

(o) “Nonocean-going vessel” means a vessel that is not an ocean-going vessel.

(p) “Ocean-going vessel” means a vessel that operates on the Great Lakes or the St. Lawrence waterway after operating in waters outside of the Great Lakes or the St. Lawrence waterway.

(q) “Open water disposal of contaminated dredge materials” means the placement of dredge materials contaminated with toxic substances as defined in R 323.1205 of the Michigan administrative code into the open waters of the waters of the state but does not include the siting or use of a confined disposal facility designated by the United States army corps of engineers or beach nourishment activities utilizing uncontaminated materials.

(r) “Primary public safety answering point” means that term as defined in section 102 of the emergency telephone service enabling act, 1986 PA 32, MCL 484.1102.

(s) “Sediments” means any matter settled out of ballast water within a vessel.

(t) “Sewage sludge” means sewage sludge generated in the treatment of domestic sewage, other than only septage or industrial waste.

(u) “Sewage sludge derivative” means a product for land application derived from sewage sludge that does not include solid waste or other waste regulated under this act.

(v) “Sewage sludge generator” means a person who generates sewage sludge that is applied to land.

(w) “Sewage sludge distributor” means a person who applies, markets, or distributes, except at retail, a sewage sludge derivative.

(x) “St. Lawrence waterway” means the St. Lawrence river, the St. Lawrence seaway, and the gulf of St. Lawrence.

(y) “Threshold reporting quantity” means that term as defined in R 324.2002 of the Michigan administrative code.

(z) “Waters of the state” means groundwaters, lakes, rivers, and streams and all other watercourses and waters, including the Great Lakes, within the jurisdiction of this state.

### **324.3109c Prohibition.**

Sec. 3109c. Notwithstanding any other provision of this part or the rules promulgated under this part, the open water disposal of contaminated dredge materials is prohibited.

This act is ordered to take immediate effect.

Approved April 2, 2006.

Filed with Secretary of State April 4, 2006.

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**[No. 98]**

**(HB 5620)**

AN ACT to amend 1988 PA 234, entitled “An act to create the Vietnam veterans memorial monument fund; to establish a commission to govern the monument fund; to prescribe the purpose of the monument fund; to prescribe the powers and duties of the commission and certain state departments and officers; to designate the veterans memorial park; to provide for legislative oversight; and to provide for dissolution of the commission,” by amending section 5a (MCL 35.1055a), as added by 2000 PA 470.

*The People of the State of Michigan enact:*

**35.1055a Veterans memorial park; establishment; location.**

Sec. 5a. (1) The veterans memorial park is established.

(2) The veterans memorial park consists of a 3.18-acre parcel of land measuring approximately 260.17 feet in an east-west direction and approximately 533 feet in a north-south direction, the westerly boundary being the easterly right of way of Butler Street and the northerly boundary being the southerly right of way of Ottawa Street, also being a part of Bush, Butler and Sparrow's Addition to the City of Lansing and a part of Claypool's Subdivision, City of Lansing, Ingham County, Michigan.

This parcel being more particularly described as beginning at the northwest corner of block 6, Claypool's Subdivision, City of Lansing, Ingham County, Michigan; thence easterly 260.17 feet on the north line of said block 6; thence southerly 330.37 feet parallel to the west line of said block 6 to a point on the E-W 1/4 line of section 17, T4N, R2W, Lansing Township, City of Lansing, Ingham County, Michigan and a point in the center of Michigan Avenue; thence southerly 203.00 feet parallel to the west line of block 1, of Bush, Butler and Sparrow's Addition, City of Lansing, Ingham County, Michigan; thence westerly 260.17 feet to said west line; thence northerly 203.00 feet on said west line extended to a point on the E-W 1/4 line of said section 17; thence northerly 330.00 feet on the west line of said block 6 of Claypool's Subdivision to the point of beginning.

This act is ordered to take immediate effect.

Approved April 2, 2006.

Filed with Secretary of State April 4, 2006.

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**[No. 99]**

**(SB 883)**

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 518 (MCL 600.518), as amended by 2001 PA 256.

*The People of the State of Michigan enact:*

**600.518 Seventeenth judicial circuit; county; number of judges.**

Sec. 518. The seventeenth judicial circuit consists of the county of Kent and has 9 judges. Subject to section 550, this judicial circuit may have 1 additional judge effective January 1, 2007.

This act is ordered to take immediate effect.

Approved April 2, 2006.

Filed with Secretary of State April 6, 2006.

**[No. 100]****(SB 907)**

AN ACT to amend 1961 PA 236, entitled “An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts,” by amending sections 508 and 549a (MCL 600.508 and 600.549a), section 508 as amended by 2001 PA 253.

*The People of the State of Michigan enact:*

**600.508 Seventh judicial circuit; county; number of judges.**

Sec. 508. The seventh judicial circuit consists of the county of Genesee and has 9 judges. Subject to section 550, this judicial circuit may have 1 additional judge effective January 1, 2007.

**600.549a Forty-ninth judicial circuit; counties; number of judges.**

Sec. 549a. The forty-ninth judicial circuit consists of the counties of Mecosta and Osceola and has 1 judge. Subject to section 550, this judicial circuit may have 1 additional judge effective January 1, 2007.

