

DEXTER TOWNSHIP ORDINANCE NUMBER 15-A-1

AMENDMENT TO UNIFORM TRAFFIC CODE ORDINANCE

ADOPTED: JULY 1, 1986

EFFECTIVE: AUGUST 8, 1986

AN ORDINANCE TO AMEND THE UNIFORM TRAFFIC CODE PROMULGATED AND ADOPTED PURSUANT TO ACT 62 OF THE PUBLIC ACTS OF 1956, AS AMENDED (MCLA 257.951 ET SEQ.; MSA 9.2651 ET SEQ.) AMENDING AND/OR ADDING VARIOUS DEFINITIONS; PROCEDURE UPON ARREST FOR CERTAIN OFFENSES; AMENDING PROVISIONS REGULATING DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR A CONTROLLED SUBSTANCE; AMENDING A PROVISION AND PROVIDING FOR ARREST FOR DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR A CONTROLLED SUBSTANCE, CHEMICAL BREATH ANALYSIS, ADMISSIBILITY, TESTS, TAKING OF SAMPLES AND PRESUMPTIONS; AMENDING A PROVISION AND PROVIDING FOR ARRAIGNMENT, PRETRIAL AND ADJUDICATION TIME LIMITS, SENTENCING, PLEA RIGHTS AND LICENSE SANCTIONS; AMENDING A PROVISION AND PROVIDING FOR CHEMICAL TESTS, REFUSAL AND REPORTS TO THE SECRETARY OF STATE; AMENDING A PROVISION AND PROVIDING FOR THE NOTIFICATION OF AVAILABILITY OF HEARING REGARDING CHEMICAL TEST REFUSAL AND SUSPENSIONS; AMENDING A PROVISION AND PROVIDING FOR HEARING TIME LIMITS, FINDINGS AND LICENSE SUSPENSIONS; AMENDING A PROVISION AND PROVIDING FOR REPORT TO SECRETARY OF STATE, CONFISCATION OF LICENSE AND TEMPORARY LICENSE FOR REFUSAL OF CHEMICAL TEST; PROVIDING FOR PROHIBITION OF OPERATION OF COMMERCIAL MOTOR VEHICLE WITH CERTAIN PERCENTAGE OF ALCOHOL IN BLOOD; PROVIDING FOR DRUNK DRIVING PREVENTION EQUIPMENT AND TRAINING FUND; PROVIDING FOR ANNUAL STATE POLICE DRUNK DRIVING AUDIT; AMENDING THE PROVISIONS FOR POSSESSION OR TRANSPORTATION OF OPEN CONTAINERS OF ALCOHOLIC LIQUOR IN A MOTOR VEHICLE; PROVIDING FOR DRIVING ON A SUSPENDED OR REVOKED LICENSE; PROVIDING FOR IMPOUNDMENT OF VEHICLE FOR DRIVING ON A SUSPENDED OR REVOKED LICENSE; PROVIDING FOR TREATMENT OF NOLO CONTENDERE PLEAS PROVIDING FOR THE REPEAL OF INCONSISTENT ORDINANCES; PROVIDING FOR PENALTIES FOR VIOLATIONS OF THE ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR PUBLICATION OF THIS ORDINANCE AND THE EFFECTIVE DATE THEREOF.

THE TOWNSHIP OF DEXTER ORDAINS:

SECTION 1

1. AMENDMENTS AND ADDITIONS TO THE CODE. Sections 1.007(1), 1.007b, 1.010d, 1.014a, 1.025b, 1.028a, 2.17c, 5.15, 5.15a, 5.15aa, 5.15b, 5.15bb, 5.15c, 5.15cc, 5.15d, 5.15e, 5.15f, 5.15ff, 5.15g, 5.15h, 5.15i, 5.15j, 5.62a, 5.62aa, 5.62b, 9.6

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of the Dexter Township Traffic Ordinance are hereby added and/or amended to read as follows:

SECTION 1.007(1) IS ADDED TO READ AS FOLLOWS:

SECTION 1.007(1)

1. COMMERCIAL MOTOR VEHICLE. “Commercial motor vehicle” means a bus, a school bus, a school transportation vehicles, a motor vehicle, except a motor home, having a gross vehicle weight rating or gross combination weight rating of 26,001 or more pounds; a motor vehicle towing a vehicle with a gross vehicle weight rating of more than 10,000 pounds; or a motor vehicle carrying hazardous material and on which is required to be posted a placard as defined and required under 49 C.F.R. parts 100 to 199. A commercial motor vehicle does not include a vehicle used exclusively to transport personal possessions or family members for nonbusiness purposes.

SECTION 1.007B IS ADDED TO READ AS FOLLOWS:

SECTION 1.007B

1. CONVICTION. “Conviction” means a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt or probate court order of disposition for a child found to be within the provisions of chapter XIII A of Act No. 288 of the Public Acts of Laws, on a traffic law violation charge, regardless of whether the penalty is rebated or suspended.

SECTION 1.010D IS ADDED TO READ AS FOLLOWS:

SECTION 1.010D

1. FOREIGN VEHICLE. “Foreign vehicle” means a vehicle of a type required to be registered under this act and brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.
2. FORMER SECTION 625(1) OR (2). “Former section 625(1) or (2)” means section 625(1) or (2) as amended by Act No. 391 of the Public Acts of 1978, Act No. 515 of the Public Acts of 1980, Act No. 309 of the Public Acts of 1982, or Act No. 109 of the Public Acts of 1987.
3. FORMER SECTION 625B. “Former section 625b” means section 625b as amended by Act No. 285 of the Public Acts of 1976, Act No. 515 of the Public Acts of 1980, Act No. 309 of the Public Acts of 1982, or Act No. 109 of the Public Acts of 1987.

SECTION 1.014A IS ADDED TO READ AS FOLLOWS:

SECTION 1.014A

1. LAW OF ANOTHER STATE. “Law of another state” means a law or ordinance enacted by another state or by a local unit of government in another state.

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SECTION 1.025B IS ADDED TO READ AS FOLLOWS:

SECTION 1.025B

1. PROSECUTING ATTORNEY. “Prosecuting attorney”, except as the context otherwise requires, means the attorney general, the prosecuting attorney of a county, or the attorney representing a local unit of government.

SECTION 1.028A IS ADDED TO READ AS FOLLOWS:

SECTION 1.028A

1. REVOCAION, OPERATOR’S OR CHAUFFEUR’S LICENSES. “Revocation” means that the operator’s or chauffeur’s license and privilege to operate a motor vehicle on the public highways are terminated and shall not be renewed or restored until the later of the following:
 - A. The expiration of not less than 1 year after the license was revoked.
 - B. The expiration of not less than 5 years after the date of subsequent revocation occurring within 7 years after the date of a prior revocation.
2. APPLICATION FOR A NEW LICENSE. If a license has been revoked, an application for a new license may be presented and acted upon by the secretary of state as provided in section 303.
3. DEALER’S LICENSES. When referring to a dealer license, “revocation” means that a person’s authorization to engage in business as a dealer is terminated and shall not be restored or renewed except that an application for a new license may be considered at the discretion of the secretary of state.

SECTION 2.17C IS DELETED AND REPLACED WITH THE FOLLOWING:

SECTION 2.17C

1. PROCEDURE UPON ARREST FOR CERTAIN OFFENSES. If a person is arrested without a warrant in any of the following cases, the arrested person shall, without unreasonable delay, be taken before the magistrate who is nearest or most accessible within the judicial district as provided in section 13 of chapter IV of the code of criminal procedure Act No. 175 of the Public Acts of 1927, being section 764.13 of the Michigan Compiled Laws, or, if a minor, before the probate court within the county in which the offense charged is alleged to have been committed:
 - A. If the person is arrested upon a charge of negligent homicide.
 - B. If the person is arrested under section 625(1), (3), (4), or (5), or an ordinance substantially corresponding to section 625(1) or (3).
 - C. If a person is arrested under section 626 or an ordinance substantially corresponding to that section. If under the existing circumstances it does not appear that releasing the person pending the issuance of a warrant will constitute a public menace, the arresting officer may proceed as provided by section 728.
 - D. If a person arrested does not have in his or her immediate possession a valid operator’s or chauffeur’s license or the receipt described in section 311a. If the arresting officer otherwise satisfactorily determines the identity of the person and

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the practicability of subsequent apprehension in the event of the person's failure to voluntarily appear before a designated magistrate or probate court as directed, the officer may release the person from custody with instructions to appear in court, given in the form of a citation as prescribed by section 728.

SECTION 5.15 IS DELETED AND REPLACED WITH THE FOLLOWING:

SECTION 5.15

1. DRIVING WHILE UNDER INFLUENCE OF INTOXICATING LIQUOR OR CONTROLLED SUBSTANCE OR WITH CERTAIN PERCENTAGE OF BLOOD ALCOHOL; ACCIDENT, ARREST WITHOUT WARRANT. 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 either of the following applies:
 - A. The person is under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance.
 - B. The person has a blood alcohol content of 0.10% or more by weight of alcohol.
2. PROHIBITION AGAINST PERMITTING INTOXICATED PERSON TO OPERATE MOTOR VEHICLE. 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, within this state by a person who is under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or who has a blood alcohol content of 0.10% or more by weight of alcohol.
3. OPERATION WHILE VISIBLY IMPAIRED; FINDING OF GUILTY. 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 an intoxicating liquor, a controlled substance, or a combination of an intoxicating 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. OPERATIONS RESULTING IN DEATH OF ANOTHER AS FELONY; PENALTY. A person, whether licensed or not, who operates a motor 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, under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or with a blood alcohol content of 0.10% or more by weight of alcohol, and by the operation of that motor vehicle causes the death of another 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.
5. OPERATION RESULTING IN LONG-TERM INCAPACITATING INJURY TO ANOTHER AS FELONY; PENALTY. A person, whether licensed or not, who

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operates a motor 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, under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or with a blood alcohol content of 0.10% or more by weight of alcohol, and by the operation of that motor vehicle causes a long-term incapacitating injury to 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. As used in this subsection, "long-term incapacitating injury" means an injury that has caused a person to be in a comatose state, a quadriplegic state, a hemiplegic state, or a paraplegic state, which state is likely to continue for 1 year or more.

