not impose any sanction for a failure to comply with this time limit.
- (4) The hearing shall cover only the following issues:
 - (a) Whether the peace officer had reasonable grounds to believe that the person had committed a crime described in section 625c(1).
 - (b) Whether the person was placed under arrest for a crime described in section 625c(1).
 - (c) If the person refused to submit to the test upon the request of the officer, whether the refusal was reasonable.
 - d) Whether the person was advised of the rights under section 625a(6).
- (5) A person shall not order a hearing officer to make a particular finding on any issue enumerated in subsection (4)(a) to (d).
- (6) The hearing officer shall make a record of a hearing held pursuant to this section. The record shall be prepared and transcribed in accordance with section 86 of the administrative procedures act of 1969, ~~Act No. 306 of the Public Acts of 1969, being section 24.286 of the Michigan Compiled Laws~~ **1969 PA 306, MCL 24.286**. Upon notification of the filing of a petition for judicial review pursuant to section 323 and not less than 10 days before the matter is set for review, the hearing officer shall transmit to the court in which the petition was filed the original or a certified copy of the official record of the proceedings. Proceedings at which evidence was presented need not be transcribed and transmitted if the sole reason for review is to determine whether the court will order the issuance of a restricted license. The parties to the proceedings for judicial review may stipulate that the record be shortened. A party unreasonably refusing to stipulate to a shortened record may be taxed by the court in which the petition is filed for the additional costs. The court may permit subsequent corrections to the record.
- (7) If the person who requested a hearing does not prevail, the secretary of state shall impose the following license sanctions after the hearing:

- (a) If the person was operating a vehicle other than a commercial motor vehicle, suspend or deny issuance of a license or driving permit or a nonresident operating privilege of the person for ~~6 months~~ 1 year or, for a second or subsequent refusal within 7 years, for ~~1 year~~ 2 years. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall not issue the person a license or permit for ~~6 months~~ 1 year or, for a second or subsequent refusal within 7 years, for ~~1 year~~ 2 years. The person may file a petition in the circuit court of the county in which the arrest was made to review the suspension or denial as provided in section 323.
 - (b) If the person was operating a commercial motor vehicle, impose the sanction prescribed under subsection (1)(b) or (1)(c), as applicable. The person may file a petition in the circuit court of the county in which the arrest was made to review the suspension or denial as provided in section 323.
 - (c) If the person was operating a commercial motor vehicle and was arrested for an offense enumerated in section 625c other than a violation of section 625a(5) or 625m, impose the license sanctions described in subdivisions (a) and (b).
- (8) If the person who requested the hearing prevails, the peace officer who filed the report under section 625d may, with the consent of the prosecuting attorney, file a petition in the circuit court of the county in which the arrest was made to review the determination of the hearing officer as provided in section 323.
- (9) When it has been finally determined that a nonresident's privilege to operate a vehicle in the state has been suspended or denied, the department shall give notice in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of each state in which he or she has a license to operate a motor vehicle.

Sec. 625g. (1) If a person refuses a chemical test offered pursuant to section 625a(6), or submits to the chemical test or a chemical test is performed pursuant to a court order and the test reveals an unlawful alcohol content, the peace officer who requested the person to submit to the test shall do all of the following:

- (a) On behalf of the secretary of state, immediately confiscate the person's license or permit to operate a motor vehicle and, if the person is otherwise eligible for a license or permit, issue a temporary license or permit to the person. The temporary license or permit shall be on a form provided by the secretary of state.
- (b) Except as provided in subsection (2), immediately do all of the following:
 - (i) Forward a copy of the written report of the person's refusal to submit to a chemical test required under section 625d to the secretary of state.
 - (ii) Notify the secretary of state by means of the law enforcement information network that a temporary license or permit was issued to the person.
 - (iii) Destroy the person's driver's license or permit.