**Term of office of judge.**

Enacting section 1. If, pursuant to this amendatory act, a new office of judge is added to the forty-ninth judicial circuit by election in 2006, the term of office of that judgeship for that election only shall be 8 years.

This act is ordered to take immediate effect.

Approved April 2, 2006.

Filed with Secretary of State April 6, 2006.

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**[No. 101]****(SB 925)**

AN ACT to amend 1961 PA 236, entitled “An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or

contravening any of the provisions of this act; and to repeal acts and parts of acts,” by amending section 517 (MCL 600.517), as amended by 2002 PA 715.

*The People of the State of Michigan enact:*

**600.517 Sixteenth judicial circuit; county; number of judges.**

Sec. 517. The sixteenth judicial circuit consists of the county of Macomb and has 12 judges. Subject to section 550, this circuit may have 1 additional judge effective January 1, 2007.

This act is ordered to take immediate effect.

Approved April 2, 2006.

Filed with Secretary of State April 6, 2006.

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**[No. 102]**

**(SB 955)**

AN ACT to amend 1961 PA 236, entitled “An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts,” by amending section 549g (MCL 600.549g), as added by 1981 PA 182.

*The People of the State of Michigan enact:*

**600.549g Fifty-fifth judicial circuit; counties; number of judges.**

Sec. 549g. The fifty-fifth judicial circuit consists of the counties of Clare and Gladwin and has 1 judge. Subject to section 550, this judicial circuit may have 1 additional judge effective January 1, 2007.

This act is ordered to take immediate effect.

Approved April 2, 2006.

Filed with Secretary of State April 6, 2006.

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**[No. 103]**

**(SB 946)**

AN ACT to amend 1961 PA 236, entitled “An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal

actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts,” by amending section 507 (MCL 600.507), as amended by 2001 PA 252.

*The People of the State of Michigan enact:*

**600.507 Sixth judicial circuit; county; number of judges.**

Sec. 507. The sixth judicial circuit consists of the county of Oakland and has 19 judges. Subject to section 550, this judicial circuit may have 1 additional judge effective January 1, 2007.

This act is ordered to take immediate effect.

Approved April 2, 2006.

Filed with Secretary of State April 6, 2006.

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**[No. 104]**

**(HB 5508)**

AN ACT to amend 1984 PA 44, entitled “An act to provide purity and quality standards for motor fuels; to regulate the transfer, sale, dispensing, or offering motor fuels for sale; to provide for an inspection and testing program; to provide for the powers and duties of certain state agencies; to provide for the licensing of certain persons engaged in the transfer, sale, dispensing, or offering of motor fuels for sale; to regulate stage I and stage II vapor-recovery systems at certain facilities; to provide for fees; and to provide remedies and prescribe penalties,” by amending the title and sections 2, 3, 5, 9b, 9d, 9g, 9h, 9i, 9j, 10b, 10c, and 10d (MCL 290.642, 290.643, 290.645, 290.649b, 290.649d, 290.649g, 290.649h, 290.649i, 290.649j, 290.650b, 290.650c, and 290.650d), the title and section 2 as amended and sections 9b, 9d, 9g, 9h, 9j, and 10c as added by 1993 PA 236, sections 3, 5, and 10b as amended by 2002 PA 13, section 9i as amended by 2004 PA 278, and section 10d as added by 1993 PA 231, and by adding sections 9k and 9l; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

TITLE

An act to provide purity and quality standards for motor fuels; to regulate the transfer, sale, dispensing, or offering motor fuels for sale; to provide for an inspection and testing program; to provide for the powers and duties of certain state agencies; to prescribe certain powers of the governor; to provide for the licensing of certain persons engaged in the transfer, sale, dispensing, or offering of motor fuels for sale; to regulate stage I vapor-recovery systems at certain facilities; to provide for fees; to make appropriations; and to provide remedies and prescribe fines and penalties.

**290.642 Definitions.**

Sec. 2. As used in this act:

(a) “Additive” means any substance in gasoline other than gasoline but does not include approved blending components, other than lead, sodium, and phosphate components, introduced at refineries or terminals as octane or product quality enhancers in quantities of less than 1% of volume.

(b) “American society for testing and materials” means an international nonprofit scientific and educational society devoted to the promotion of knowledge of the materials of engineering and the standardization of specification and methods of testing.

(c) “Antiknock index” or “AKI” means an index number arrived at by adding the motor octane number and the research octane number, then dividing by 2.

(d) “Blender” means a person who as an individual or through his or her agent adds an oxygenate to a gasoline.

(e) “Bulk purchaser-end user” means a person who is an ultimate consumer of gasoline and receives delivery of gasoline into a storage tank of at least 550-gallon capacity substantially under his or her control.

(f) “CARB” means the California air resources board.

(g) “Delivery vessel” means a tank truck, tank equipped trailer, or a similar vessel used for the delivery of gasoline to a dispensing facility.

(h) “Department” means the department of agriculture.

(i) “Director” means the director of the department of agriculture or his or her authorized representative.

(j) “Dispensing facility” means a site used for gasoline refueling.

(k) “Dispensing unit” means a device designed for the delivery of gasoline in which 1 nozzle equates to 1 dispensing unit.

