

DEXTER TOWNSHIP ORDINANCE NUMBER 15.7

AMENDMENT TO UNIFORM TRAFFIC CODE

ADOPTED: DECEMBER 17, 1996

EFFECTIVE: JANUARY 25, 1997

AN ORDINANCE TO AMEND THE DEXTER TOWNSHIP TRAFFIC ORDINANCE BEING 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 PROVISIONS REGULATING DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR A CONTROLLED SUBSTANCE; MAKING THE DEXTER TOWNSHIP TRAFFIC ORDINANCE SUBSTANTIALLY THE SAME AS THE MICHIGAN VEHICLE CODE AS AMENDED BY ACTS 448, 449, AND 450 OF THE PUBLIC ACTS OF 1994 (MCLA 257.625 ET SEQ.; MSA 9.2325 ET SEQ.); REDEFINING A FELONY OFFENSE RESULTING WHEN SERIOUS INJURY IS CAUSED BY A DRUNK OR IMPAIRED DRIVER; AMENDING PROVISIONS REGULATING TIME LIMITS FOR ADJUDICATION AND PROCEDURES; AMENDING PROVISIONS RELATED TO THE MEASURING OF AMOUNTS OF ALCOHOL IN A PERSON'S BREATH, BLOOD, AND URINE; PROVIDING STIFFER PENALTIES TO REPEAT OFFENDERS; AMENDING THE PROVISION FOR DRIVING ON A SUSPENDED OR REVOKED LICENSE AND PENALTY; PROVIDING FOR THE REPEAL OF INCONSISTENT PROVISIONS AND ORDINANCES; PROVIDING 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 I

1. AMENDMENTS AND ADDITIONS TO THE DEXTER TOWNSHIP TRAFFIC ORDINANCE ("CODE"). The following additions, deletions, amendments and changes are hereby made to the Dexter Township Traffic Ordinance. Section 5.15, 5.15a, 5.15b, 5.15c, 5.15f, 5.15g, 5.15h, 5.15k, 5.15l, 5.15m, 5.62a, and 9.6 are deleted and replaced with new sections 5.15, 5.15a, 5.15b, 5.15c, 5.15f, 5.15g, 5.15h, 5.15k, 5.15l, 5.15m, 5.62a, and 9.6. Sections not specifically referred to shall remain in effect as previously adopted. The additions, deletions, amendments and changes to the Dexter Township Traffic Ordinance are fully stated herein as follows:

SECTION 5.15 IS DELETED AND REPLACED WITH THE FOLLOWING:

SECTION 5.15

1. Driving while under the influence of intoxicating liquor or controlled substance or with certain blood alcohol percentage; 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:

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- 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 an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
2. 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, including an area designated for the parking of 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 an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
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. Operation resulting in another's death 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, in violation of subsection (1) or (3), 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-capacitating injury to 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, in violation of subsection (1) or (3) and by the operation of that motor causes a serious impairment of a body function of another person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not less than \$1,000.00 or more than \$5,000.00, or both. As used in this subsection, "serious impairment of a body function" includes, but is not limited to, 1 or more of the following.
 - A. Loss of limb or use of a limb.
 - B. Loss of a hand, foot, finger, or thumb or use of a hand, foot, finger, or thumb.
 - C. Loss of an eye or ear or use of an eye or ear.
 - D. Loss or substantial impairment of a bodily function.
 - E. Serious visible disfigurement.

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- F. A comatose state that lasts for more than 3 days.
 - G. Measurable brain damage or mental impairment.
 - H. A skull fracture or other serious bone fracture.
 - I. Subdural hemorrhage or subdural hematoma.
6. Operation by Persons under 21 Years of Age with Any Bodily Alcohol Content. A person who is less than 21 years of age, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state if the person has any bodily alcohol content. As used in this subsection, “any bodily alcohol content” means either of the following:
- A. An alcohol content of not less than 0.02 grams or more than 0.07 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
 - B. Any presence of alcohol within a person’s body resulting from the consumption of intoxicating liquor, other than consumption of intoxicating liquor as a part of a generally recognized religious service or ceremony.
7. Subsection (1) violations; misdemeanor, penalty; enhancement to felony based on prior convictions; community service, suspension costs. If a person is convicted of violating subsection (1), all of the following apply:
- A. Except as otherwise provided in subdivisions (B) and (D), the person is guilty of a misdemeanor punishable by 1 or more of the following:
 - 1) Community service for 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 pay a fine of not less than \$200.00 or more than \$1,000.00 and either of the following:
 - 1) Community service for 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 community service for 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. A term of imprisonment imposed under this subdivision shall not be suspended.
 - E. As used in this subsection, “prior conviction” means a conviction for a violation or attempted violation of subsection (1), (4), or (5) or former subsection 625(1) or (2), a local ordinance substantially corresponding to subsection (1) or former

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

8. Subsection (2) violations; 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.
9. Subsection (3) violations; misdemeanor, penalty. If a person is convicted of violating subsection (3), all of the following apply:
 - A. Except as otherwise provided in subdivisions (B) and (C), the person is guilty of a misdemeanor punishable by 1 or more of the following:
 - 1) Community service for 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 pay a fine of not less than \$200.00 or more than \$1,000.00, and either of the following:
 - 1) Community service for 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 pay a fine of not less than \$200.00 or more than \$1,000.00, and either of the following:
 - 1) Community service for 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 this subsection, “prior conviction” means a conviction for a violation or attempted violation of subsection (1), (3), (4), or (5), former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to subsection (1) or (3), former section 625b, or a law of another state substantially corresponding to subsection (1), (3), (4), or (5), former section 625(1) or (2), or former section 625b.
10. Penalty for Zero Tolerance Offense for Persons Under 21 Years of Age. If a person is convicted of violating subsection (6), the following shall apply:
 - A. Except as otherwise provided in subdivision (B), the person is guilty of a misdemeanor punishable by 1 or both of the following:
 - 1) Community service for not more than 45 days.
 - 2) A fine of not more than \$250.00.