- (2) If a person submits to a chemical test offered pursuant to section 625a(6) that requires an analysis of blood or urine and a report of the results of that chemical test is not immediately available, the peace officer who requested the person to submit to the test shall comply with subsection (1)(a) pending receipt of the test report. If the report reveals an unlawful alcohol content, the peace officer who requested the person to submit to the test shall immediately comply with subsection (1)(b). If the report does not reveal an unlawful alcohol content, the peace officer who requested the person to submit to the test shall immediately notify the person of the test results and immediately return the person's license or permit by first-class mail to the address given at the time of arrest.
- (3) A temporary license or permit issued under this section is valid for 1 of the following time periods:
 - (a) If the case is not prosecuted, for 90 days after issuance or until the person's license or permit is suspended pursuant to section 625f, whichever occurs earlier. The prosecuting attorney shall notify the secretary of state if a case referred to the prosecuting attorney is not prosecuted. The arresting law enforcement agency shall notify the secretary of state if a case is not referred to the prosecuting attorney for prosecution.
 - (b) If the case is prosecuted, until the criminal charges against the person are dismissed, the person is acquitted of those charges, or the person's license or permit is suspended, restricted, or revoked.
- (4) As used in this section, "unlawful alcohol content" means any of the following, as applicable:
 - (a) If the person tested is less than 21 years of age, 0.02 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
 - (b) If the person tested was operating a commercial motor vehicle within this state, 0.04 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
 - (c) If the person tested is not a person described in subdivision (a) or (b), ~~0.10~~ **0.08** grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine **or, beginning October 1, 2013, 0.10 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.**

Sec. 625i. (1) The department of state police shall prepare an annual report ~~which~~ **that** shall be designated the Michigan annual drunk driving audit. The secretary of state, circuit court, district court, family division of circuit court, municipal courts, and local units of government in this state shall cooperate with the department of state police to provide information necessary for the preparation of the report. A copy of the report prepared under this subsection shall be submitted to the governor, the secretary of the senate, the clerk of the house of representatives, and the secretary of state on July 1 of each year. The report shall

contain for each county in the state all of the following information applicable to the immediately preceding calendar year:

- (a) The number of alcohol related motor vehicle crashes resulting in bodily injury, including a breakdown of the number of those injuries occurring per capita of population and per road mile in the county.
 - (b) The number of alcohol related motor vehicle crashes resulting in death, including the breakdown described in subdivision (a).
 - (c) The number of alcohol related motor vehicle crashes, other than those enumerated in subdivisions (a) and (b), including the breakdown described in subdivision (a).
 - (d) The number of arrests made for violations of section ~~625(1)(a) or (b)~~ **625(1)** or local ordinances substantially corresponding to section ~~625(1)(a) or (b)~~ **625(1)**.
 - (e) The number of arrests made for violations of section 625(3) or local ordinances substantially corresponding to section 625(3).
 - (f) The number of arrests made for violations of section 625(6) or local ordinances substantially corresponding to section 625(6).
 - (g) The number of arrests made for violations of section 625(4) or (5).
 - (h) The number of arrests made for violations of section 625(7).
 - (i) The number of arrests made for violations of section 625(8).**
 - (j) †** The number of operator's or chauffeur's licenses suspended pursuant to section 625f.
 - (k) †** The number of arrests made for violations of section 625m or local ordinances substantially corresponding to section 625m.
- (2) The secretary of state shall compile a report of dispositions of charges for violations of section 625(1), (3), (4), (5), (6), ~~or (7)~~, **or (8)** or section 625m or section 33b(1) or (2) of former 1933 (Ex Sess) PA 8, section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or local ordinances substantially corresponding to section 625(1), (3), ~~or (6)~~, **or (8)** or section 625m or section 33b(1) or (2) of former 1933 (Ex Sess) PA 8, or section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, by each judge for inclusion in the annual report. The report compiled by the secretary of state shall include information regarding all of the following:
- (a) The number of dismissals granted.
 - (b) The number of convictions entered.
 - (c) The number of acquittals entered.
 - (d) The average length of imprisonment imposed.
 - (e) The average length of community service imposed in lieu of imprisonment.
 - (f) The average fine imposed.
 - (g) The number of vehicles ordered immobilized under section 904d.

- (h) The number of vehicles ordered forfeited under section 625n.
- (3) The secretary of state shall include in the compilation under subsection (2) the number of licenses suspended, revoked, or restricted for those violations.
- (4) The department of state police shall enter into a contract with the university of Michigan transportation research institute, ~~in~~under which the university of Michigan transportation research institute shall evaluate the effect and impact of the 1998 legislation addressing drunk and impaired driving in this state and report its findings to the governor and the legislature not later than October 1, 2002.

Sec. 625k. (1) The department shall approve an ignition interlock device certified by a department-approved laboratory as complying with the national highway traffic safety administration's model specifications for breath alcohol ignition interlock devices (BAIID), 57 F.R. p. 11772, April 7, 1992. Subject to subsection (5), the department shall publish a list of all manufacturers of approved certified devices.