(l) “Distributor” means a person who purchases, transports, or stores or causes the transportation or storage of gasoline at any point between a gasoline refinery and a retail outlet or bulk purchaser-end user facility.

(m) “E.P.A.” means the United States environmental protection agency.

(n) “Gasoline” means any fuel sold in this state that is suitable for use in spark-ignition internal combustion engines, and commonly or commercially known or sold as gasoline.

(o) “Leak” means liquid or vapor loss from the gasoline dispensing system or stage I vapor-recovery system as determined by visual inspection or functional testing.

(p) “Modification” means any change, removal, or addition, other than an identical replacement, of any component contained within a stage I vapor-recovery system. The resultant modification must constitute an approved vapor-recovery system.

(q) “Motor octane number” or “MON” means a knock characteristic of gasoline determined by use of standard procedures on a motor engine.

(r) “Operator” means a person who owns, leases, operates, manages, supervises, or controls, directly or indirectly, a gasoline-dispensing facility.

(s) “Oxygenate” means an oxygen-containing, ashless, organic compound, such as alcohol or ether, that may be used as fuel or fuel supplement.

(t) “Person” means an individual, sole proprietorship, partnership, corporation, association, or other legal entity.

(u) “Refiner” means a person who owns, leases, operates, controls, or supervises a refinery.

(v) “Refinery” means a plant at which gasoline is produced.

(w) “Research octane number” or “RON” means a knock characteristic of gasoline determined by use of standard procedures on a research engine.

(x) “Retail dealer” means a person who owns, leases, operates, controls, or supervises a retail outlet.

(y) “Retail outlet” means an establishment at which gasoline is sold or offered for sale to the public.

(z) “Rule” means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(aa) “Stage I vapor-recovery system” means a vapor tight collection system that is approved by the department and is designed to capture the gasoline vapors displaced during delivery into a stationary storage tank and to return not less than 90% of the displaced vapors to the delivery vessel.

### **290.643 Establishment of standards by rules.**

Sec. 3. (1) The director shall establish standards pursuant to this act to ensure the purity and quality of gasoline sold or offered for sale in this state.

(2) The director shall establish standards for the amount and type of additives allowed to be included in gasoline.

(3) The director shall establish standards for the grading of gasoline, including, but not limited to, subregular with a minimum 85 AKI, regular with a minimum 87 AKI and a minimum 82 MON, midgrade 88 with a minimum 88 AKI and a minimum 82 MON, midgrade 89 with a minimum 89 AKI and a minimum 83 MON, premium with a minimum 90 AKI, premium 91 with a minimum 91 AKI, premium 92 with a minimum 92 AKI, premium 93 with a minimum 93 AKI, and premium 94 with a minimum 94 AKI.

(4) The director shall establish standards for vapor pressure as specified by the American society for testing and materials, except as otherwise required to conform to federal or state law. Notwithstanding anything to the contrary in section 10d, the director shall establish the vapor pressure as 9.0 pounds per square inch (psi) for retail outlets during the period beginning June 1 through September 15 of each year, except for dispensing facilities in counties where the director establishes the vapor pressure as 7.0 psi or 7.8 psi in the year 2007 and thereafter. As used in this act, “vapor pressure” means the vapor pressure of gasoline or gasoline oxygenate blend as determined by ASTM test method D6378 or D5191 or an ASTM method approved by the department.

(5) In establishing additive and grading standards the director shall adopt the latest standards for gasoline established by the American society for testing and materials and shall adopt the latest standards for gasoline established by federal law or regulation. The standards established by the director shall not prohibit a gasoline blend that is permitted by a valid waiver granted by the United States environmental protection agency pursuant to the fuel or fuel additive waiver in section 211(f)(4) of part A of title II of the clean air act, chapter 360, 81 Stat. 502, 42 USC 7545, and the ethanol waiver of 1.0 psi in section 211(h)(4) of part A of title II of the clean air act, chapter 360, 81 Stat. 502, 42 USC 7545, if the gasoline blend meets all of the conditions set forth in the waiver. Beginning June 1, 2003, the director shall not permit the use of the additive methyl tertiary butyl ether (MTBE) in this state.

(6) Standards established pursuant to this section shall be by rules promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

**290.645 Prohibitions; contents of bill, invoice, or other instrument evidencing delivery of gasoline; violation; liability; disposition of civil fine.**

Sec. 5. (1) Except as provided by federal law or regulation, in the manufacture of gasoline at any refinery in this state, a refiner shall not manufacture gasoline at a refinery in this state unless the gasoline meets the requirements in sections 3 and 10d. Except as provided by federal law or regulation, a blender shall not blend gasoline unless the finished blend meets the requirements in sections 3 and 10d.

(2) Except as provided by federal law or regulation, a distributor shall not sell or transfer to any distributor, retail dealer, or bulk purchaser-end user any gasoline unless that gasoline meets the requirements in sections 3 and 10d.

(3) A carrier or an employee or agent of a carrier, whether operating under contract or tariff, shall not cause gasoline tendered to the carrier for shipment or transfer to another carrier, distributor, or retail dealer to fail to comply, at the time of delivery, with the requirements in sections 3 and 10d.