6. MISDEMEANOR VIOLATION, PUNISHMENT; ENHANCEMENT TO FELONY IN EVENT OF PRIOR CONVICTIONS; COMMUNITY SERVICE AS A PART OF SENTENCE, COSTS TO DEFENDANT. If a person is convicted of violating subsection (1), the following shall apply:
- A. Except as otherwise provided in subdivisions (B) and (D), the person is guilty of a misdemeanor, and may be punished by 1 or more of the following:
 - 1) Service to the community for a period of not more than 45 days.
 - 2) Imprisonment for not more than 90 days.
 - 3) 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 both a fine of not less than \$200.00 or more than \$1,000.00 and either of the following:
 - 1) Performing service to the community for a period of not less than 10 days or more than 90 days and may be imprisoned for not more than 1 year.
 - 2) Imprisonment for not less than 48 consecutive hours or more than 1 year, and may be sentenced to service the community for a period of not more than 90 days.
 - C. A term of imprisonment imposed under subdivision (b)(2) shall not be suspended.
 - D. 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 imprisonment for not less than 1 year or more than 5 years, or a fine of not less than \$500.00 or more than \$5,000.00, or both.
 - E. A person sentenced to perform service to the community under this subsection 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.
 - F. As used in this subsection, "prior conviction" means a conviction for a violation of section 625(1), (4), or (5), or a former section 625(1) or (2), a local ordinance substantially corresponding to section 625(1), or former section 625(1) or (2), or a

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

7. **OFFENDER TO PAY COSTS OF PROSECTUION.** In addition to imposing the sanctions prescribed under subsection (4), (5), and (6), the court may pursuant to the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being sections 760.1 to 776.21 of the Michigan Compiled Laws, order the person to pay the costs of prosecution.
8. **IMPOSITION OF LICENSE SANCTIONS.** The court shall impose license sanctions pursuant to section 625b.
9. **VIOLATION OF PROVISION PROHIBITING USE OF VEHICLE BY INTOXICATED PERSON AS MISDEMEANOR; PENALTY.** A person who is convicted of violating subsection (2) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not less than \$100.00 or more than \$500.00, or both.
10. **PENALTY FOR OPERATION OF VEHICLE WHILE VISIBLY IMPAIRED.** If a person is convicted of violating subsection (3), the following shall 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:
 - 1) Service to the community for a period of not more than 45 days.
 - 2) Imprisonment for not more than 90 days.
 - 3) 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 both a fine of not less than \$200.00 or more than \$1,000.00, and either of the following:
 - 1) Performing service to the community for a period of not less than 10 days or more than 90 days and may be sentenced to imprisonment for not more than 1 year.
 - 2) Imprisonment for not more than 1 year and may be sentenced to community service for not more than 90 days.
 - C. If the violation occurs within 10 years of 2 or more prior convictions, the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00, and either of the following:
 - 1) Performing service to the community for a period of not less than 10 days or more than 90 days and may be sentenced to imprisonment for not more than 1 year.
 - 2) Imprisonment for not more than 1 year and may be sentenced to community service for not more than 90 days.
 - D. As used in subdivisions (B) and (C), “prior conviction” means a conviction for a violation of section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b or a local ordinance substantially corresponding to section

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

- E. In addition to imposing the sanctions prescribed in subdivision (A), (B), or (C), the court may, pursuant to the code of criminal procedure, Act No. 175 of the Public Acts of 1927, order the person to pay the costs of the prosecution.
- F. The court shall order the secretary of state to impose license sanctions pursuant to section 625b.
- G. A person sentenced to perform service to the community under this subsection 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.

11. **STATEMENT LISTING PRIOR CONVICTIONS, REQUIREMENT FOR ENHANCED SENTENCE.** If the prosecuting attorney intends to seek an enhanced sentence under subsection (6)(B) or (D) or (10)(B) or (C) based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information filed in district court, circuit court, recorder's court, municipal court, or probate court a statement listing the defendant's prior convictions.

12. **ESTABLISHMENT OF PRIOR CONVICTIONS.** 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.

13. **ATTEMPT CONVICTION, PUNISHMENT.** A person who is convicted of an attempted violation of subsection (1) or (3), or a local ordinance substantially corresponding to subsection (1) or (3) shall be punished as if the offense had been completed.

14. **ATTEMPT CONVICTION, ASSESSING POINTS FOR LICENSING ACTION.** When assessing points and taking licensing action under this act, the secretary of state and the court shall treat a conviction of an attempted violation of subsection (1) or (3) or a local ordinance substantially corresponding to subsection (1) or (3), or a law of another state substantially corresponding to subsection (1) or (3) the same as if the offense had been completed.

SECTION 5.15A IS DELETED AND REPLACED WITH THE FOLLOWING:

SECTION 5.15A

1. **ARREST WITHOUT WARRANT FOR VIOLATION.** A peace officer, without a warrant, may arrest a person when the peace officer has reasonable cause to believe that the person was, at the time of an accident, the operator of a vehicle involved in the accident in this state while in violation of section 625(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 625(1) or (3).

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2. SUBMISSION TO PRELIMINARY CHEMICAL BREATH ANALYSIS; ARREST BASED ON RESULTS; ADMISSIBILITY; REFUSAL TO SUBMIT AS CIVIL INFRACTION. 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 general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, in this state, and that the person by the consumption of intoxicating liquor may have affected his or her ability to operate a vehicle, may require the person to submit to a preliminary chemical breath analysis. The following provisions shall apply with respect to a preliminary chemical breath analysis.
- 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 solely to assist the court or hearing officer in determining a challenge to the validity of an arrest. This subdivision does not limit the introduction of other competent evidence offered to establish the validity of an arrest.
 - C. A person who submits to a preliminary chemical breath analysis shall remain subject to the requirements of section 625c, 625d, 625e, and 625f for the purposes of chemical tests described in those sections.
 - D. 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. TESTS FOR PRESENCE OF ALCOHOL OR CONTROLLED SUBSTANCES IN BLOOD; ADMISSIBILITY INTO EVIDENCE; ADVISEMENT OF RIGHTS OF PERSON CHARGED; REFUSAL TO TAKE TEST, EFFECT; COLLECTION OF SAMPLE OF URINE OR BREATH; ADMINISTRATION OF TEST BY PERSON OF ACCUSED'S OWN CHOOSING; ADMISSIBILITY OF ANALYSIS OF BLOOD WITHDRAWN FOR POST-PROSECUTING ATTORNEY; WITHDRAWAL OF BLOOD FROM DECEASED DRIVER, DISCLOSURE OF ANALYSIS TO LAW ENFORCEMENT AGENCIES. 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 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.
 - B. A person arrested for a crime described in section 625c(1) shall be advised of all of the following:
 - 1) That 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; that the results of the test are admissible in a judicial proceeding as provided under this act and shall be considered with other competent evidence in determining the innocence or guilt of the defendant; and that he or she is

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- responsible for obtaining a chemical analysis of a test sample obtained pursuant to his or her own request.
- 2) That if he or she refuses the request of a peace officer to take a test described in subparagraph (1), a test shall not be given without a court order, but the peace officer may seek to obtain such a court order.
 - 3) That his or her refusal of the request of a peace officer to take a test described in subparagraph (1) shall result in the suspension of his or her operator's or chauffeur's license 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 a licensed nurse or medical technician under the direction of a licensed physician and qualified to withdraw blood acting in a medical environment, at the request of a peace officer, may withdraw blood for the purpose of determining 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 shall not attach to a qualified person 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 the request of a peace officer, 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, and the results of the test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant. If the person charged is administered a chemical test by a person of his or her own choosing, the person charged shall be responsible for obtaining a chemical analysis of the test samples.
- 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 the purpose of medical treatment, the results of a chemical analysis of that sample shall be 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 shall not be 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

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medical examiner for the purpose of determining 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 for the administration of chemical tests for the purposes of this section.