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- B. If the violation occurs within 7 years of 1 or more prior convictions, the person may be sentenced to 1 or both of the following:
- 1) Community service for not more than 60 days.
 - 2) A fine of not more than \$500.00.
- C. As used in this subsection, “prior conviction” means a conviction for a violation or attempted violation of subsection (1), (3), (4), (5), or (6), former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to subsection (1), (3), or (6), former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to subsection (1) or (2), or former section 625b.
11. Costs of Prosecution. In addition to imposing the sanctions prescribed under subsection (4), (5), (7), (9), or (10), the court may order the person to pay the costs of the prosecution, pursuant to the code of criminal procedure, Act. No. 175 of the Public Acts of 1927, being section 760.1 to 776.21 of the Michigan Compiled Laws.
12. Mandatory License Sanctions. The court shall impose license sanctions pursuant to section 625b.
13. Reimbursement for Cost of Supervision. A person sentenced to perform community service under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person’s activities in that service.
14. Statement listing prior convictions, requirement for enhanced sentence. If the prosecuting attorney intends to seek an enhanced sentence under subsection (7)(B) or (D), subsection 9(B) or (C), subsection 10(B), based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information, or an amended complaint and information, filed in district court, circuit court, recorder’s court, municipal court, or probate court a statement listing the defendant’s prior convictions.
15. No Plea Reduction to Zero Tolerance Offense Permitted. If a person is charged with a violation of subsection (1) or (3), the court shall not permit the defendant to enter a plea of guilty or nolo contendere to a charge of violating subsection (6) in exchange for dismissal of the original charge. This subsection does not prohibit the court from dismissing the charge upon the motion of the prosecuting attorney.
16. 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.
17. Attempt conviction, punishment. A person who is convicted of an attempted violation of subsection (1), (3), (4), (5), or (6) or a local ordinance substantially corresponding to subsection (1), (3), or (6) shall be punished as if the offense had been completed.

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18. 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), (3), (4), (5), or (6) or a local ordinance substantially corresponding to subsection (1), (3), or (6) or a law of another state substantially corresponding to subsection (1), (3), (4), (5), or (6) the same as if the offense had been completed.
19. Special verdict, court finding; operation under influence. Except as otherwise provided in subsection (21), if a person is charged with operating a vehicle while under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance in violation of subsection (1) or a local ordinance substantially corresponding to subsection (1), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether the person was under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.
20. Special verdict, court finding; visible impairment. Except as otherwise provided in subsection (21), if a person is charged with operating a vehicle while his or her ability to operate the vehicle was visibly impaired due to his or her consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance in violation of subsection (3) or a local ordinance substantially corresponding to subsection (3), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether, due to the consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance, the person's ability to operate a motor vehicle was visibly impaired at the time of the violation.
21. Exception to special verdict requirements. A special verdict described in subsection (19) and (20) is not required if a jury is instructed to make a finding solely as to either of the following:
 - A. Whether the defendant was under the influence of a controlled substance or of a combination of intoxicating liquor and a controlled substance at the time of the violation.
 - B. Whether the defendant was visibly impaired due to his or her consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.
22. Report to secretary; record of penalties imposed. If a jury or court makes a finding under subsection (19), (20), or (21) that the defendant operated a motor vehicle under the influence of or while impaired due to the consumption of a controlled substance, or combination of a controlled substance and an intoxicating liquor, the court shall do both of the following:
 - A. Report the finding to the secretary of state.

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- B. Forward to the department of state police, on a form or forms prescribed by the state court administrator, a record that specifies the penalties imposed by the court, including any term of imprisonment and any licensing sanction imposed under section 625b.
23. Record of penalties imposed; public record; retention. Except as otherwise provided by law, a record described in subsection (22)(B) is a public record, and the department of state police shall retain the information contained on that record for a period of not less than 7 years.
24. Consumption for religious services; burden of proof; standard. In the prosecution for a violation of subsection (6), the defendant shall bear the burden of proving that the consumption of intoxicating liquor was part of a generally recognized religious service or ceremony by a preponderance of the evidence.

SECTION 5.15A IS DELETED AND REPLACED WITH THE FOLLOWING:

SECTION 5.15A.