(4) A person shall not knowingly sell, dispense, or offer for sale gasoline unless that gasoline meets the requirements in sections 3 and 10d.

(5) A refiner or distributor shall not transfer, sell, dispense, or offer gasoline for sale in this state to a distributor unless the refiner or distributor indicates on each bill, invoice, or other instrument evidencing a delivery of gasoline, the name of the wholesale distributor who received delivery of the gasoline.

(6) A distributor or refiner shall not transfer, sell, dispense, or offer gasoline for sale in this state to a retail dealer unless the distributor indicates on each bill, invoice, or other instrument evidencing a delivery of gasoline, the name and license number issued pursuant to this act, of the retail dealer who received delivery of the gasoline.

(7) A bill, invoice, or other instrument evidencing a delivery of gasoline issued by a refiner or distributor for deliveries of gasoline to purchasers who are not required to hold a license issued pursuant to the motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1170, or this act shall clearly indicate the name and address and other information necessary to identify the purchaser of the gasoline.

(8) A bill, invoice, or other instrument evidencing a delivery of gasoline required by subsection (5), (6), or (7) shall include a guarantee that the gasoline delivered meets the requirements in sections 3 and 10d and shall indicate the concentration range of alcohol in the gasoline, except for alcohols or ethers that have a molecular weight greater than ethanol and are not mixed with methanol or ethanol, or both, and shall indicate the possible presence, without regard to concentration range, of any alcohols or ethers that have a molecular weight greater than ethanol and are not mixed with methanol or ethanol, or both.

(9) A refiner, distributor, bulk purchaser-end user, or retail dealer shall not transfer, sell, dispense, or offer gasoline for sale unless that gasoline is visibly free of undissolved water, sediments, and other suspended matter and is clear and bright at an ambient temperature or 70 degrees Fahrenheit, whichever is greater.

(10) A person who violates this section or rules promulgated under this section is liable for a civil fine not to exceed \$10,000.00 for each day of the continuance of the violation. A civil fine ordered pursuant to this section shall be submitted to the state treasurer for deposit in the gasoline inspection and testing fund created by section 8.



**290.649b Dispensing facility exempt from certain requirements; annual report; records; notice.**

Sec. 9b. (1) Except as otherwise provided for in this section, a dispensing facility that never dispenses 10,000 gallons (37,850 liters) or more of gasoline per month on average in any 12-month period, beginning with the 12 months preceding the effective date of this section is exempt from the requirements of sections 9a to 9d, 9i, and 9j. If the dispensing facility is inactive for any period during the 12-month averaging period, the average shall be calculated based upon the months of actual operation. The exemption described in this subsection does not apply to a dispensing facility that dispenses 10,000 or more gallons of gasoline per month on average in any 12-month period and such a facility is subject to sections 9a to 9f, 9i, and 9j and continues to be subject to these sections even if the facility's gasoline throughput later falls below the exemption threshold.

(2) A dispensing facility that claims or intends to claim exempt status under subsection (1) and which has 2,000 or more gallons stationary gasoline storage capacity beginning in 1994 shall submit an annual report to the department by March 1 of each year for gasoline dispensed during the preceding year. These throughput records shall contain the quantity of gasoline dispensed at the facility during each month of operation for the preceding calendar year and shall list any period of time the facility was not operational during the preceding calendar year. The director shall review and verify the accuracy of the documents before making final determination on eligibility for exemption.

(3) If a dispensing facility's gasoline throughput for any calendar month ever exceeds the applicability threshold, the operator shall notify the department within 30 days.

**290.649d Maintenance of stage I vapor-recovery system; inspection of systems; repair, modification, or tampering prohibited.**

Sec. 9d. (1) The operator shall maintain the stage I vapor-recovery systems in proper operating condition as specified by the manufacturer and free of defects that could impair the effectiveness of the system. Any component identified as defective, but which does not substantially impair the effectiveness of the system, may remain in operation but shall be repaired or replaced within 15 days after identification.

(2) The stage I vapor-recovery systems and gasoline-dispensing equipment shall be maintained to have no leaks.

(3) The operator shall conduct equipment inspections at least weekly to determine if the stage I vapor-recovery system is operating in accordance with this act and rules promulgated under this act.

(4) A person shall not repair, modify, or permit the repair or modification of the stage I vapor-recovery system or its components so that they are different from their approved configuration; or tamper with, or permit tampering with, the system in a manner that would impair the operation or effectiveness of the system.

**290.649g Records.**

Sec. 9g. (1) An operator shall maintain accurate records of all of the following at the dispensing facility location:

(a) All current licenses and permits required to operate the dispensing facility.

(b) The location, including the contact person's name, address, and telephone number, of the records required under this act which are not maintained at the dispensing facility location.

(2) An operator shall maintain accurate stage I vapor-recovery or gasoline-dispensing equipment maintenance records on forms approved by the department for 3 years.

(3) The records required by subsection (2) shall be maintained for 1 year at the dispensing facility location. After this time these records may be maintained at another business location.

(4) Records required under this act and maintained at the dispensing facility location shall be made available to the director upon request during normal business hours. If records required under this section are not maintained at the dispensing facility location, the records shall be provided to the director within 72 hours of a request.