4. ADMISSIBILITY OF OTHER COMPETENT EVIDENCE OF IMPAIRMENT OR INTOXICATION. The provisions of subsection (3) relating to chemical testing do not limit the introduction of any other competent evidence bearing upon the question of whether or not 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 a blood alcohol content of 0.10% or more by weight of alcohol.
5. REPORT OF TEST RESULTS TO ACCUSED; FAILURE OF COMPLIANCE WITH REQUEST AS BAR TO ADMISSION INTO EVIDENCE. If a chemical test described in subsection (3) is administered, the results of the test 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 results of the test shall be offered as evidence by the prosecution in that trial. Failure to fully comply with the request shall bar the admission of the results into evidence by the prosecution.
6. PRESUMPTIONS. Except in a prosecution relating solely to a violation of section 625(1)(b), the amount of alcohol in the driver's blood at the time alleged as shown by chemical analysis of the person's blood, urine, or breath shall give rise to the following presumptions:
 - A. If there was at the time 0.07% or less by weight of alcohol in the defendant's blood, it shall be 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 was at the time in excess of 0.07% but less than 0.10% by weight of alcohol in the defendant's blood, it shall be 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 was at the time 0.10% or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor.
7. ADMISSIBILITY OF DEFENDANT'S REFUSAL TO SUBMIT TO CHEMICAL TEST; JURY INSTRUCTION. A person's refusal to submit to a chemical test as provided in subsection (3) shall be admissible in a criminal prosecution for a crime described in section 625c(1) only for the purpose of showing that a test was offered to

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the defendant, but not as evidence in determining innocence or guilt of the defendant. The jury shall be instructed accordingly.

SECTION 5.15A IS REPEALED EFFECTIVE JANUARY 1, 1993 AND REPLACED WITH SECTION 5.15AA WHICH READS AS FOLLOWS:

SECTION 5.15AA

1. **ARREST WITHOUT WARRANT OF INTOXICATED DRIVER INVOLVED IN ACCIDENT.** A peace officer without a warrant, may arrest a person when the peace officer has reasonable cause to believe that the person was, at the time of an accident, the operator of a vehicle involved in the accident in this state while in violation of section 625(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 625(1) or (3).
2. **REQUIRING SUBMISSION TO PRELIMINARY CHEMICAL BREATH ANALYSIS; CONSEQUENCES.** 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 in this state, and that the person by the consumption of intoxicating liquor may have affected his or her ability to operate a vehicle, or reasonable cause to believe that a person operating a commercial motor vehicle within the state while the person's blood contained any measurable amount of alcohol by weight or while the person had any detectable presence of intoxicating liquor, may require the person to submit to a preliminary chemical breath analysis. The following provisions shall apply with respect to a preliminary chemical breath analysis:
 - 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 solely to assist the court or hearing officer in determining a challenge to the validity of an arrest. This subdivision does not limit the introduction of other competent evidence offered to establish the validity of an arrest.
 - C. A person who submits to a preliminary chemical breath analysis shall remain subject to the requirements of sections 625c, 625d, 625e, and 625f for the purposes of chemical tests described in those sections.
 - D. 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. **USE OF CHEMICAL TEST RESULTS BY POLICE OFFICER FOR ISSUANCE OF OUT-OF-SERVICE ORDER; OTHER COMPETENT EVIDENCE OF INTOXICATION NOT PRECLUDED.** The results of a preliminary chemical breath analysis conducted pursuant to this section shall be used by a police officer to determine whether a person shall be ordered out-of-service under section 319d. A police 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

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other competent evidence by the police officer to determine whether a person shall be ordered out-of-service under section 319d.

4. ADVISEMENT OF CONSEQUENCES OF REFUSAL TO SUBMIT TO CHEMICAL BREATH ANALYSIS. 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 refusal of the request of a police officer to take a test described in this section is a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both, and shall result in the issuance of a 24-hour out-of-service order.
5. REFUSAL TO TAKE TEST AS MISDEMEANOR; PENALTY. A person who was operating a commercial motor vehicle and who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a police officer is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both.
6. TESTS FOR PRESENCE OF ALCOHOL OR CONTROLLED SUBSTANCE IN BLOOD; ADMISSIBILITY INTO EVIDENCE; ADVISEMENT OF RIGHTS; COLLECTION OF URINE OR BREATH SAMPLES; BLOOD WITHDRAWN FOR POST-ACCIDENT MEDICAL TREATMENT, ADMISSIBILITY OF TEST RESULTS; WITHDRAWAL OF BLOOD FROM DECEASED DRIVER, RESULTS OF TEST TO LAW ENFORCEMENT AGENCY; PROMULGATION OF RULES. 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 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.
 - B. A person arrested for a crime described in section 625c(1) shall be advised of all of the following:
 - 1) That 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; that the results of the test are admissible in a judicial proceeding as provided under this act and shall be considered with other competent evidence in determining the innocence or guilt of the defendant; and that he or she is responsible for obtaining a chemical analysis of a test sample obtained pursuant to his or her own request.
 - 2) That if he or she refuses the request of a peace officer to take a test described in subparagraph (1), a test shall not be given without a court order, but the peace officer may seek to obtain such a court order.
 - 3) That his or her refusal of the request of a peace officer to take a test described in subparagraph (1) shall 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.

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- C. A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or a licensed nurse or medical technician under the direction of a licensed physician and qualified to withdraw blood acting in a medical environment, at the request of a peace officer, may withdraw blood for the purpose of determining 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 shall not attach to a qualified person 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 the request of a peace officer, 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, and the results of the test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant. If the person charged is administered a chemical test by a person of his or her own choosing, the person charged shall be responsible for obtaining a chemical analysis of the test sample.
 - E. If, after the 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 the purpose of medical treatment, the results of the chemical analysis of that sample shall be 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 shall not be 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 for the purpose of determining the amount of alcohol or the presence of a controlled substance, or both, in the decedent's blood. The medical examiner shall give 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 for the administration of chemical tests for the purposes of this section.
7. INTRODUCTION OF OTHER COMPETENT EVIDENCE ON ISSUE OF INTOXICATION NOT PRECLUDED. The provisions of subsection (6) relating to chemical testing do not limit the introduction of any other competent evidence

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bearing upon the question of whether or not 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 a blood alcohol content of 0.10% or more by weight of alcohol.

8. **OFFENDER ENTITLED TO COPY OF TEST RESULTS UPON WRITTEN REQUEST; FAILURE OF PROSECUTION TO FURNISH AS BAR TO ADMISSIBILITY INTO EVIDENCE.** If a chemical test described in subsection (6) is administered, the results of the test 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 results of the test shall be offered as evidence by the prosecution in that trial. Failure to fully comply with the request shall bar the admission of the results into evidence by the prosecution.
9. **PRESUMPTIONS.** Except in a prosecution relating solely to violation of section 625(1)(b), the amount of alcohol in the driver's blood at the time alleged as shown by chemical analysis of the person's blood, urine, or breath shall give rise to the following presumptions:
 - A. If there was at the time 0.07% or less by weight of alcohol in the defendant's blood, it shall be 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 was at the time in excess of 0.07% but less than 0.10% by weight of alcohol in the defendant's blood it shall be 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 was at the time 0.10% or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor.
10. **JURY INSTRUCTION AS TO EFFECT OF REFUSAL TO TAKE TEST.** A person's refusal to submit to a chemical test as provided in subsection (6) shall be admissible in a criminal prosecution for a crime described in section 625c(1) only for the purpose of showing that a test was offered to the defendant, but not as evidence in determining innocence or guilt of the defendant. The jury shall be instructed accordingly.

SECTION 5.15B IS DELETED AND REPLACED WITH THE FOLLOWING:

SECTION 5.15B

1. **ARRAIGNMENT ON MISDEMEANOR VIOLATION OF DRIVING UNDER INFLUENCE OF INTOXICATING LIQUOR OR CONTROLLED SUBSTANCE.** A person arrested for a misdemeanor violation of section 625(1) or (3), or a local ordinance substantially corresponding to section 625(1) or (3), shall be arraigned on the citation, complaint, or warrant not more than 14 days after the date of arrest or, if an arrest warrant is reissued, not more than 14 days after the reissued arrest warrant is served.

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2. PRETRIAL CONFERENCE, SCHEDULING; MANDATORY ATTENDANCE BY DEFENDANT; ACCEPTANCE OF PLEA; ADJOURNMENT; REQUIREMENT OF FINAL ADJUDICATION. The court shall schedule a pretrial conference between the prosecuting attorney, the defendant, and the defendant's attorney in each case in which the defendant is charged with a misdemeanor violation of section 625(1) or (3) or a local ordinance substantially corresponding to section 625(1) or (3). The pretrial conference shall be held not more than 35 days after the date of the person's arrest for the violation or, if an arrest warrant is reissued, not more than 35 days after the date the reissued arrest warrant is served, unless the court has only 1 judge who sits in more than 1 location in that district, in which case the pretrial conference shall be held not more than 42 days after the date of the person's arrest for the violation or, if an arrest warrant is reissued, not more than 42 days after the date the reissued arrest warrant is served. The court shall order the defendant to attend the pretrial conference and may accept a plea by the defendant at the conclusion of the pretrial conference. The court may adjourn the pretrial conference upon the motion of a party for good cause shown. Not more than 1 adjournment shall be granted to a party, and the length of an adjournment shall not exceed 14 days. The court shall, 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, finally adjudicate, by a plea of guilty or nolo contendere, or the entry of a verdict, or by other final disposition, a case in which the defendant is charged with a misdemeanor violation of section 625(1) or (3) or a local ordinance substantially corresponding to section 625(1) or (3) within 77 days after the person is arrested for the violation or, if an arrest warrant is reissued, not more than 77 days after the date the reissued arrest warrant is served.
3. DUTY OF COURT TO ADVISE ACCUSED PRIOR TO ACCEPTANCE OF PLEA OF GUILTY OR NOLO CONTENDERE. Before accepting a plea of guilty or nolo contendere under section 625, or a local ordinance substantially corresponding to section 625(1), (2), or (3), the court shall advise the accused of the maximum possible term of imprisonment and the maximum possible fine that may be imposed for the violation, and shall advise the defendant that the maximum possible license sanctions that may be imposed will be based upon the master driving record maintained by the secretary of state pursuant to section 204a.
4. SCREENING AND ASSESSMENT OF LIKELIHOOD OF BENEFIT FROM ALCOHOL OR DRUG REHABILITATIVE SERVICES; COURT-ORDERED PARTICIPATION IN PROGRAM; PAYMENT OF COSTS. Before imposing sentence, other than court-ordered license sanctions, for a violation of section 625(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 625(1) or (3), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services, to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services.