1. Arrest without warrant of intoxicated driver involved in accident. A peace officer may arrest a person without a warrant when the peace officer has reasonable cause to believe the person was, at the time of an accident in this state, the operator of a vehicle involved in the accident and was operating the vehicle in violation of section 625(1), (3), or (6) or a local ordinance substantially corresponding to section 625(1), (3), or (6).
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 public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state and that 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 was operating a commercial motor vehicle within the state while the person's blood, breath, or urine contained any measurable amount of alcohol or while the person had any detectable presence of intoxicating liquor, or reasonable cause to believe that a person who is less than 21 years of age was operating a vehicle upon a public highway or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state, while the person had any bodily alcohol content as that term is defined in section 625(6), may require the person to submit to a preliminary chemical breath analysis. The following provisions apply with respect to a preliminary chemical breath analysis administered pursuant to this subsection:
 - A. A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis.
 - B. The results of a preliminary chemical breath analysis are admissible in a criminal prosecution for a crime enumerated in section 625c(1) or in an administrative hearing for one or more of the following purposes:

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- 1) To assist the court or hearing officer in determining a challenge to the validity of an arrest. This subparagraph does not limit the introduction of other competent evidence offered to establish the validity of an arrest.
 - 2) As evidence of the defendant's breath alcohol content, if offered by the defendant.
 - 3) As evidence of the defendant's breath alcohol content, if offered by the prosecution to rebut testimony or other evidence, including but not limited to testimony elicited on cross-examination of a prosecution witness, that is offered or elicited to prove that the defendant's breath alcohol content was lower at the time of the charged offense than when a chemical test was administered pursuant to subsection (6).
- C. A person who submits to a preliminary chemical breath analysis remains subject to the requirements of section 625c, 625d, 625e, and 625f for purposes of chemical tests described in those sections.
- D. Except as provided in subsection (5), a person who refuses to submit to a preliminary chemical breath analysis upon a lawful request of 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. A peace officer shall use the results of a preliminary chemical breath analysis conducted pursuant to this section to determine whether to order a person out-of-service under section 319d. A peace officer shall order out-of-service as required under section 319d a person who was operating a commercial motor vehicle and who refuses to submit to a preliminary chemical breath analysis as provided in this section. This section does not limit use of other competent evidence by the peace officer to determine whether to order a person out-of-service under section 319d.
 4. Commercial motor vehicle; 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 refusing a peace officer's request 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 will result in the issuance of a 24-hour out-of-service order.
 5. Commercial motor vehicle; 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 peace officer's lawful request 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 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-accident medical treatment; disclosure of test results to prosecuting attorney; withdrawal of blood from

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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 or urine or the amount of alcohol in a person's breath at the time alleged as shown by chemical analysis of the person's blood, urine, or breath is admissible into evidence in any civil or criminal proceeding.
- B. A person arrested for a crime described in section 625c(1) shall be advised of all of the following:
 - 1) 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.
 - 2) The results of the test are admissible in a judicial proceeding as provided under this act and will be considered with other competent evidence in determining the defendant's innocence or guilt.
 - 3) He or she is responsible for obtaining a chemical analysis of a test sample obtained pursuant to his or her own request.
 - 4) 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.
 - 5) Refusing a peace officer's request to take a test described in subparagraph (1) will result in the suspension of his or her operator's or chauffeur's license and vehicle group designation or operating privilege and in the addition of 6 points to his or her driver record.
- C. A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or an individual operating under the delegation of a licensed physician under section 16215 of the Public health code, Act No. 368 of the Public Acts of 1978, being section 333.16215 of the Michigan Compiled Laws, qualified to withdraw blood and acting in a medical environment, may withdraw blood at a peace officer's request to determine the amount of alcohol or presence of a controlled substance or both in the person's blood, as provided in this subsection. Liability for a crime or civil damages predicated on the act of withdrawing or analyzing blood and related procedures does not attach to a licensed physician or individual operating under the delegation of a licensed physician who withdraws or analyzes blood or assists in the withdrawal or analysis in accordance with this act unless the withdrawal or analysis is performed in a negligent manner.
- D. A chemical test described in this subsection shall be administered at the request of a peace officer having reasonable grounds to believe the person has committed a crime described in section 625c(1). A person who takes a chemical test administered at the peace officer's request as provided in this section shall be given a reasonable opportunity to have a person of his or her own choosing

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- administer 1 of the chemical tests described in this subsection within a reasonable time after his or her detention. The test results are admissible and shall be considered with other competent evidence in determining the defendant's innocence or guilt. If the person charged is administered a chemical test by a person of his or her own choosing, the person charged is responsible for obtaining a chemical analysis of the test sample.
- E. If, after an accident, the driver of a vehicle involved in the accident is transported to a medical facility and a sample of the driver's blood is withdrawn at that time for medical treatment, the results of a chemical analysis of that sample are admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance or both in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subdivision. A medical facility or person disclosing information in compliance with this subsection is not civilly or criminally liable for making the disclosure.
- F. If, after an accident, the driver of a vehicle involved in the accident is deceased, a sample of the decedent's blood shall be withdrawn in a manner directed by the medical examiner to determine the amount of alcohol or the presence of a controlled substance, or both, in the decedent's blood. The medical examiner shall give the results of the chemical analysis of the sample to the law enforcement agency investigating the accident and that agency shall forward the results to the department of state police.
- G. The department of state police shall promulgate uniform rules under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being section 24.201 to 24.328 of the Michigan Compiled Laws, for the administration of chemical tests for the purposes of this section. An instrument used for a preliminary chemical breath analysis may be used for a chemical test described in this subsection if approved pursuant to rules promulgated by the department of state police.
7. Admissibility of other competent evidence of impairment or intoxication. The provisions of subsection (6) relating to chemical testing do not limit the introduction of any other competent evidence bearing upon the question of whether a person was impaired by, or under the influence of, intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or whether the person had an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or if the person is less than 21 years of age, whether the person had any bodily alcohol content within his or her body. As used in this sections, "any bodily alcohol content" means either of the following:
- A. An alcohol content of not less than 0.02 grams or more than 0.07 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