**290.649h Duties of director to implement MCL 290.649a to 290.649h; rejected or condemned equipment; enforcement; temporary restraining order or permanent injunction.**

Sec. 9h. (1) To implement this section and sections 9a to 9g, the director shall do all of the following:

(a) Develop and conduct training for department inspectors to provide knowledge and proficiency on stage I vapor-recovery program requirements and procedures.

(b) Prepare information on the purposes and benefits of stage I vapor-recovery controls and distribute this information to regulated facilities.

(c) Conduct a minimum of 1 compliance inspection per year per dispensing facility, with mandatory reinspection of dispensing facilities that are found to be in violation of this act or rules promulgated under this act. A compliance inspection consists of the inspection of the records required in section 9g and inspection of the equipment.

(d) Monitor the compliance of the regulated facilities with this act through data collection, including applications and required documents.

(e) Investigate complaints and initiate and conduct other investigations on possible violations of this act.

(2) If the director finds a defect in a stage I vapor-recovery system, the director shall reject or condemn and mark the equipment as “rejected” or “condemned”. Equipment that is rejected or condemned and ordered corrected or disposed of shall remain under the control of the director until suitable repair or disposition has been made under this section. The operator of the rejected or condemned equipment shall cause it to be made correct within the specified time period authorized by the director, or may dispose of the equipment in a manner specified by the director. Equipment that has been rejected or condemned and ordered corrected or disposed of may be confiscated and may be destroyed by the director if not corrected as required by, or if disposed of contrary to the requirements of, this section.

(3) If necessary for the enforcement of this act or rules promulgated under this act, the director may do all of the following:

(a) Issue stop-use orders, hold orders, or removal orders for stage I vapor-recovery and gasoline-dispensing equipment. A person shall not use, remove from the premises specified, or fail to remove from the premises specified any stage I vapor-recovery or gasoline-dispensing equipment contrary to any order issued pursuant to this section.

(b) Seize for use as evidence without formal warrant, any incorrect or unapproved stage I vapor-recovery system or dispensing equipment found to be used or exposed for use in violation of this act or rules promulgated under this act.

(4) With respect to enforcement of this act, the director has the power of a peace officer.

(5) The director may petition a court of competent jurisdiction for a temporary restraining order or permanent injunction restraining a person from violating this act or a rule promulgated under this act.

**290.649i Dispensing permit; requirements; fees; issuance of license within certain time period; report; “completed application” defined.**

Sec. 9i. (1) A dispensing facility in the county of Wayne, Oakland, Macomb, Washtenaw, Livingston, Monroe, or St. Clair constructed after November 15, 1990 shall obtain a dispensing permit. The fee for a dispensing permit is \$25.00 for each year or portion of a year.

(2) Before a dispensing permit is issued, a dispensing facility shall install an approved stage I vapor-recovery system and, in addition to the fee for the dispensing permit, shall pay a registration fee for each dispensing unit located at the dispensing facility. A permit shall not be issued or renewed until all fees and administrative fines issued under section 10a are paid. A hearing shall not be required before the refusal to issue or renew a permit under this subsection.

(3) A dispensing permit expires annually on November 30 unless renewed before December 1 of each year or unless suspended, denied, or revoked by the department. Application for a dispensing permit shall be made on a form furnished by the department. The completed form shall contain the information requested by the department and shall be accompanied by the fees specified.

(4) The director may suspend, deny, or revoke a dispensing permit issued pursuant to this act for failure to pay the fee required by subsection (1) or (2) or for failure to comply with the requirements of sections 9a to 10c.

(5) A fee shall be charged to the operator of stage I vapor-recovery or gasoline-dispensing equipment for its inspection if any of the following occur:

(a) The inspection is a reinspection of equipment that has already been tested and found to contain a substantial defect.

(b) The inspection is performed at the request of the operator.

(6) The department shall establish the fees and expenses for special services, including the fee for an operator requested inspection or reinspection, for registrations, for training courses, and for accreditation of a trainer, to provide that each fee is sufficient to cover the cost of an operator requested inspection, reinspection, registration, training, or trainer accreditation, respectively, and that the aggregate of all fees collected is sufficient to pay for all salaries and other expenses connected with the activity. The department shall review and adjust the fees at the end of each year and have all fees approved by the director before they are adopted. Fees collected under this section shall be deposited in the gasoline inspection and testing fund and reserved for conducting the vapor-recovery program.

(7) Subject to subsection (2) and beginning on the effective date of the amendatory act that added this subsection, the department shall issue an initial or renewal permit not later than 120 days after the applicant files a completed application. If the application is considered incomplete by the department, the department shall notify the applicant in writing or make notification electronically available within 40 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 120-day period is tolled upon notification by the department of a deficiency until the date all of the information requested during the 40-day period is received by the department. The determination of the completeness of an application does not operate as an approval of the application for the permit and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a permit. Requests for new or additional information by the department that fall outside the initial 40-day period do not toll the 120-day period.

(8) If the department does not issue or deny a permit within 120 days after the receipt of a completed application, the department shall return the permit fee and shall reduce the permit fee for the applicant's next renewal application, if any, by 15%. The failure to issue a permit within the time required under this subsection does not allow the department to otherwise delay the processing of the application, and that application, upon completion, shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of an application based on the fact that the application fee was refunded or discounted under this subsection.