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5. CONSIDERATION OF PRIOR CONVICTIONS UPON ACCEPTANCE OF PLEA OF GUILTY OR NOLO CONTENDERE; IMPOSITION OF LICENSING SANCTIONS. Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 625(1) or (3), whether or not the person is eligible to be sentenced as a multiple offender, the court shall consider all prior convictions currently entered upon the Michigan driving record of the person, except those convictions which, upon motion of the defendant, are determined by the court to be constitutionally invalid, and shall impose the following licensing sanctions:
- A. For a conviction under section 625(4) or (5), the court shall order the secretary of state to revoke the operator's or chauffeur's license of the person and shall not order the secretary of state to issue a restricted license to the person.
 - B. For a conviction under section 625(1) or a local ordinance substantially corresponding to section 625(1):
 - 1) If the court finds that the person has no prior convictions within 7 years for a violation of section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), or former section 625(1) or (2) or former section 625 , or a law of another state substantially corresponding to section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 6 months or more than 2 years. The court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the period of suspension, except that a restricted license shall not be issued during the first 30 days of the period of suspension.
 - 2) If the court finds that the person has 1 prior conviction within 7 years for a violation of 625(3) or former section 625b, a local ordinance substantially corresponding to section 625(3) or former section 625b, or a law of another state substantially corresponding to section 625(3) or former section 625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 6 months or more than 2 years. The court may order the secretary of state to issue to the person a restricted license during all or any portion of the period of suspension, except that a restricted license shall not be issued during the first 60 days of the period of suspension.
 - 3) If the court finds that the person has 1 or more prior convictions within 7 years for a violation of section 625(1), (4), or (5), or former section 625(1) or (2), a local ordinance substantially corresponding to section 625(1) or former section 625(1) or (2), or a law of another state substantially corresponding to section 625(1), (4) or (5), or former section 625(1) or (2), or that the person has 2 or more prior convictions within 10 years for a violation of section 625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, the court shall order the secretary of state to revoke the operator's or

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chauffeur's license of the person and shall not order the secretary of state to issue a restricted license to the person.

- C. For a conviction under section 625(3) or a local ordinance substantially corresponding to section 625(3):
- 1) If the court finds that the convicted person has no prior convictions within 7 years for a violation of section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 90 days or more than 1 year. The court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the period of suspension.
 - 2) If the court finds that the person has 1 prior conviction within 7 years for a violation of section 625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3) or former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4) or (5), or former section 625(1) or (2), or section 625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 6 months or more than 2 years. The court may order the secretary of state to issue to the person a restricted license during all or any portion of the suspension period, except that a restricted license shall not be issued during the first 60 days of the period of suspension.
 - 3) If the court finds that the person has 2 or more prior convictions within 10 years for a violation of section 625(1), (3), (4), or (5), section 625b, a local ordinance substantially corresponding to section 625(1) or (3), or former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, the court shall order the secretary of state to revoke the operator's or chauffeur's license of the person and shall not order the secretary of state to issue a restricted license to the person.
6. PERMISSIBLE DRIVING USES OF RESTRICTED LICENSE. A restricted license issued pursuant to an order under subsection (5) shall permit the person to whom it is issued to do 1 or more of the following:
- A. Drive to and from the person's residence and work location.
 - B. Drive in the course of the person's employment or occupation.
 - C. Drive to and from the person's residence and an alcohol or drug education or treatment program as ordered by the court.
 - D. Drive to and from the person's residence and the court probation department, or a court-ordered community service program, or both.

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- E. Drive to and from the person's residence and an educational institution at which the person is enrolled as a student.
7. INSTALLATION OF IGNITION INTERLOCK DEVICE AS CONDITION FOR RESTRICTED LICENSE. The court may order that the restricted license issued pursuant to subsection (5) include the requirement that the person shall not operate a motor vehicle unless the vehicle is equipped with a functioning ignition interlock device. The device shall be set to render the motor vehicle inoperable if the device detects a blood alcohol content of 0.02% or more by weight of alcohol in the person who offers the breath sample. The court may order installation of an ignition interlock device on any motor vehicle that the person owns or operates, the cost of which shall be borne by the person whose license is restricted.
 8. HAULING OF HAZARDOUS MATERIALS NOT PERMITTED UNDER RESTRICTED LICENSE. The court shall not order the secretary of state under subsection (5) to issue a restricted license that would permit a person to operate a truck or truck tractor, including a trailer, that hauls hazardous materials.
 9. COURT DETERMINATION OF UNAVAILABILITY OF PUBLIC TRANSPORTATION AS CONDITION FOR ISSUANCE OF RESTRICTED LICENSE. The court shall not order the secretary of state to issue a restricted license unless the person states under oath, and the court finds pursuant to testimony taken in open court or pursuant to statements contained in a sworn affidavit on a form prescribed by the state court administrator, that the person is unable to take public transportation to and from his or her work location, place of alcohol or drug education treatment, court-ordered community service program, or educational institution, and does not have any family members or other individuals able to provide transportation.
 10. RESTRICTED LICENSE TO INDICATE DESTINATION, ROUTE AND TIME OF TRAVEL. The court order issued under subsection (5) and the restricted license shall indicate the permitted destination of the person, the approved route or routes if specified by the court, and permitted times of travel.
 11. WORK LOCATION DEFINED. As used in this section, "work location" means, as applicable, either the specific place or places of employment, or the territory or territories regularly visited by the person in pursuance of the person's occupation, or both.
 12. SURRENDER OF LICENSE UPON CONVICTION; DESTRUCTION OF LICENSE; FORWARDING OF ABSTRACT TO SECRETARY OF STATE; SUSPENSION OR REVOCATION OF LICENSE AND ISSUANCE OF RESTRICTED LICENSE; STAY OF PROCEDURE UPON APPEAL. Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 625(1), (3), (4), or (5), or a local ordinance substantially corresponding to section 625(1) or (3), the person shall surrender to the court his or her operator's or chauffeur's license or permit. The court shall immediately destroy the license or permit and forward an abstract of conviction with court-ordered license sanctions to the secretary of state. Upon receipt of, and pursuant to, the abstract of conviction with court-ordered license sanctions, the secretary of state shall suspend or revoke the person's license and, if ordered by the court and the

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person is otherwise eligible for a license, issue to the person a restricted license stating the limited driving privileges indicated on the abstract. If the judgment and sentence is appealed to circuit court, the court may, ex parte, order the secretary of state to stay the suspension, revocation, or restricted license issued pursuant to this section impending the outcome of the appeal.

SECTION 5.15B IS REPEALED EFFECTIVE JANUARY 1, 1993 AND REPLACED WITH SECTION 5.15BB WHICH READS AS FOLLOWS:

SECTION 5.15BB

1. **ARRAIGNMENT.** A person arrested for a misdemeanor violation of section 625(1) or (3), or section 625m, or a local ordinance substantially corresponding to section 625(1) or (3), or section 625m, shall be arraigned on the citation, complaint, or warrant not more than 14 days after the date of arrest or, if an arrest warrant is reissued, not more than 14 days after the reissued arrest warrant is served.
2. **SCHEDULING OF PRETRIAL CONFERENCE; MANDATORY ATTENDANCE BY DEFENDANT; ACCEPTANCE OF PLEA; NOT MORE THAN ONE ADJOURNMENT; REQUIREMENT OF FINAL ADJUDICATION OF CASE.** The court shall schedule a pretrial conference between the prosecuting attorney, the defendant, and the defendant's attorney in each case in which the defendant is charged with a misdemeanor violation of section 625(1) or (3), or section 625m, or a local ordinance substantially corresponding to section 625(1) or (3), or section 625m. The pretrial conference shall be held not more than 35 days after the date of the person's arrest for the violation or, if an arrest warrant is reissued, not more than 35 days after the date the reissued arrest warrant is served, unless the court has only 1 judge who sits in more than 1 location in that district, in which case the pretrial conference shall be held not more than 42 days after the date of the person's arrest for the violation or, if an arrest warrant is reissued, not more than 42 days after the date the reissued arrest warrant is served. The court shall order the defendant to attend the pretrial conference and may accept a plea by the defendant at the conclusion of the pretrial conference. The court may adjourn the pretrial conference upon the motion of a party for good cause shown. Not more than 1 adjournment shall be granted to a party, and the length of an adjournment shall not exceed 14 days. The court shall, 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, finally adjudicate, by a plea of guilty or nolo contendere, or the entry of a verdict, or by other final disposition, a case in which the defendant is charged with a misdemeanor violation of section 625(1) or (3), or section 625m, or a local ordinance substantially corresponding to section 625(1) or (3), or section 625m, within 77 days after the person is arrested for the violation, or, if an arrest warrant is reissued, not more than 77 days after the date the reissued arrest warrant is served.
3. **ADVISEMENT OF MAXIMUM PENALTY PRIOR TO ACCEPTANCE OF PLEA.** Before accepting a plea of guilty or nolo contendere under section 625, or a local ordinance substantially corresponding to section 625(1), (2), or (3), the court shall advise the accused of the maximum possible term of imprisonment and the maximum

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possible fine that may be imposed for the violation, and shall advise the defendant that the maximum possible license sanctions that may be imposed will be based upon the master driving record maintained by the secretary of state pursuant to section 204a.