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- B. Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor, other than consumption of intoxicating liquor as a part of a generally recognized religious service or ceremony.
8. Report of test results to accused; failure of compliance with request as bar to admission into evidence. If a chemical test described in subsection (6) is administered, the test results shall be made available to the person charged or the person's attorney upon written request filed with the court. The prosecution shall furnish the results at least 2 days before the day of the trial. The prosecution shall offer the test results as evidence in that trial. Failure to fully comply with the request bars the admission of the results into evidence by the prosecution.
9. Presumptions. Except in a prosecution relating solely to a violation of section 625(1)(b) or (6), the amount of alcohol in the driver's blood, breath, or urine at the time alleged as shown by chemical analysis of the person's blood, breath or urine gives rise to the following presumptions:
- A. If there were at the time 0.07 grams or less of alcohol per 100 milliliters of the defendant's blood, per 210 liters of the defendant's breath, or per 67 milliliters of the defendant's urine, it is presumed that the defendant's ability to operate a motor vehicle was not impaired due to the consumption of intoxicating liquor, and that the defendant was not under the influence of intoxicating liquor.
- B. If there were at the time more than 0.07 grams but less than 0.10 grams of alcohol per 100 milliliters of the defendant's blood, per 210 liters of the defendant's breath, or per 67 milliliters of the defendant's urine, it is presumed that the defendant's ability to operate a vehicle was impaired within the provisions of section 625(3) due to the consumption of intoxicating liquor.
- C. If there were at the time 0.10 grams or more of alcohol per 100 milliliters of the defendant's blood, per 210 liters of the defendant's breath, or per 67 milliliters of the defendant's urine, it is presumed that the defendant was under the influence of intoxicating liquor.
10. 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 (6) is admissible in a criminal prosecution for a crime described in section 625c(1) only to show that a test was offered to the defendant, but not as evidence in determining the defendant's innocence or guilt. The jury shall be instructed accordingly.

SECTION 5.15B IS DELETED AND REPLACED WITH THE FOLLOWING:

SECTION 5.15B

1. Arrestment on misdemeanor violation of driving under influence of intoxicating liquor or controlled substance. A person arrested for a misdemeanor violation of section 625(1), (3), or (6) or section 625m shall be arraigned on the citation, complaint, or warrant not more than 14 days after the arrest for the violation or, if an arrest warrant is issued or reissued, not more than 14 days after the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanction for a failure to comply with this time limit. The time limit

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does not apply to a violation of section 625(1) punishable under section 625(7)(d) or a violation of section 625(1), (3), or (6) or section 625m joined with a felony charge.

2. Pretrial conference, scheduling; mandatory attendance by defendant; acceptance of plea; adjournment. 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), (3), or (6) or section 625m or a local ordinance substantially corresponding to section 625(1), (3), or (6) or section 625m. The pretrial conference shall be held not more than 35 days after the person's arrest for the violation or, if an arrest warrant is issued or reissued, not more than 35 days after the issued or reissued arrest warrant is served, whichever is later. If the court has only 1 judge who sits in more than 1 location in that district, the pretrial conference shall be held not more than 42 days after the person's arrest for the violation or, if an arrest warrant is issued or reissued, not more than 42 days after the date the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanctions for a failure to comply with applicable time limit. The 35- and 42-day time limits do not apply to a violation of section 625(1) punishable under section 625(7)(d) or a violation of section 625(1), (3), or (6) or section 625m joined with a felony charge. 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.
3. Requirement of final adjudication. Except for delay attributable to the unavailability of the defendant, witness, or material evidence or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, the court shall finally adjudicate, by a plea of guilty or nolo contendere, entry of a verdict, or other final disposition, a case in which the defendant is charged with a misdemeanor violation of section 625(1), (3), or (6) or section 625m or a local ordinance substantially corresponding to section 625(1), (3), or (6) or section 625m, within 77 days after the person is arrested for the violation or, if an arrest warrant is issued or reissued not more than 77 days after the date the issued or reissued warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanctions for a failure to comply with this time limit. The 77-day time limit does not apply to a violation of section 625(1) punishable under section 625(7)(d) or a violation of section 625(1), (3), or (6) or section 625m joined with a felony charge.
4. 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), (3), or (6), the court shall advise the accused of 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.
5. Screening and assessment of likelihood of benefit from alcohol or drug rehabilitative services; court-ordered participation in program; payment of costs. Before imposing

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sentence, other than court-ordered license sanctions, for a violations of section 625(1), (3), (4), (5), or (6) or a local ordinance substantially corresponding to section 625(1), (3), or (6), 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, reassessment, and rehabilitative services.