- (2) The secretary of state shall promulgate rules to implement this section in compliance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.
- (3) The manufacturer of an ignition interlock device shall bear the cost of that device's certification.
- (4) A laboratory that certifies an ignition interlock device as provided in this section shall immediately notify the department of that certification.
- (5) The department shall not include the manufacturer of a certified ignition interlock device on the list of manufacturers published under subsection (1) unless the manufacturer complies with all of the following:
 - (a) The manufacturer has filed copies of all of the following with the department:
 - (i) A bond executed as provided in section 625o or a letter of credit.
 - (ii) Evidence of insurance as described in section 625l.
 - (iii) An affidavit that the ignition interlock device is all of the following:
 - (A) An alcohol concentration measuring device that prevents a motor vehicle from being started at any time without first determining through a deep lung sample the operator's breath alcohol level.
 - B) Calibrated to render the motor vehicle incapable of being started if the device detects an alcohol content of 0.025 grams or more per 210 liters of breath of the person who offers a breath sample.
 - (C) Set to periodically take samples while the vehicle is in operation and to do 1 or both of the following:
 - (I) Emit a warning signal when the device detects an alcohol content of 0.025 grams or more per 210 liters of breath in the person who offers a breath sample.

- (II) If it detects an alcohol content of 0.04 grams or more per 210 liters of breath of the person who offers the breath sample, render the vehicle inoperable as soon as the vehicle is no longer being operated.
- (b) The manufacturer of ignition interlock devices provides a list of installers who are authorized to install and service its ignition interlock devices to the secretary of state.
- (c) Agrees to have service locations within 50 miles of any location within this state.
- (d) Agrees to provide an ignition interlock device without cost to a person whose gross income for the immediately preceding tax year based on his or her state income tax return was less than 150% of the official poverty line for that same tax year established in the poverty guidelines issued by the secretary of health and human services under authority of section 673(2) of the community services block grant act, subtitle B of title VI of the omnibus budget reconciliation act of 1981, Public Law 97-35, 42 U.S.C. 9902. A person in whose vehicle an ignition interlock device is installed without cost under this subdivision shall pay a maintenance fee to the installer of not more than \$1.00 per day.
- (e) Agrees to periodically monitor installed ignition interlock devices and if monitoring indicates that the device has been circumvented, to communicate that fact to the secretary of state **or to the court, as appropriate**.
- (6) A manufacturer that has made a filing under subsection (5) shall immediately notify the department if the device no longer meets the requirements of subsection (5).
- (7) A person who knowingly provides false information to the department under subsection (4) or (5) is guilty of a felony punishable by imprisonment for not less than 5 years or more than 10 years or a fine of not less than \$5,000.00 or more than \$10,000.00, or both, together with costs of the prosecution.
- (8) A person who negligently provides false information to the department under subsection (4) or (5) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both, together with costs of the prosecution.
- (9) A person who knowingly fails to comply with subsection (6) is guilty of a felony punishable by imprisonment for not less than 5 years or more than 10 years or a fine of not less than \$5,000.00 or more than \$10,000.00, or both, together with costs of the prosecution.
- (10) A person who negligently fails to comply with subsection (6) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both, together with costs of the prosecution.

Sec. 625I. (1) The manufacturer of an ignition interlock device shall design a warning label, and the person who has an ignition interlock device shall promptly affix that label to each ignition interlock device upon installation. The label shall contain a warning that any person