4. SCREENING AND ASSESSMENT AS TO ALCOHOL OR DRUG ABUSE; REHABILITATIVE SERVICES. Before imposing sentence, other than court-ordered license sanctions, for a violation of section 625(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 625(1) or (3), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services, to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services.
5. CONSIDERATION OF PRIOR CONVICTIONS; IMPOSITION OF LICENSING SANCTIONS. Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 625(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 625(1) or (3) whether or not the person is eligible to be sentenced as a multiple offender, the court shall consider all prior convictions currently entered upon the Michigan driving record of the person, except those convictions which, upon motion by the defendant, are determined by the court to be constitutionally invalid, and shall impose the following license sanctions:
 - A. For a conviction under section 625(4) or (5), the court shall order the secretary of state to revoke the operator's or chauffeur's license of the person and shall not order the secretary of state to issue a restricted license to the person.
 - B. For a conviction under section 625(1) or a local ordinance substantially corresponding to section 625(1):
 - 1) If the court finds that the person has no prior convictions within 7 years for a violation of section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), or former section 625(1) or (2) or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 6 months or more than 2 years. The court may order the secretary of state to issue a restricted license during all or a specified portion of the period of suspension, except that a restricted license shall not be issued during the first 30 days of the period of suspension.
 - 2) If the court finds that the person has 1 prior conviction within 7 years for a violation of section 625(3) or former section 625b, a local ordinance substantially corresponding to section 625(3) or former section 625b, or a law of another state substantially corresponding to section 625(3) or former

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section 625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 6 months or more than 2 years. The court may order the secretary of state to issue to the person a restricted license during all or any portion of the period of suspension, except that a restricted license shall not be issued during the first 60 days of the period of suspension.

- 3) If the court finds that the person has 1 or more prior convictions within 7 years for a violation of section 625(1), (4), or (5), or former section 625(1) or (2), a local ordinance substantially corresponding to section 625(1) or former section 625(1) or (2), or a law of another state substantially corresponding to section 625(1), (4), or (5), or former section 625(1) or (2), or that the person has 2 or more prior convictions within 10 years for a violation of section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), or former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1) or (2), or former section 625b, the court shall order the secretary of state to revoke the operator's or chauffeur's license of the person and shall not order the secretary of state to issue a restricted license to the person.
- C. For a conviction under section 625(3) or a local ordinance substantially corresponding to section 625(3):
- 1) If the court finds that the convicted person has no prior convictions within 7 years for a violation of section 625(1), (3), (4), or (5), or former section 625(1) or (2) or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), or former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 90 days or more than 1 year. The court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the period of suspension.
 - 2) If the court finds that the person has 1 prior conviction within 7 years for a violation of section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), or former section 625(1) or (2), or section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 6 months or more than 2 years. The court may order the secretary of state to issue to the person a restricted license during all or any portion of the suspension period, except that a restricted license shall not be issued during the first 60 days of the period of suspension.
 - 3) If the court finds that the person has 2 or more prior convictions within 10 years for a violation of section 625(1), (3), (4), or (5), or former section 625(1)

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

6. PERMITTED USES UNDER RESTRICTED LICENSE. A restricted license issued pursuant to an order under subsection (5) shall permit the person to whom it is issued to do 1 or more of the following:
 - A. Drive to and from the person's residence and work location.
 - B. Drive in the course of the person's employment or occupation.
 - C. Drive to and from the person's residence and an alcohol or drug education or treatment program as ordered by the court.
 - D. Drive to and from the person's residence and the court probation department, or a court-ordered community service program, or both.
 - E. Drive to and from the person's residence and an educational institution at which the person is enrolled as a student.
7. IGNITION INTERLOCK DEVICE REQUIREMENT. The court may order that the restricted license issued pursuant to subsection (5) include the requirement that the person shall not operate a motor vehicle unless the vehicle is equipped with a functioning ignition interlock device. The device shall be set to render the motor vehicle inoperable if the device detects a blood alcohol content of 0.02% or more by weight of alcohol in the person who offers the breath sample. The court may order installation of an ignition interlock device on any motor vehicle that the person owns or operates, the cost of which shall be borne by the person whose license is restricted.
8. HAULING OF HAZARDOUS MATERIALS UNDER RESTRICTED LICENSE PROHIBITED. The court shall not order the secretary of state under subsection (5) to issue a restricted license that would permit a person to operate a truck or truck tractor, including a trailer, that hauls hazardous materials.
9. UNAVAILABILITY OF PUBLIC TRANSPORTATION AS CONDITION FOR RESTRICTED LICENSE; STATEMENT UNDER OATH. The court shall not order the secretary of state to issue a restricted license unless the person states under oath, and the court finds pursuant to testimony taken in open court or pursuant to statements contained in sworn affidavit on a form prescribed by the state court administrator, that the person is unable to take public transportation to and from his or her work location, place of alcohol or drug education treatment, court-ordered community service program, or educational institution, and does not have any family members or other individuals able to provide transportation.
10. RESTRICTED LICENSE TO INDICATE DESTINATION, ROUTE AND TIME OF TRAVEL. The court order issued under subsection (5) and the restricted license shall

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indicate the permitted destination of the person, the approved route or routes if specified by the court, and permitted times of travel.

11. WORK LOCATION DEFINED. As used in this section “work location” means, as applicable, either the specific place or places of employment, or the territory or territories regularly visited by the person in pursuance of the person’s occupation, or both.
12. SURRENDER OF LICENSE UPON CONVICTION; ABSTRACT OF CONVICTION FORWARDED TO SECRETARY OF STATE; SUSPENSION OR REVOCATION OF LICENSE; ISSUANCE OF RESTRICTED LICENSE; STAY PENDING APPEAL. Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 625(1), (3), (4), or (5), or a local ordinance substantially corresponding to section 625(1) or (3), the person shall surrender to the court his or her operator’s or chauffeur’s license or permit. The court shall immediately destroy the license or permit and forward an abstract of conviction with court-ordered license sanctions to the secretary of state. Upon receipt of, and pursuant to, the abstract of conviction with court-ordered license sanctions, the secretary of state shall suspend or revoke the person’s license and, if ordered by the court and the person is otherwise eligible for a license, issue to the person a restricted license stating the limited driving privileges indicated on the abstract. If the judgment and sentence is appealed to circuit court, the court may, ex parte, order the secretary of state to stay the suspension, revocation, or restricted license issued pursuant to this section pending the outcome of the appeal.
13. SUSPENSION OF VEHICLE GROUP DESIGNATIONS ON LICENSE; PROHIBITION OF OPERATION OF COMMERCIAL VEHICLE UNDER RESTRICTED LICENSE. In addition to any other suspension or revocation ordered under this section and as part of the sentence imposed upon a person who is convicted of a violation of section 625(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 625(1) or (3) while operating a commercial motor vehicle within 10 years of a prior conviction, the court shall order the secretary of state to revoke the vehicle group designations on the person’s operator’s or chauffeur’s license in accordance with section 319b(1)(e). The court shall not order the secretary of state to issue a restricted license that would permit the person to operate a commercial motor vehicle. As used in this section, “prior conviction” means a conviction under subsection 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3) or former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b involving the operation of a commercial motor vehicle, or a conviction under section 625m, a local ordinance substantially corresponding to section 625m, or a law of another state substantially corresponding to section 625m.

SECTION 5.15C IS DELETED AND REPLACED WITH THE FOLLOWING:

SECTION 5.15C

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1. **CONSENT TO TESTS.** 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 purposes of determining the amount of alcohol or presence of a controlled substance or both in his or her blood, in all of the following circumstances.
 - A. If the person is arrested for a violation of section 625(1), (3), (4), or (5), or a local ordinance substantially corresponding to section 625(1) or (3).
 - 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 has reasonable grounds to believe that 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 a blood alcohol content of 0.10% or more by weight of alcohol.
2. **EXCEPTIONS.** A person who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician shall not be considered to have given consent to the withdrawal of blood.
3. **ADMINISTRATION.** The tests shall be administered as provided in section 625a(3).

SECTION 5.15C IS REPEALED EFFECTIVE JANUARY 1, 1993 AND REPLACED WITH THE SECTION 5.15CC WHICH READS AS FOLLOWS:

SECTION 5.15CC

1. **CONSENT TO TESTS.** 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 in all of the following circumstances:
 - A. If the person is arrested for a violation of section 625(1), (3), (4), or (5), section 625a(5) or section 625m, or a local ordinance substantially corresponding to section 625(1) or (3), 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 that 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 a blood alcohol content of 0.10% or more by weight of alcohol.
2. **EXCEPTIONS.** 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. **ADMINISTRATION.** The tests shall be administered as provided in section 625a(6).