6. 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), (3), (4), (5), or (6) or a local ordinance substantially corresponding to section 625(1), (3), or (6), 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 person's Michigan driving record, except convictions the court determines upon the defendant's motion 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 person's operator's or chauffeur's license and shall not order the secretary of state to issue a restricted license to that 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), former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), 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 suspend the person's operator's or chauffeur's license for not less than 6 months or more than 2 years. If the court finds compelling circumstances under subsection (1) sufficient to warrant the issuance of a restricted license to a person, the court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the suspension, except that a restricted license shall not be issued during the first 30 days of the 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 625b, the court shall order the secretary of state to suspend the person's operator's or chauffeur's license for not less than 6 months or more than 2 years. If the court finds compelling circumstances under subsection (1) sufficient to warrant the issuance of a restricted license to a person, the court may order the

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secretary of state to issue to the person a restricted license during all or any portion of the suspension, except that a restricted license shall not be issued during the first 60 days of the 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), former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), 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 person's operator's license 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), former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), 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 suspend the person's operator's or chauffeur's license for not less than 90 days or more than 1 year. However, if the person is convicted of a violation of section 625(3) or a local ordinance substantially corresponding to section 625(3) for operating a vehicle when, due to the consumption of a controlled substance or a combination of an intoxicating liquor and a controlled substance, the person's ability to operate the vehicle was visibly impaired, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for not less than 6 months or more than 1 year. If the court finds compelling circumstances under subsection (1) sufficient to warrant the issuance of a restricted license to a person, the court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the 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), former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), 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 suspend the person's operator's license for not less than 6 months or more than 2 years. If the court finds compelling circumstances under subsection (1) sufficient to warrant the issuance of a restricted license to

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a person, the court may order the secretary of state to issue to the person a restricted license during all or any portion of the suspension, except that a restricted license shall not be issued during the first 60 days of the 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), former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), 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 person's operator's or chauffeur's license and shall not order the secretary of state to issue a restricted license to the person.
- D. For a conviction under section 625(6) or a local ordinance substantially corresponding to section 625(6):
- 1) If the court finds that the convicted person has no prior conviction with 7 years for a violation of section 625(1), (3), (4), (5), or (6), former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1), (3), or (6), former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to 625(1), (3), (4), (5), or (6), 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 not less than 30 days or more than 90 days. The court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the suspension.
 - 2) If the court finds that the person has 1 or more prior convictions within 7 years for a violation of section 625(1), (3), (4), (5) or (6), former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1), (3), or (6), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), (5), or (6), 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 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 any portion of the suspension, except that a restricted license shall not be issued during the first 90 days of the suspension.
7. Permissible driving uses of restricted license. A restricted license issued pursuant to an order under subsection (6) shall permit the person to whom it is issued to drive under 1 or more of the following circumstances:
- A. To and from the person's residence and work location.
 - B. In the course of the person's employment or occupation.
 - C. To and from the person's residence and an alcohol or drug education or treatment program as ordered by the court.

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- D. To and from the person's residence and the court probation department or a court-ordered community service program, or both.
 - E. To and from the person's residence and an educational institution at which the person is enrolled as a student.
 - F. To and from the person's residence or work location and a place of regularly occurring medical treatment for a serious condition for the person or a member of the person's household or immediate family.
8. Installation of ignition interlock device as condition for restricted license. The court may order that the restricted license issued pursuant to subsection (6) 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 an alcohol content of 0.02 grams or more per 210 liters of breath of the person who offers a breath sample. The court may order the installation of an ignition interlock device on any motor vehicle that the person owns or operates, the cost of which the person whose license is restricted shall bear.
9. Hauling of hazardous materials not permitted under restricted license. The court shall not order the secretary of state under subsection (6) to issue a restricted license that would permit a person to operate a commercial motor vehicle that hauls hazardous materials.
10. 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 both of the following are true:
- A. The person needs vehicular transportation to and from his or her work location, place of alcohol or drug education treatment, court probation department, court-ordered community service program, or educational institution, or a place of regularly occurring medical treatment for a serious condition, or in the course of the persons employment or occupation.
 - B. The person is unable to take public transportation and does not have any family members or other individuals able to provide transportation to a destination or for a purpose described in subdivision (A).
11. Restricted license to indicate destination, route and time of travel. The court order issued under subsection (6) and the restricted license shall indicate the permitted destinations of the person or the permitted purposes for which the person may operate a vehicle, the approved route or routes if specified by the court, and permitted times of travel.
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 of the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of

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section 625(1), (3), (4), (5), or (6) or a local ordinance substantially corresponding to section 625(1), (3), or (6), 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 judgement 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 as part of the sentence imposed upon a person who violations 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, the court shall order the secretary of state to suspend the vehicle group designations on the person's operator's or chauffeur's license in accordance with section 319b(1)(c). If the vehicle was transporting hazardous required to have a placard pursuant to 49 C.F.R. parts 100 to 199, the court shall order the secretary of state to suspend the vehicle group designations on the person's operator's or chauffeur's license 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.
14. Revocation of vehicle group designations on license of person with prior convictions; prohibition of use of restricted license to operate commercial vehicle. 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 subsection, "prior conviction" means a conviction under section 625(1), (3), (4), or (5), former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), 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 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.
15. Definition of "work location" for restricted license. As used in this section, "work location" means, as applicable, the specific place or places of employment or the

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territory or territories regularly visited by the person in pursuance of the person's occupation, or both.