(9) Beginning October 1, 2005, the director of the department shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with motor fuel quality issues. The director shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the department received and completed within the 120-day time period described in subsection (7).

(b) The number of applications denied.

(c) The number of applications not issued within the 120-day period and the amount of money returned to permittees under subsection (8).

(10) As used in this section, "completed application" means an application complete on its face and submitted with any applicable permitting fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of the state of Michigan.

### **290.649j Delivery of gasoline; stage I vapor-recovery system; applicability of subsection (7).**

Sec. 9j. (1) A person shall not deliver gasoline or permit the delivery of gasoline to a dispensing facility that lacks a stage I vapor-recovery system.

(2) Prior to delivery of gasoline to a dispensing facility, a delivery vessel shall be certified by the department of environmental quality as vapor tight by meeting the requirements of R 336.1627 of the Michigan administrative code.

(3) A person shall not deliver gasoline or permit the delivery of gasoline to a dispensing facility unless the stage I vapor-recovery system is employed during delivery and the dispensing facility storage tank is equipped with a permanent submerged fill pipe.

(4) A stage I vapor-recovery system shall include a properly functioning interlocking system or procedure that ensures that the vapor-tight collection line is connected before any gasoline is loaded, or shall include an equivalent system approved by the department.

(5) A stage I vapor-recovery system shall have a poppetted drybreak on the vapor return or an equivalent system approved by the department.

(6) All open vent pipes for a stage I vapor-recovery system that are on stationary tanks at dispensing facilities shall be equipped with pressure-vacuum relief valves in a system approved by the department.

(7) A dispensing facility regulated under this act is not subject to R 336.1606 or R 336.1703, or both, of the Michigan administrative code. This subsection does not apply to a delivery vessel which shall continue to be subject to the rules listed in this subsection.

**290.649k Declaration of emergency.**

Sec. 9k. If the governor declares an emergency under the emergency management act, 1976 PA 390, MCL 30.401 to 30.421, or 1982 PA 191, MCL 10.81 to 10.89, the governor may exercise his or her discretion to grant a temporary variance suspending the low vapor pressure fuel provisions of this act or rules promulgated under this act if the governor concludes it is necessary to avoid disruptions in fuel supply. Fuel manufactured, sold, distributed, offered for sale or distribution, dispensed, offered for supply, stored, or transported under the variance shall be deemed compliant with the low vapor pressure fuel requirements of this act. The fine described in section 9l does not apply to a variance described in this section. The variance shall be granted only for the minimum period necessary. The allowable vapor pressure under the variance shall be the minimum the governor considers necessary and in no event shall the variance allow the refiner, distributor, or terminal to operate with a vapor pressure of greater than 9.0 psi.

**290.649l Variance; conditions for granting; fines; disposition.**

Sec. 9l. (1) A gasoline refiner, distributor, or terminal may petition the department for a temporary variance from the vapor pressure standards established by the director or in this act. In order to receive a variance, the refiner, distributor, or terminal shall demonstrate that fuel necessary to meet the current standard cannot be supplied and that the refiner, distributor, or terminal has taken and will continue to take all reasonable steps to minimize the vapor pressure of fuel during the period the variance is in effect. If the department finds that the reason fuel that would allow the refiner, distributor, or terminal to meet the standard is not available is beyond the control of the refiner, distributor, or terminal and that compliance with the vapor pressure standard would result in fuel shortages that cannot otherwise be made up, the department may grant the variance. The variance shall be granted only for the minimum period necessary and in no event shall the department grant a variance for longer than 20 days. The allowable vapor pressure under the variance shall be the minimum the department considers necessary and in no event shall allow the refiner, distributor, or terminal to operate with a vapor pressure of greater than 9.0 psi.

(2) A fine of 10 cents per gallon of fuel sold or released for sale during the variance period shall be collected by the department for every variance granted. After 2006, the amount of the fine shall be the amount charged in 2006 annually adjusted by the same percentage increase or decrease as the increase or decrease in the Detroit consumer price index. The department shall collect the fines on forms generated by the department and shall establish a payment schedule for payment of fines. Fines collected under this section shall be deposited in the gasoline inspection and testing fund established in section 8 and shall be appropriated annually by the legislature for air quality mitigation projects in the geographic area covered by the applicable state implementation plan requirement for low vapor pressure fuel.

**290.650b Conduct as misdemeanor or felony; assessment of costs.**

Sec. 10b. (1) A person who individually, or by the action of his or her agent or employee, or as the agent or employee of another, performs any of the following is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$1,000.00 or more than \$2,000.00, or both:

(a) Renders less effective or inoperable any part of a stage I vapor-recovery system.

(b) Makes a false statement, representation, or certification on an application, report, plan, label, or other document that is required to be maintained under this act or rules promulgated under this act.

(c) Fails to disclose to the department any knowledge or information relating to or observation of any modification of a stage I vapor-recovery system which makes the system less effective or inoperable, or falsification of records required to be maintained under this act or rules promulgated under this act.

(d) Removes a tag, seal, or mark placed on a dispensing device by the director.

(e) Violates this act or a rule promulgated under this act for which a specific penalty is not prescribed.