SECTION 5.15D IS DELETED AND REPLACED WITH THE FOLLOWING:

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SECTION 5.15D

1. **NECESSITY OF COURT ORDER UPON REFUSAL OF ACCUSED TO SUBMIT TO CHEMICAL TEST.** If a person refuses the request of a peace officer to submit to a chemical test offered pursuant to section 625a(3), a test shall not be given without a court order, but the officer may seek to obtain the court order.
2. **ADVISEMENT OF CONSEQUENCES OF REFUSAL; REPORT TO SECRETARY OF STATE.** A written report shall immediately be forwarded to the secretary of state by the peace officer. The report shall state that the officer had reasonable grounds to believe that the person had committed a crime described in section 625c(1), and that the person had refused to submit to the test upon the request of the peace officer and had been advised of the consequences of the refusal. The form of the report shall be prescribed and furnished by the secretary of state.

SECTION 5.15E IS DELETED AND REPLACED WITH THE FOLLOWING:

SECTION 5.15E

1. **NOTICE OF RECEIPT OF REPORT; REQUEST FOR HEARING.** If a person refuses to submit to a chemical test pursuant to section 625d, the peace officer shall immediately notify the person in writing that within 14 days of the date of the notice the person may request a hearing as provided in section 625f. The form of the notice shall be prescribed and furnished by the secretary of state.
2. **NOTICE; CONTENTS; FAILURE TO REQUEST HEARING, CONSEQUENCES; COUNSEL.** The notice shall specifically state that failure to request a hearing within 14 days will result in the suspension of the person's license or permit to drive. The notice shall also state there is not a requirement that the person retain counsel for the hearing, though counsel would be permitted to represent the person at the hearing.

SECTION 5.15F IS DELETED AND REPLACED WITH THE FOLLOWING:

SECTION 5.15F

1. **FAILURE TO REQUEST HEARING; EFFECT.** If a person who refuses to submit to a chemical test pursuant to section 625d does not request a hearing within 14 days of the date of notice pursuant to section 625e, the secretary of state shall suspend or deny the person's operator's or chauffeur's license or permit to drive, or nonresident operating privilege, for a period of 6 months, or for a second or subsequent refusal within a period of 7 years, for 1 year. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary shall deny to the person the issuance of a license or permit for a period of 6 months, or for a second or subsequent refusal within a period of 7 years, for 1 year.
2. **HEARING; TIME FOR HOLDING; SCOPE OF INQUIRY.** 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. A person shall not order a hearing officer to make a particular finding on any issue enumerated under subdivisions (A) to (D). 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

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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 and shall, 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, be finally adjudicated within 77 days after the date of arrest. 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(3).

3. RECORD OF PROCEEDINGS, PREPARATION, TRANSCRIPTION; TRANSMITTAL TO REVIEWING COURT; STIPULATION; CORRECTIONS.

The hearing officer shall make a record of proceedings held pursuant to subsection (2). 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. Upon notification of the filing of a petition for judicial review pursuant to section 323, the hearing officer shall transmit to the court in which the petition was filed, not less than 10 days before the matter is set for review, 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 or not 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.

4. DECISION; JUDICIAL REVIEW. After a hearing, if the person who requested the hearing does not prevail, the secretary of state shall suspend or deny issuance of a license or driving permit or a nonresidential operating privilege of the person for a period of 6 months, or for a second subsequent refusal within 7 years, for 1 year. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall deny to the person the issuance of a license or permit for a period of 6 months, or for a second subsequent refusal in 7 years, for 1 year. 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. If after the hearing 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

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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.

5. SUSPENSION OR REVOCATION OF NONRESIDENT'S LICENSE; PROCEDURE. 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 to 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.

SECTION 5.15F IS REPEALED EFFECTIVE JANUARY 1, 1993 AND REPLACED WITH SECTION 5.15FF WHICH READS AS FOLLOWS:

SECTION 5.15FF

1. FAILURE TO REQUEST A HEARING; EFFECT. If a person who refuses to submit to a chemical test pursuant to section 625d does not request a hearing within 14 days of 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's operating privilege, for a period of 6 months, or for a second or subsequent refusal within a period of 7 years, for 1 year. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall deny the person the issuance of a license or permit for a period of 6 months, or for a second or subsequent refusal within a period of 7 years, for 1 year.
 - 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 privileges 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, deny the issuance to the person of an operator's or chauffeur's license with the vehicle group designations, for a period of 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, deny the issuance to the person of an operator's or chauffeur's license with vehicle group designations, for a period of 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 (B) or (C), as applicable.

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2. HEARING; TIME FOR HOLDING; SCOPE OF INQUIRY. 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. A person shall not order a hearing officer to make a particular finding on any issue enumerated under subdivisions (A) to (D). 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 and shall, 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, be finally adjudicated within 77 days after the date of arrest. 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).
3. RECORD OF PROCEEDINGS, PREPARATION, TRANSCRIPTION; TRANSMITTAL TO REVIEWING COURT; STIPULATION; CORRECTIONS. The hearing officer shall make a record of proceedings held pursuant to subsection (2). 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. Upon notification of the filing of a petition for judicial review pursuant to section 323, the hearing officer shall transmit to the court in which the petition was filed, not less than 10 days before the matter is set for review, 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 or not 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.
4. FAILURE OF DEFENDANT TO PREVAIL; IMPOSITION OF LICENSING SANCTIONS. After a hearing, if the person who requested the hearing does not prevail, the secretary of state shall impose the following license sanctions:

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- 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 a period of 6 months, or for a second or subsequent refusal within 7 years, for 1 year. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall deny to the person the issuance of a license or permit for a period of 6 months, or for a second or subsequent refusal within 7 years, for 1 year. 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. If after the hearing 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.
 - 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 both (a) and (b).
5. SUSPENSION OR REVOCATION OF NONRESIDENT'S LICENSE; PROCEDURE. 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.

SECTION 5.15G IS DELETED AND REPLACED WITH THE FOLLOWING:

SECTION 5.15G

1. CONFISCATION BY PEACE OFFICER OF ACCUSED'S LICENSE UPON REFUSAL TO TAKE TEST OR IF TEST REVEALS IMPERMISSIBLE BLOOD ALCOHOL CONENT; ISSUANCE OF TEMPORARY LICENSE; REPORT TO SECRETARY OF STATE; DESTRUCTION OF ACCUSED'S LICENSE. If a person refuses a chemical test offered pursuant to section 625a(3), or submits to the chemical test and the test reveals a blood alcohol content of 0.10% or more by weight of alcohol, 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 that is valid until the criminal charges against the person are dismissed, or until the person pleads guilty or nolo contendere to, or is found guilty of, those charges. 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:

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- 1) Forward a copy of the written report of the person's refusal to submit to a chemical test to the secretary of state.
 - 2) Notify the secretary of state by means of the law enforcement information network that a temporary license or permit was issued to the person.
 - 3) Except as provided in subsection (2), destroy the person's driver's license or permit.
2. DUTY OF PEACE OFFICER WHEN REPORT OF TEST RESULTS NOT IMMEDIATELY AVAILABLE. If a person submits to a chemical test offered pursuant to section 625a(3) that requires the withdrawal of blood 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, upon receipt, the report reveals a blood alcohol content of 0.10% or more by weight of alcohol, the peace officer who requested the person to submit to the test shall immediately comply with subsection (1)(b). If, upon receipt, the report reveals a blood alcohol content of less than 0.10% by weight of alcohol, 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.

SECTION 5.15H IS DELETED AND REPLACED WITH THE FOLLOWING:

SECTION 5.15H

1. CREATION OF DRUNK DRIVING PREVENTION EQUIPMENT AND TRAINING FUND; EXPENDITURE AND INVESTMENT OF MONIES; CREDITING OF FUNDS BY STATE TREASURER; REVERSION TO GENERAL FUND. The drunk driving prevention equipment and training fund is created as a separate fund in the state treasury. Money in the fund shall be expended only as provided in subsection (2). The state treasurer shall credit to the fund all money received for that purpose under section 320e, and as otherwise provided by law. The state treasurer shall invest money in the fund in the same manner as surplus funds are invested under section 143 of Act No. 105 of the Public Acts of 1985, being section 21.143 of the Michigan Compiled Laws. Earnings from the fund shall be credited to the fund. Money in the fund at the end of the fiscal year shall remain in the fund, and shall not revert to the general fund.
2. STATE POLICE TO ADMINISTER FUND; PURCHASE OF BREATH ALCOHOL TESTING EQUIPMENT. The department of state police shall administer the fund. Money in the fund shall be used only to administer the fund, to purchase and maintain breath alcohol testing equipment, and to provide training to law enforcement personnel of this state in the use of that breath alcohol testing equipment.
3. ANNUAL NOTICE OF BALANCE IN FUND. The department of treasury shall, before November 1 of each year, notify the department of state police of the balance in the fund at the close of the preceding fiscal year.
4. PROMULGATION OF RULES. The department of state police shall promulgate rules to implement subsection (2).