SECTION 5.15C IS DELETED AND REPLACED WITH THE FOLLOWING:

SECTION 5.15C.

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 breath in all of the following circumstances:
 - A. If the person is arrested for a violation of section 625(1), (3), (4), (5), or (6), section 625a(5), or section 625m, or a local ordinance substantially corresponding to section 625(1), (3), or (6), section 625a(5), or section 625m.
 - B. If the person is arrested for felonious driving, negligent homicide, manslaughter, or murder resulting from the operation of a motor vehicle, and the peace officer had reasonable grounds to believe the person was operating the vehicle while impaired by or under the influence of intoxicating liquor or a controlled substance or a combination of an intoxicating liquor and a controlled substance, or while having an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or if the person is less than 21 years of age while having any bodily alcohol content. As used in this subdivision, "any bodily alcohol content" means either of the following:
 - 1) An alcohol content of not less than 0.02 grams or more than 0.07 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
 - 2) Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor, other than consumption of intoxicating liquor as part of a generally recognized religious service or ceremony.
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 5.15F 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 after the date of notice pursuant to section 625e, the secretary of state shall impose the following license sanctions:
 - A. If the person was operating a vehicle other than a commercial motor vehicle, suspend or deny the person's operator's or chauffeur's license or permit to drive or nonresident operating privilege, for 6 months or, for a second or subsequent refusal within 7 years, for 1 year. If the person is a resident without a license or

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- permit to operate a vehicle in the state, the secretary of state shall not issue the person a license or permit for 6 months or, for a second or subsequent refusal within 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 privilege to operate a commercial motor vehicle or, if the person is a resident without a license or permit to operate a commercial motor vehicle in the state, not issue the person an operator's or chauffeur's license with vehicle group designations for 1 **yeap**.
- 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 in the state, not issue the person an operator's or chauffeur's license with vehicle group designations, for not less than 10 years and until the person is approved for the issuance of a vehicle group designation.
- D. If the person was operating a commercial motor vehicle and was arrested for an offense enumerated in section 625c other than a violation of section 625a(5) or 625m, impose the license sanction described in subdivision (A) and the license sanction described in subdivision (B) or (C), as applicable.
2. Scheduling of hearing; time limits; adjournments. If a hearing is requested, the secretary of state shall hold the hearing in the same manner and under the same conditions as provided in section 322. Not less than 5 days' notice of the hearing shall be mailed to the person requesting the hearing, to the peace officer who filed the report under section 625d, and if the prosecuting attorney requests receipt of the notice, to the prosecuting attorney of the county where the arrest was made. The hearing officer may administer oaths, issue subpoenas for the attendance of necessary witnesses, and grant a reasonable request for an adjournment. Not more than 1 adjournment shall be granted to a party and the length of an adjournment shall not exceed 14 days. A hearing under this subsection shall be scheduled to be held within 45 days after the date of arrest for the violation. The hearing officer shall not impose any sanction for a failure to comply with these time limits.
3. Requirement of final adjudication. Except for delay attributable to the unavailability of the defendant, a witness, or material evidence, or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, a hearing shall be finally adjudicated within 77 days after the date of arrest. The hearing officer shall not impose any sanction for a failure to comply with this time limit.
4. Hearing; scope of inquiry. 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).

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- C. If the person refused to submit to the test upon the request of the officer, whether the refusal was reasonable.
- D. Whether the person was advised of the rights under section 625a(6).
- 5. Hearing officer; no requirement to make particular finding. A person shall not order a hearing officer to make a particular finding on any issue enumerated in subsection (4)(A) to (D).
- 6. Record of proceedings, preparation, transcript transmittal to reviewing court; stipulation; corrections. The hearing officer shall make a record of a hearing held pursuant to this section. The record shall be prepared and transcribed in accordance with section 86 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being section 24.286 of the Michigan Compiled Laws. Upon notification of the filing of a petition for judicial review pursuant to section 323 and not less than 10 days before the matter is set for review, the hearing officer shall transmit to the court in which the petition was filed the original or a certified copy of the official record of the proceedings. Proceedings at which evidence was presented need not be transcribed and transmitted if the sole reason for review is to determine whether the court will order the issuance of a restricted license. The parties to the proceedings for judicial review may stipulate that the record be shortened. A party unreasonably refusing to stipulate to a shortened record may be taxed by the court in which the petition is filed for the additional costs. The court may permit subsequent corrections to the record.
- 7. Failure of defendant to prevail; imposition of licensing sanction. If the person who requested a hearing does not prevail, the secretary of state shall impose the following license sanctions after the hearing:
 - A. If the person was operating a vehicle other than a commercial motor vehicle, suspend or deny issuance of a license or driving permit or a nonresident operating privilege of the person for 6 months 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 not issue the person a license or permit for 6 months or for a second 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.
 - B. If the person was operating a commercial motor vehicle, impose the sanction prescribed under subsection (1)(B) or (1)(C), as applicable. The person may file a petition in the circuit court of the county in which the arrest was made to review the suspension or denial as provided in section 323.
 - C. If the person was operating a commercial motor vehicle and was arrested for an offense enumerated in section 625c other than a violation of section 625a(5) or 625m, impose the license sanctions described in subdivisions (A) and (B).
- 8. Appeal by peace officer. If the person who requested the hearing prevails, the peace officer who filed the report under section 625d may, with the consent of the prosecuting attorney, file a petition in the circuit court of the county in which the

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arrest was made to review the determination of the hearing officer as provided in section 323.