- tampering, circumventing, or otherwise misusing the device is guilty of a misdemeanor punishable as provided by law.
- (2) A person who has an ignition interlock device installed and whose driving privilege is restricted shall not request or solicit any other person to blow into an ignition interlock device or to start a vehicle equipped with the device for the purpose of providing the person whose driving privilege is restricted with an operable vehicle.
 - (3) A person shall not blow into an ignition interlock device or start a motor vehicle equipped with the device for the purpose of providing an operable vehicle to a person who has an interlock device installed and whose driving privilege is restricted.
 - (4) A person shall not tamper with or circumvent the operation of an ignition interlock device.
 - (5) A person who violates subsection (2), (3), or (4) is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$5,000.00, or both.
 - (6) As used in this act, "ignition interlock device" or "device" means an alcohol concentration measuring device that prevents a motor vehicle from being started at any time without first determining through a deep lung sample the operator's breath alcohol level. The system shall be calibrated so that the motor vehicle may not be started if the breath alcohol level of the operator, as measured by the test, reaches a level of 0.025 grams per 210 liters of breath.
 - (7) The state, or the department, its officers, employees, or agents, **or a court, its officers, employees, or agents** are not liable in any claim or action that may arise, directly or indirectly, out of any act or omission by a manufacturer, installer, or servicing agent of an ignition interlock device that results in damage to persons or property.
 - (8) A person shall not sell, lease, install, or monitor in a vehicle in this state an ignition interlock device unless the ignition interlock device manufacturer and provider carries liability insurance covering product liability, including, but not limited to, insurance to indemnify the department and any person injured as a result of a design defect or the calibration or removal of the ignition interlock device or a misrepresentation about the ignition interlock device. The insurance required by this subsection shall be in an amount of not less than \$1,000,000.00 per incident.
 - (9) The provider of insurance described in this section may cancel the insurance upon 30 days' written notice to the department and is not liable for a claim arising from an event that occurs after the effective date of a cancellation made in compliance with this section.
 - (10) An ignition interlock device shall be serviced according to manufacturer's standards. Service shall include, but not be limited to, physical inspection of the device and vehicle for tampering, calibration of the device, and monitoring of the data contained within the device's memory. Only authorized employees of the manufacturer or the department, **or other persons approved by the court**, may observe the installation of a device. Reasonable security measures must be taken to prevent the customer from observing the installation of a device or obtaining access to installation materials.

- Sec. 625m. (1) A person, whether licensed or not, who has an alcohol content of 0.04 grams or more but ~~not more~~ **less** than 0.07 **0.08** grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, **or, beginning October 1, 2013, an alcohol content of 0.04 grams or more but less than 0.10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine,** shall not operate a commercial motor vehicle within this state.
- (2) A peace officer may arrest a person without a warrant under either of the following circumstances:
- (a) The peace officer has reasonable cause to believe that the person was, at the time of an accident, the driver of a commercial motor vehicle involved in the accident and was operating the vehicle in violation of this section or a local ordinance substantially corresponding to this section.
- (b) The person is found in the driver's seat of a commercial motor vehicle parked or stopped on a highway or street within this state if any part of the vehicle intrudes into the roadway and the peace officer has reasonable cause to believe the person was operating the vehicle in violation of this section or a local ordinance substantially corresponding to this section.
- (3) Except as otherwise provided in subsections (4) and (5), a person who is convicted of a violation of this section or a local ordinance substantially corresponding to this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$300.00, or both, together with costs of the prosecution.
- (4) A person who violates this section or a local ordinance substantially corresponding to this section within 7 years of 1 prior conviction may be sentenced to imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.
- (5) A person who violates this section or a local ordinance substantially corresponding to this section within 10 years of 2 or more prior convictions is guilty of a felony and shall be sentenced to pay a fine of not less than \$500.00 or more than \$5,000.00 and to either of the following:
- (a) Imprisonment under the jurisdiction of the department of corrections for not less than 1 year or more than 5 years.
- (b) Probation with imprisonment in the county jail for not less than 30 days or more than 1 year and community service for not less than 60 days or more than 180 days. Not less than 48 hours of the imprisonment imposed under this subdivision shall be served consecutively.
- (6) A term of imprisonment imposed under subsection (4) or (5) shall not be suspended.
- (7) Subject to subsection (9), as used in this section, "prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

- (a) Except as provided in subsection (8), a violation or attempted violation of ~~this section, section 625(1), (3), (4), (5), (6), or (7), former section 625(1) or (2), or former section 625b.~~ **any of the following:**
 - (i) **This section.**
 - (ii) **Section 625, except a violation of section 625(2), or a violation of any prior enactment of section 625 in which the defendant operated a vehicle while under the influence of intoxicating or alcoholic liquor or a controlled substance, or a combination of intoxicating or alcoholic liquor and a controlled substance, or while visibly impaired, or with an unlawful bodily alcohol content.**
 - (iii) **Former section 625b.**
- (b) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.
- ~~(c) A violation of section 653a(4).~~
- (8) Only 1 violation or attempted violation of section 625(6), a local ordinance substantially corresponding to section 625(6), or a law of another state substantially corresponding to section 625(6) may be used as a prior conviction.
- (9) If 2 or more convictions described in subsection (7) are convictions for violations arising out of the same transaction, only 1 conviction shall be used to determine whether the person has a prior conviction.