(2) A person who individually, or by the action of his or her agent or employee, or as the agent or employee of another, performs any of the following acts is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$2,000.00 or more than \$10,000.00, or both:

(a) Violates a prohibited act listed in this section within 24 months after another violation of this section that results in a conviction.

(b) Impersonates in any way the director or any department inspector.

(3) A person who individually, or by the action of his or her agent or employee, or as the agent or employee of another, performs any of the following acts is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not less than \$10,000.00 or more than \$15,000.00, or both:

(a) Intentionally commits a prohibited act under this section.

(b) Violates a prohibited act listed in this section within 24 months after 2 previous violations of this section that result in convictions.

(4) If a violation of this section results in a conviction, the court shall assess against the defendant the costs of the department's investigation, and these costs shall be paid to the state treasury and deposited in the gasoline inspection and testing fund to be used for the enforcement of this act.

### **290.650c Stage I vapor control program; implementation.**

Sec. 10c. The director retains the authority to implement the stage I vapor control program in areas where it is determined necessary to attain or maintain national ambient air quality standards.

### **290.650d Areas requiring certain vapor pressure; termination of requirement.**

Sec. 10d. Beginning June 1 through September 15 of 2007 and for that period of time each subsequent year, the vapor pressure standard shall be 7.0 psi for dispensing facilities in Wayne, Oakland, Macomb, Washtenaw, Livingston, Monroe, St. Clair, and Lenawee counties. The director retains the authority to implement the vapor pressure 7.0 psi requirement or 7.8 psi requirement in areas where it is determined necessary to attain or maintain national ambient air quality standards. If an area of the state that is required to use a low vapor pressure fuel of 7.8 psi or 7.0 psi has been redesignated by the United States environmental protection agency as in attainment of national ambient air quality standards, and the Michigan department of environmental quality has demonstrated that maintenance of the national ambient air quality standards can be achieved without the use of low vapor pressure fuel, the director may, with the approval of the United States environmental protection agency, terminate the low vapor pressure fuel requirement for that area.

**Repeal of MCL 290.649c, 290.649e, 290.649f.**

Enacting section 1. Sections 9c, 9e, and 9f of the motor fuels quality act, 1984 PA 44, MCL 290.649c, 290.649e, and 290.649f, are repealed.

This act is ordered to take immediate effect.

Approved April 2, 2006.

Filed with Secretary of State April 6, 2006.

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**[No. 105]****(HB 4161)**

AN ACT to amend 1996 PA 305, entitled “An act to prescribe procedures for and the contents of acknowledgments of parentage; to state the effects of those acknowledgments; to provide procedures and criteria for revoking acknowledgments; and to prescribe powers and duties of certain state officers and employees,” by amending sections 6 and 7 (MCL 722.1006 and 722.1007).

*The People of the State of Michigan enact:*

**722.1006 Grant of initial custody.**

Sec. 6. After a mother and father sign an acknowledgment of parentage, the mother has initial custody of the minor child, without prejudice to the determination of either parent’s custodial rights, until otherwise determined by the court or otherwise agreed upon by the parties in writing and acknowledged by the court. This grant of initial custody to the mother shall not, by itself, affect the rights of either parent in a proceeding to seek a court order for custody or parenting time.

**722.1007 Notices.**

Sec. 7. The acknowledgment of parentage form shall include at least all of the following written notices to the parties:

(a) The acknowledgment of parentage is a legal document.

(b) Completion of the acknowledgment is voluntary.

(c) The mother has initial custody of the child, without prejudice to the determination of either parent’s custodial rights, until otherwise determined by the court or agreed by the parties in writing and acknowledged by the court. This grant of initial custody to the mother shall not, by itself, affect the rights of either parent in a proceeding to seek a court order for custody or parenting time.

(d) Either parent may assert a claim in court for parenting time or custody.

(e) The parents have a right to notice and a hearing regarding the adoption of the child.

(f) Both parents have the responsibility to support the child and to comply with a court or administrative order for the child’s support.

(g) Notice that signing the acknowledgment waives the following:

(i) Blood or genetic tests to determine if the man is the biological father of the child.

(ii) Any right to an attorney, including the prosecuting attorney or an attorney appointed by the court in the case of indigency, to represent either party in a court action to determine if the man is the biological father of the child.

(iii) A trial to determine if the man is the biological father of the child.

(h) That in order to revoke an acknowledgment of parentage, an individual must file a claim as provided under section 11.

This act is ordered to take immediate effect.

Approved April 7, 2006.

Filed with Secretary of State April 7, 2006.

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**[No. 106]**

**(HB 5256)**

AN ACT to amend 1956 PA 218, entitled “An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker’s compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act,” by amending section 3020 (MCL 500.3020), as amended by 1998 PA 410.



*The People of the State of Michigan enact:*

**500.3020 Policy of casualty insurance; mandatory provisions; filing rule providing minimum retention of premium for automobile insurance; issuance of policy to meet MCL 257.227a; providing short rate premium for insurance on motorcycle, watercraft, off-road vehicle, or snowmobile; definitions; effect of cancellation on claim; mailing or delivery of notice; statement; rule establishing short rate premium.**

Sec. 3020. (1) A policy of casualty insurance, except worker's compensation and mortgage guaranty insurance, including all classes of motor vehicle coverage, shall not be issued or delivered in this state by an insurer authorized to do business in this state for which a premium or advance assessment is charged, unless the policy contains the following provisions:

(a) That the policy may be canceled at any time at the request of the insured, in which case the insurer shall refund the excess of paid premium or assessment above the pro rata rates for the expired time, except as otherwise provided in subsections (2), (3), and (4).