9. 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 a peace officer of accused's license upon refusal to take test or if test reveals impermissible blood alcohol content; 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(6), or submits to the chemical test or a chemical test is performed pursuant to a court order and the test reveals an unlawful alcohol content, the peace officer who requested the person to submit to the test shall do all of the following:
 - A. On behalf of the secretary of state, immediately confiscate the person's license or permit to operate a motor vehicle and, if the person is otherwise eligible for a license or permit, issue a temporary license or permit to the person. The temporary license or permit shall be on a form provided by the secretary of state.
 - B. Except as provided in subsection (2), immediately do all of the following:
 - 1) Forward a copy of the written report of the person's refusal to submit to a chemical test required under section 625d to the secretary of state.
 - 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) 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(6) that requires an analysis of blood or urine and a report of the results of that chemical test is not immediately available, the peace officer who requested the person to submit to the test shall comply with subsection (1)(A) pending receipt of the test report. If the report reveals an unlawful alcohol content, the peace officer who requested the person to submit to the test shall immediately comply with subsection (1)(B). If the report does not reveal an unlawful alcohol content, the peace officer who requested the person to submit to the test shall immediately notify the person of the test results and immediately return the person's license or permit by first-class mail to the address given at the time of arrest.
3. Temporary license; limits to validity. A temporary license or permit issued under this section is valid for 1 of the following time periods.
 - A. If the case is not prosecuted, for 90 days after issuance or until the person's license or permit is suspended pursuant to section 625f, whichever occurs earlier.

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The prosecuting attorney shall notify the secretary of state if a case referred to the prosecuting attorney is not prosecuted. The arresting law enforcement agency shall notify the secretary of state if a case is not referred to the prosecuting attorney for prosecution.

- B. If the case is prosecuted, until the criminal charges against the person are dismissed, the person pleads guilty or nolo contendere to or is found guilty of or acquitted of those charges, or the person's license or permit is suspended pursuant to section 625f, whichever occurs earlier.
4. "Unlawful alcohol content"; definition. As used in this section, "unlawful alcohol content" means any of the following, as applicable:
- A. If the person tested is less than 21 years of age, 0.02 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- B. If the person tested was operating a commercial motor vehicle within this state, 0.04 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- C. If the person tested is not a person described in subdivision (a) or (b), 0.08 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or, beginning October 1, 2013, 0.10 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

SECTION 5.15G IS DELETED AND REPLACED WITH THE FOLLOWING:

SECTION 5.15G

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) of this act, section 15a(1) or (3) of the Michigan snowmobile act, Act No. 74 of the Public Acts of 1968, being section 257.1515a of the Michigan Compiled Laws, or section 171(1) or (3) of the marine safety act, Act No. 303 of the Public Acts of 1967, being section 281.1171 of the Michigan Compiled Laws, or a local ordinance substantially corresponding to section 625(1) or (3) of this act, section 15a(1) or (3) of Act No. 64 of the Public Acts of 1968, or section 171(1) or (3) of Act No. 303 of the Public Acts of 1967. 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 the 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 office 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) of this act, section 15a(1) or (3) of Act No. 74 of the Public Acts of 1968, or section 171(1) or (3) of Act No. 303 of the Public Acts of 1967 or a local ordinance substantially corresponding to section 625(1) or (3) of this act, section 15a(1) or (3) of Act No. 74 of the Public Acts of 1968, or section 171(1) or (3) of Act No. 303 of the Public Acts of 1967 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) of this act, section 15a(1) or (3) of Act No. 74 of the Public Acts of 1968, or section 171(1) or (3) of Act No. 303 of the Public Acts of 1967 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

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administration of this section, including judicial and staff training, on-site management assistance, and software development and conversion.

SECTION 5.15K IS DELETED AND REPLACED WITH THE FOLLOWING:

SECTION 5.15K.

1. Ignition interlock device; certification required; approval by department; list of manufacturers. The department shall approve an ignition interlock device certified by a department-approved laboratory as complying with the national highway traffic and safety administration's model specifications for breath alcohol ignition devices (BAIID), 57 F.R.P. 11772 (April 7, 1992). Subject to subsection (4), the department shall publish a list of all manufacturers of approved certified devices.
2. Cost of certification born by manufacturer. The manufacturer of an ignition interlock device shall bear the cost of that device's certification.
3. Notification of certification; requirement. A laboratory that certifies an ignition interlock device as provided in this section shall immediately notify the department of that certification.
4. Affidavit of manufacture; filing; requirement to make list. The department shall not include the manufacturer of a certified ignition interlock device on the list of manufacturers published pursuant to subsection (1) unless the manufacturer has filed with the department copies of an affidavit that the ignition interlock device is both of the following:
 - A. An alcohol concentration measuring device that prevents a motor vehicle from being started at any time without first determining through a deep lung sample the operator's breath alcohol level.
 - B. Calibrated to prevent the motor vehicle from starting if the operator's breath alcohol level reaches a level of 0.02 grams per 210 liters of breath as measured by the test.
5. Notification of change; duty of manufacture. A manufacturer that has made a filing under subsection (4) shall immediately notify the department if the device no longer meets the requirements of subsection (4).
6. Notification of courts; duty of department. The department shall notify the courts of a notice received under subsection (5). If a court receives the notification required by this subsection, the court shall not order installation of the ignition interlock device described in the notice, and shall order the replacement or removal of any of those ignition interlock devices installed pursuant to a previous order.