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5. CREATION OF DRUNK DRIVING CASE FLOW ASSISTANCE FUND; PURPOSE. The drunk driving caseflow assistance fund is created as a separate fund in the state treasury. The purpose of the fund is to promote the timely disposition of cases in which the defendant is charged with a violation of section 625(1) or (3). Money in the fund shall be expended only as provided in subsection (7).
6. FUND SOURCE; INVESTMENT OF MONIES; BALANCE AT END OF FISCAL YEAR NOT TO REVERT TO GENERAL FUND. The state treasurer shall credit the drunk driving caseflow assistance fund with deposits of proceeds from the collection of revenue from license reinstatement fees as provided for in section 320e, and all income from investment credited to the fund by the state treasurer. The state treasurer may invest money contained in the drunk driving caseflow assistance fund in any manner authorized by law for the investment of state money. However, an investment shall not interfere with any apportionment, allocation, or payment of money as required by this section. The state treasurer shall credit to the fund all income earned as a result of an investment. Money in the fund at the end of the fiscal year shall remain in the fund and shall not revert to the general fund.
7. DISTRIBUTION OF FUNDS TO DISTRICT AND MUNICIPAL COURTS; DETERMINATION OF AMOUNTS; REIMBURSEMENT OF STATE COURT ADMINISTRATIVE OFFICES FOR COSTS OF ADMINISTRATION. The state court administrator, at the direction of the supreme court and upon confirmation of the amount by the state treasurer, shall distribute from the drunk driving caseflow assistance fund the total amount available in a fiscal year to each district of the district court and each municipal court as provided in this section. The state court administrator, after reimbursement of costs as provided in this subsection, shall distribute the balance of the drunk driving caseflow assistance fund annually to each district of the district court and each municipal court in an amount determined by multiplying the amount available for distribution by a fraction, the numerator of which is the number of cases in which the defendant was charged with a violation of section 625(1) or (3), or a local ordinance substantially corresponding to section 625(1) or (3) in the prior calendar year in that district of the district court or that municipal court as certified by the state court administrator and the denominator of which is the total number of cases in all districts of the district court and all municipal courts in which the defendant was charged with a violation of section 625(1) or (3), or a local ordinance substantially corresponding to section 625(1) or (3) in the calendar year. The state court administrative office shall be reimbursed annually from the drunk driving caseflow assistance fund for all reasonable costs associated with the administration of this section, including judicial and staff training, on-site management assistance, and software development and conversion.

SECTION 5.15I IS DELETED AND REPLACED WITH THE FOLLOWING:

SECTION 5.15I

1. ANNUAL DRUNK DRIVING AUDIT; PREPARATION; SUBMISSION; CONTENTS. The department of state police shall prepare an annual report which shall be designated the Michigan annual drunk driving audit. The secretary of state, circuit court, district court, probate court, municipal courts, and local units of

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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 the 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 June 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 accidents 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 accidents resulting in death, including the breakdown described in subdivision (A).
 - C. The number of alcohol related motor vehicle accidents, 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) or local ordinances substantially corresponding to section 625(1)(a) or (b).
 - 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(4) or (5).
 - G. The number of operator's or chauffeur's licenses suspended pursuant to section 625f.
 - H. The number of arrests made for violations of section 625m or local ordinances substantially corresponding to section 625m. This subdivision shall apply after December 31, 1992.
2. REPORT OF DISPOSITIONS OF CHARGES; CONTENTS. The secretary of state shall compile a report of dispositions of charges for violations of section 625(1), (3), (4), or (5), or local ordinances substantially corresponding to section 625(1) or (3) or section 625m 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 number of licenses suspended, revoked, or restricted.
 - E. The average length of imprisonment imposed.
 - F. The average length of community service imposed in lieu of imprisonment.
 - G. The average fine imposed.
3. CONTRACT TO EVALUATE IMPACT OF LEGISLATION; REPORT OF FINDINGS. The secretary of state shall enter into a contract with the university of Michigan transportation research institute, in which the university of Michigan

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transportation research institute shall evaluate the effect and impact of the 1991 legislation addressing drunk and impaired driving in this state and report its findings to the governor and the legislature not later than October 1, 1994.

SECTION 5.15J IS DELETED AND REPLACED WITH THE FOLLOWING:

SECTION 5.15J

1. **PROHIBITION OF OPERATION OF COMMERCIAL MOTOR VEHICLE WITH CERTAIN PERCENTAGE ALCOHOL IN THE BLOOD.** A person, whether licensed or not, whose blood contains 0.04% or more but not more than 0.07% by weight of alcohol shall not operate a commercial motor vehicle within the state.
2. **ARREST FOR VIOLATION.** A police officer may, without a warrant, arrest a person if the police 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 of a local ordinance substantially corresponding to this section.
3. **VIOLATION AS A MISDEMEANOR; PENALTY FOR CONVICTION; SUSPENSION OF VEHICLE GROUP DESIGNATIONS ON LICENSE OR HAZARDOUS MATERIAL PLACARD; PROHIBITION AGAINST ISSUANCE OF RESTRICTED LICENSE.** 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 90 days or a fine of not more than \$300.00, or both, together with the costs of the prosecution. As part of the sentence, the court shall order the secretary of state to suspend the vehicle group designations on the person's operator's or chauffeur's license pursuant to section 319b(1)(c) or, if the vehicle was carrying hazardous material required to have a placard pursuant to 49 C.F.R. parts 100 to 199, in accordance with section 319b(1)(d). The court shall not order the secretary of state to issue a restricted license that would permit the person to operate a commercial motor vehicle.
4. **ENHANCEMENT OF PUNISHMENT FOR VIOLATION WITHIN 10 YEARS OF PRIOR CONVICTION; REVOCATION OF VEHICLE GROUP DESIGNATIONS OR LICENSE; ISSUANCE OR RESTRICTED LICENSE PROHIBITED.** A person who violates this section or a local ordinance substantially corresponding to this section within 10 years of a 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. As part of the sentence, the court shall order the secretary of state to revoke the vehicle group designations on the person's operator's or chauffeur's license pursuant to section 319b(1)(e). The court shall not order the secretary of state to issue a restricted license that would permit the person to operate a commercial motor vehicle. As used in this subsection, "prior conviction" means a conviction for a violation of this section, section 625(1), (3), (4), or (5), former section 625(1) or (2), or former section 625b; a local ordinance substantially corresponding to this section, section 625(1), (3), (4), or (5), former section 625(1) or (2), or former section 625b while operating a commercial motor vehicle.
5. **EFFECTIVE DATE.** This section shall take effect January 1, 1993.

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SECTION 5.62A IS DELETED AND REPLACED WITH THE FOLLOWING:

SECTION 5.62A

1. **DRIVING WITHOUT LICENSE; PENALTY; CONFISCATION OF REGISTRATION PLATES.** A person whose operator's or chauffeur's license or registration certificate has been suspended or revoked and who has been notified as provided in section 212 of that suspension or revocation, whose application for license has been denied, or who has never applied for a license, shall not operate a motor 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 motor vehicles within this state. A person shall not knowingly permit a motor vehicle owned by the person 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 vehicles, within this state by a person whose license or registration certificate is suspended or revoked, whose application for license, except as permitted under this act. A person who violates this subsection is guilty of a misdemeanor, punishable as follows:
 - A. If the person's operator's or chauffeur's license has been suspended under section 321a because that person has failed to answer a citation or has failed to comply with an order or judgment issued pursuant to section 907, by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both.
 - B. For a violation, other than a violation punishable under subdivision (A), by imprisonment for not more than 90 days, or by a fine of not more than \$500.00, or both. Unless the vehicle was stolen or used with permission of a person who did not knowingly permit an unlicensed driver to operate the vehicle, the registration plates of the vehicle shall be confiscated.
 - C. For a second or subsequent violation punishable under subdivision (B), by imprisonment for not more than 1 year, or a fine of not more than \$1,000.00, or both. Unless the vehicle was stolen, the registration plates of the vehicle shall be confiscated.
2. **SUBSEQUENT OFFENSE; EXTENTION OF REVOCATION OR SUSPENSION.** The secretary of state, upon receiving a record of the conviction or probate court disposition of a person upon a charge of unlawful operation of a motor vehicle while the license of the person is suspended or revoked or of the conviction, civil infraction determination, or probate court disposition of a person for a moving violation of the vehicle laws of this state or a political subdivision of this state while the license of the person is suspended or revoked immediately shall extend the period of the first suspension or revocation for an additional like period. This subsection shall apply only if a violation occurs during a suspension of definite length, or if the violation occurs before the person is approved for a license following a revocation.
3. **UNLAWFUL OPERATION OF CLASS 1, 2 OR 3 INDORSEMENT VEHICLES; EXTENSION OF SUSPENSION OR REVOCATION; APPLICABILITY OF PROVISION.** The secretary of state, upon receiving a record of the conviction, bond forfeiture, or a civil infraction determination of a person upon a charge of unlawful

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operation of a motor vehicle requiring a class 1, class 2, or class 3 indorsement or vehicle group designation while the indorsement or designation is suspended pursuant to section 319a or 319b, or revoked, immediately shall extend the period of suspension or revocation for an addition like period. This subsection shall apply only if the violation occurs during a suspension of definite length, or if the violation occurs before the person is approved for a license following a revocation, or if the person operates a commercial vehicle while disqualified under title XII of Public Law 99-570, 100 Stat. 3207-170.

4. **MULTIPLE CONVICTIONS, ETC. TREATED AS SINGLE VIOLATION FOR PURPOSE OF SUSPENSION OR REVOCATION EXTENSION.** If the secretary of state receives records of more than 1 conviction, civil infraction determination, or probate court disposition resulting from the same incident, all of the convictions, civil infraction determinations, or probate court dispositions shall be treated as a single violation for purposes of extending the period of suspension or revocation under subsection (2) or (3).
5. **OBTAINMENT OF OFFENDER'S DRIVING RECORD PRIOR TO ARRAIGNMENT; COURT REVIEW.** Before person is arraigned before a district court magistrate or judge on a charge of violating this section, the arresting officer shall obtain the driving record of the person from the secretary of state and shall furnish the record to the court. The driving record of the person may be obtained from the secretary of state's computer information network.
6. **INAPPLICABILITY OF SECTION.** This section shall not apply to a person who operates a vehicle solely for the purpose of protecting human life or property, if the life or property is endangered and summoning of prompt aid is essential.