Sec. 904d. (1) Vehicle immobilization applies as follows:

- (a) For a conviction under section 625(1), (3), ~~or (7),~~ **or (8)** or a local ordinance substantially corresponding to section 625(1) or (3) with no prior convictions, the court may order vehicle immobilization for not more than 180 days.
- (b) For a conviction under section 625(4) or (5) with no prior convictions, the court shall order vehicle immobilization for not more than 180 days.
- (c) For a conviction under section 625(1), (3), (4), (5), ~~or (7),~~ **or (8)** within 7 years after a prior conviction, the court shall order vehicle immobilization for not less than 90 days or more than 180 days.
- (d) For a conviction under section 625(1), (3), (4), (5), ~~or (7),~~ **or (8)** within 10 years after 2 or more prior convictions, the court shall order vehicle immobilization for not less than 1 year or more than 3 years.
- (2) For a conviction or civil infraction determination resulting from a violation that occurred during a period of suspension, revocation, or denial, the following apply:
 - (a) Except as provided in subdivision (b), for 1 prior suspension, revocation, or denial under section 904(10), (11), or (12) or former section 904(2) or (4) within the past 7 years, the court may order vehicle immobilization for not more than 180 days.

- (b) Except as provided in subdivisions (c) and (d), if the person is convicted under section 904(4) or (5), the court shall order vehicle immobilization for not more than 180 days.
 - (c) For any combination of 2 or 3 prior suspensions, revocations, or denials under section 904(10), (11), or (12) or former section 904(2) or (4) within the past 7 years, the court shall order vehicle immobilization for not less than 90 days or more than 180 days.
 - (d) For any combination of 4 or more prior suspensions, revocations, or denials under section 904(10), (11), or (12) or former section 904(2) or (4) within the past 7 years, the court shall order vehicle immobilization for not less than 1 year or more than 3 years.
- (3) The defendant shall provide to the court the vehicle identification number and registration plate number of the vehicle involved in the violation.
- (4) The court may order vehicle immobilization under this section under either of the following circumstances:
- (a) The defendant is the owner, co-owner, lessee, or co-lessee of the vehicle operated during the violation.
 - (b) The owner, co-owner, lessee, or co-lessee knowingly permitted the vehicle to be operated in violation of section 625(2) or section 904(2) regardless of whether a conviction resulted.
- (5) An order required to be issued under this section shall not be suspended.
- (6) If a defendant is ordered imprisoned for the violation for which immobilization is ordered, the period of immobilization shall begin at the end of the period of imprisonment.
- (7) This section does not apply to any of the following:
- (a) A suspension, revocation, or denial based on a violation of the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.
 - (b) A vehicle that is registered in another state or that is rental vehicle.
 - (c) A vehicle owned by the federal government, this state, or a local unit of government of this state.
 - (d) A vehicle not subject to registration under section 216.
 - (e) Any of the following:
 - (i) A violation of chapter II.
 - (ii) A violation of chapter V.
 - (iii) A violation for failure to change address.
 - (iv) A parking violation.
 - (v) A bad check violation.

- (vi) An equipment violation.
 - (vii) A pedestrian, passenger, or bicycle violation, other than a violation of section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or section 624a or 624b or a local ordinance substantially corresponding to section 624a or 624b.
 - (viii) A violation of a local ordinance substantially corresponding to a violation described in subparagraphs (i) to (vii).
- (8) As used in this section:
- (a) Subject to ~~subsection~~ **subsections (9) and (10)**, "prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:
 - (i) Except as otherwise provided in ~~this subparagraph~~ **subsection (10)**, a violation or attempted violation of ~~section 625(1), (3), (4), (5), (6), or (7); section 625m, former section 625(1) or (2), or former section 625b.~~ However, only 1 violation or attempted violation of section 625(6), a local ordinance substantially corresponding to section 625(6), or a law of another state substantially corresponding to section 625(6) may be used as a prior conviction: **any of the following:**
 - (A) Section 625, except a violation of section 625(2), or a violation of any prior enactment of section 625 in which the defendant operated a vehicle while under the influence of intoxicating or alcoholic liquor or a controlled substance, or a combination of intoxicating or alcoholic liquor and a controlled substance, or while visibly impaired, or with an unlawful bodily alcohol content.**
 - (B) Section 625m.**
 - (C) Former section 625b.**
 - (ii) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.
 - (b) "Vehicle immobilization" means requiring the motor vehicle involved in the violation immobilized in a manner provided in section 904e.
- (9) If 2 or more convictions described in subsection (8)(a) are convictions for violations arising out of the same incident, only 1 conviction shall be used to determine whether the person has a prior conviction.

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

Enacting section 1. This amendatory act takes effect September 30, 2003.