SECTION 5.15L IS DELETED AND REPLACED WITH THE FOLLOWING:

SECTION 5.15L.

1. Ignition interlock device; warning label. The manufacturer of an ignition interlock device shall design a warning label, and the person who has a court-ordered ignition interlock device shall promptly affix the label to each ignition interlock device upon installation. The label shall contain a warning that any person tampering,

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circumventing, or otherwise misusing the device is guilty of a misdemeanor punishable as provided by law.

2. Prohibition conduct; soliciting help. A person who has a court-ordered ignition interlock device installed and whose driving privilege is restricted pursuant to section 625b shall not request or solicit any other person to blow into an ignition interlock device or to start a vehicle equipped with the device for the purpose of providing the person whose driving privilege is restricted with an operable vehicle.
3. Blowing into ignition interlock device, starting vehicle. A person shall not blow into an ignition interlock device or start a motor vehicle equipped with the device for the purpose of providing an operable vehicle to a person who has a court-ordered interlock device installed and whose driving privilege is restricted pursuant to section 625b.
4. Tampering. A person shall not tamper with or circumvent the operation of an ignition interlock device.
5. Violation as a misdemeanor; penalty. A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$5,000, or both.
6. Definition. As used in this section and section 625b and 625k, “ignition interlock device” or “device” means an alcohol concentration measuring device that prevents a motor vehicle from being started at any time without first determining through a deep lung sample the operator’s breath alcohol level. The system shall be calibrated so that the motor vehicle may not be started if the breath alcohol level of the operator, as measured by the test, reaches a level of 0.02 grams per 210 liters of breath.

SECTION 5.15M IS DELETED AND REPLACED WITH THE FOLLOWING:

SECTION 5.15M

1. Prohibition of operation of a commercial motor vehicle with certain percentage of alcohol in blood. A person, whether licensed or not, who has an alcohol content of 0.04 grams or more but not more than 0.07 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine shall not operate a commercial motor vehicle within this state.
2. Arrest for violation. A peace officer may arrest a person without a warrant if the peace officer has reasonable cause to believe that the person was, at the time of an accident, the driver of a commercial motor vehicle involved in the accident and was operating a vehicle in violation of this section or of a local ordinance substantially corresponding to this section.
3. Violation as 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 costs of the prosecution. As part of the sentence, the court shall order the secretary of state to suspend the vehicle group designations on

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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; issuance of 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) or (3), former section 625(1) or (2), or former section 625b, or a law of another state 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. Attempts; same as completed offense. When assessing points and taking license actions under this act, the secretary of state and the court shall treat a conviction for an attempted violation of subsection (1), a local ordinance substantially corresponding to subsection (1), or a law of another state substantially corresponding to subsection (1) the same as if the offense had been completed.

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 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 and punishable as follows:
 - A. For a first violation, by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both. Unless the vehicle was stolen or used with the

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permission of a person who did not knowingly permit an unlicensed driver to operate the vehicle, the registration plates of the vehicles shall be cancelled by the secretary of state upon notification by a court.

- B. For a second or subsequent violation, 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 cancelled by the secretary of state upon notification by a court.
2. Subsequent offense; extension of suspension or revocation. Upon receiving a record of a person's conviction for unlawful operation of a motor vehicle while the person's license is suspended or revoked or of a person's conviction or civil infraction determination for a moving violation of the vehicle laws of this state or a political subdivision of this state while the person's license is suspended or revoked, the secretary of state immediately shall extend the period of the first suspension or revocation for an additional like period. This subsection applies 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 suspension or revocation; applicability of provision. Upon receiving a record of the conviction, bond forfeiture, or a civil infraction determination of a person for 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, the secretary of state immediately shall extend the period of suspension or revocation for an additional like period. This subsection applies only if the violation occurs during a suspension of definite length, 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 999-570, 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 or civil infraction determination resulting from the same incident, all of the convictions or civil infraction determinations 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 a person is arraigned before a district court magistrate or judge on a charge of violating this section, the arresting officer shall obtain the person's driving record 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 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 summoning prompt aid is essential.
 7. Commercial motor carrier; driving while vehicle group designation is suspended; violation; penalty. A person whose vehicle group designation is suspended or revoked

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and who has been notified as provided in section 212 of that suspension or revocation, or whose application for a vehicle group 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 exist 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 9.6 IS DELETED AND REPLACED WITH THE FOLLOWING:

SECTION 9.6.

1. **Effect of conviction on a 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.

SECTION II

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 III

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

SECTION IV

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 or forfeiture incurred, or any pending fee, assessments, litigation or prosecution of any right established, occurring prior to the effective date hereof.

SECTION V

1. **PUBLICATION AND EFFECTIVE DATE.** The Township Clerk shall cause this Ordinance, to be published in the manner required by law within 30 days after it has been duly adopted by the Township Board. The effective date shall be 30 days after the date of publication.

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Township Clerk