SECTION 5.62A IS REPEALED EFFECTIVE JANUARY 1, 1993 AND REPLACED WITH SECTION 5.62AA WHICH READS AS FOLLOWS:

SECTION 5.62AA

1. **DRIVING WITHOUT LICENSE; PENALTY; CONFISCATION OF REGISTRATION PLATES.** A person whose operator's or chauffeur's license or registration certificate has been suspended or revoked and who has been notified as provided in section 212 of that suspension or revocation, whose application for license has been denied, or who has never applied for a license, shall not operate a motor 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 motor vehicles within this state. A person shall not knowingly permit a motor vehicle owned by the person 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 vehicles, within this state by a person whose license or registration certificate is suspended or revoked, whose application for license has been denied, or who has never applied for a license, except as permitted under this act. A person who violates this subsection is guilty of a misdemeanor, punishable as follows:
 - A. If the person's operator's or chauffeur's license has been suspended under section 321a because that person has failed to answer a citation or has failed to comply

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with an order or judgment issued pursuant to section 907, by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both.

- B. For a violation, other than a violation punishable under subdivision (A), by imprisonment for not more than 90 days, or by a fine of not more than \$500.00, or both. Unless the vehicle was stolen or used with the permission of a person who did not knowingly permit an unlicensed driver to operate the vehicle, the registration plates of the vehicle shall be confiscated.
- C. For a second or subsequent violation punishable under subdivision (B), by imprisonment for not more than 1 year, or a fine of not more than \$1,000.00, or both. Unless the vehicle was stolen, the registration plates of the vehicle shall be confiscated.

2. SUBSEQUENT OFFENSE; EXTENSION OF REVOCATION OR SUSPENSION.

The secretary of state, upon receiving a record of the conviction or probate court disposition of a person upon a charge of unlawful operation of a motor vehicle while the license of the person is suspended or revoked or of the conviction, civil infraction determination, or probate court disposition of a person for a moving violation of the vehicle laws of this state or a political subdivision of this state while the license of the person is suspended or revoked immediately shall extend the period of the first suspension or revocation for an additional like period. This subsection shall apply only if the violation occurs during a suspension of definite length, or if the violation occurs before the person is approved for a license following a revocation.

3. UNLAWFUL OPERATION OF CLASS 1, 2 OR 3 INDORSEMENT VEHICLES; EXTENSION OF REVOCATION OR SUSPENSION; APPLICABILITY OF PROVISION.

The secretary of state, upon receiving a record of the conviction, bond forfeiture, or a civil infraction determination of a person upon a charge of unlawful operation of a motor vehicle requiring a class 1, class 2, or class 3 indorsement or vehicle group designation while the indorsement or designation is suspended pursuant to section 319a or 319b, or revoked, immediately shall extend the period of suspension or revocation for an additional like period. This subsection shall apply only if the violation occurs during a suspension of definite length, or if the violation occurs before the person is approved for a license following a revocation, or if the person operates a commercial vehicle while disqualified under the commercial motor vehicle safety act of 1986, title XII of Public Law 99-570, 100 Stat. 3207-170.

4. MULTIPLE CONVICTIONS, ETC. TREATED AS SINGLE VIOLATION FOR PURPOSE OF SUSPENSION OR REVOCATION.

If the secretary of state receives records of more than 1 conviction, civil infraction determination, or probate court disposition resulting from the same incident, all of the convictions, civil infraction determinations, or probate court dispositions shall be treated as a single violation for purposes of extending the period of suspension or revocation under subsection (2) or (3).

5. OBTAINMENT OF OFFENDER'S DRIVING RECORD PRIOR TO ARRAIGNMENT; COURT REVIEW.

Before person is arraigned before a district court magistrate or judge on a charge of violating this section, the arresting officer shall obtain the driving record of the person from the secretary of state and shall

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furnish the record to the court. The driving record of the person may be obtained from the secretary of state's computer information network.

6. INAPPLICABILITY OF SECTION. This section does not apply to a person who operates a vehicle solely for the purpose of protecting human life or property, if the life or property is endangered and the summoning of prompt aid is essential.
7. UNLAWFUL OPERATION OF COMMERCIAL MOTOR VEHICLE AS MISDEMEANOR; PENALTY. A person whose vehicle group designation is suspended or revoked and who has been notified as provided in section 212 of that suspension or revocation, or whose application for a vehicle group designation has been denied, as provided in this act, or who has never applied for a vehicle group designation, and who operates a commercial motor vehicle within this State, except as permitted under this act, while any of those conditions exists is guilty of a misdemeanor, punishable, except as otherwise provided in this section, by imprisonment for not less than 3 days or more than 90 days, or a fine of not more than \$100.00, or both.

SECTION 5.62B IS ADDED TO READ AS FOLLOWS:

SECTION 5.62B

1. IMPOUNDMENT OF VEHICLE UPON CONVICTION FOR OPERATION WHILE LICENSE SUSPENDED, REVOKED OR DENIED. When a person is convicted under section 904(1) of operating a motor vehicle while his or her license to operate a motor vehicle is suspended, revoked, or denied, the motor vehicle, if it is owned in whole or in part by that person, shall be ordered impounded for not less than 30 or more than 120 days from the date of judgment.
2. IMPOUNDMENT ORDER VALID THROUGHOUT STATE; EXECUTION OF ORDER; STORAGE COSTS BORNE BY VEHICLE OWNER. An order of impoundment issued pursuant to subsection (1) is valid throughout the state. Any peace officer may execute the impoundment order. The order shall include the implied consent of the owner of the vehicle to the storage for insurance coverage purposes.
3. OWNER LIABLE FOR REMOVAL AND STORAGE EXPENSES; PAYMENT AS CONDITION FOR RETURN OF VEHICLE; DISPOSITION OF VEHICLE IF NOT REDEEMED. The owner of a motor vehicle impounded pursuant to this section is liable for expenses incurred in the removal and storage of the vehicle whether or not the vehicle is returned to him or her. The vehicle shall be returned to the owner if the owner pays the expenses for removal and storage. If redemption is not made or the vehicle is not returned within 30 days after the time set in the impoundment order for return of the vehicle, the vehicle shall be considered an abandoned vehicle and disposed of as provided in section 252.
4. RIGHTS OF CONDITIONAL VENDOR, CHATTEL MORTGAGEE OR LESSOR OF VEHICLE. Nothing in this section affects the rights of a conditional vendor, chattel mortgagee or lessor of a motor vehicle registered in the name of another person as owner who becomes subject to this act.

SECTION 9.6 IS ADDED TO READ AS FOLLOWS:

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SECTION 9.6

SECTION 1

1. **EFFECT OF CONVICTION ON PLEA OF NOLO CONTENDERE.** A conviction based on a plea of nolo contendere shall be treated in the same manner as a conviction based on a plea of guilty or a finding of guilt for all purposes under this act, except that neither the plea nor the conviction shall be admissible as substantive evidence of conduct at issue in a civil case arising out of the same occurrence.

SECTION 2

1. **SEVERABILITY.** If any clause, sentence, section, paragraph, or part of this ordinance, or the application thereof to any person, firm, corporation, legal entity or circumstances, shall be for any reason adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair, or invalidate the remainder of this Ordinance and the application of such provision to other persons, firms, corporations, legal entities or circumstances by said judgment shall be confined in its operation to the clause, sentence, section, paragraph, or part of this Ordinance thereof directly involved in the case or controversy in which said judgment shall have been rendered and to the person, firm, corporation, legal entity or circumstances then and there involved. It is hereby declared to be the legislative intent of this body that the Ordinance would have been adopted had such invalid or unconstitutional provisions not have been included in this Ordinance.

SECTION 3

1. **REPEAL.** All other Ordinances inconsistent with the provisions of this Ordinance are, to the extent of such inconsistencies, hereby repealed.

SECTION 4

1. **SAVINGS CLAUSE.** The balance of the Dexter Township Traffic Ordinance, except as herein or heretofore amended, shall remain in full force and effect. The repeal provided herein shall not abrogate or affect any offense or act committed or done, or any penalty of forfeiture incurred, or any pending fee, assessments, litigation or prosecution of any right establish, occurring prior to the effective date hereof.

SECTION 5

1. **PENALTY.** Except as provided in sections 5.15, 5.15a through 5.15i, and 5.62a, any person, corporation, partnership or any other legal entity who fails to comply with any of the provisions of this Ordinance or any of the regulations adopted in pursuance thereof, shall be guilty of a misdemeanor, and upon conviction thereof, may be fined not more than five-hundred (\$500.00) dollars or imprisoned not more than ninety (90) days or both, upon the discretion of the court. Every act or violation and every day upon which a violation occurs shall be considered a separate offense.

SECTION 6

1. **PUBLICATION AND EFFECTIVE DATE.** The Township Clerk shall cause this Ordinance to be published in the manner required by law. This Ordinance is declared to be an emergency ordinance and shall be effective as of the date of the publication.

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Township Clerk