(b) Except as otherwise provided in subdivision (d), that the policy may be canceled at any time by the insurer by mailing to the insured at the insured's address last known to the insurer or an authorized agent of the insurer, with postage fully prepaid, a not less than 10 days' written notice of cancellation with or without tender of the excess of paid premium or assessment above the pro rata premium for the expired time.

(c) That the minimum earned premium on any policy canceled pursuant to this subsection, other than automobile insurance as defined in section 2102(2)(a) and (b), shall not be less than the pro rata premium for the expired time or \$25.00, whichever is greater.

(d) That an insurer may refuse to renew a malpractice insurance policy only by mailing to the insured at the insured's address last known to the insurer or an authorized agent of the insurer, with postage fully prepaid, a not less than 60 days' written notice of refusal to renew. As used in this subdivision, "malpractice insurance" means malpractice insurance as described in section 624(1)(h).

(2) An insurer may file a rule with the commissioner providing for a minimum retention of premium for automobile insurance as defined in section 2102(2)(a) and (b). The rule shall describe the circumstances under which the retention is applied and shall set forth the amount to be retained, which is subject to the approval of the commissioner. The rule shall include, but need not be limited to, the following provisions:

(a) That a minimum retention shall be applied only when the amount exceeds the amount that would have been retained had the policy been canceled on a pro rata basis.

(b) That a minimum retention does not apply to renewal policies.

(c) That a minimum retention does not apply when a policy is canceled for the following reasons:

(i) The insured is no longer required to maintain security pursuant to section 3101(1).

(ii) The insured has replaced the automobile insurance policy being canceled with an automobile insurance policy from another insurer and provides proof of the replacement coverage to the canceling insurer.

(3) Notwithstanding subsection (1), an insurer may issue a noncancelable, nonrefundable, 6-month prepaid automobile insurance policy in order for an insured to meet the registration requirements of section 227a of the Michigan vehicle code, 1949 PA 300, MCL 257.227a.

(4) An insurer may provide for a short rate premium for insurance on a motorcycle, watercraft, off-road vehicle, or snowmobile. As used in this subsection:

(a) “Motorcycle” means that term as defined in section 3101.

(b) “Off-road vehicle” means an ORV as defined in section 81101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101.

(c) “Snowmobile” means that term as defined in section 82101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82101.

(d) “Watercraft” means that term as defined in section 80301 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80301.

(5) Cancellation as prescribed in this section is without prejudice to any claim originating before the cancellation. The mailing of notice is prima facie proof of notice. Delivery of written notice is equivalent to mailing.

(6) A notice of cancellation, including a cancellation notice under section 3224, shall be accompanied by a statement that the insured shall not operate or permit the operation of the vehicle to which notice of cancellation is applicable, or operate any other vehicle, unless the vehicle is insured as required by law.

(7) An insurer who wishes to provide for a short rate premium under subsection (4) shall file with the commissioner pursuant to chapter 24 or 26 a rule establishing a short rate premium. The rule shall describe the circumstances under which the short rate is applied and shall set forth the amount or percentage to be retained.

### **Applicability to malpractice insurance policies.**

Enacting section 1. This amendatory act applies to malpractice insurance policies in effect on, or issued on or after, the date this amendatory act is enacted.

This act is ordered to take immediate effect.

Approved April 7, 2006.

Filed with Secretary of State April 7, 2006.

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**[No. 107]**

**(HB 5494)**

AN ACT to amend 1990 PA 187, entitled “An act to regulate the equipment, maintenance, operation, and use of school buses and pupil transportation vehicles; to prescribe the qualifications of school bus and pupil transportation vehicle drivers; to prescribe the powers and duties of certain state and local governmental agencies; to create an advisory committee and to prescribe its powers and duties; and to prescribe remedies and penalties,” by amending the title and sections 5, 7, 9, 10, 10a, 11, 21, 23, 25, 27, 29, 31, 33, and 39 (MCL 257.1805, 257.1807, 257.1809, 257.1810, 257.1810a, 257.1811, 257.1821, 257.1823, 257.1825, 257.1827, 257.1829, 257.1831, 257.1833, and 257.1839), sections 5, 7, 10, and 10a as amended

by 2000 PA 49, section 23 as amended by 1990 PA 322, and section 33 as amended by 2001 PA 130; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

#### TITLE

An act to regulate the equipment, maintenance, operation, and use of school buses; to prescribe the qualifications of school bus drivers; to prescribe the powers and duties of certain state and local governmental agencies; to create an advisory committee and to prescribe its powers and duties; and to prescribe remedies and penalties.

#### **257.1805 Definitions; M to S.**

Sec. 5. (1) “Motor bus” and “motor carrier of passengers” mean those terms as defined in section 3 of the motor bus transportation act, 1982 PA 432, MCL 474.103.

(2) “Nonpublic school” means that term as defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5.

(3) “Public school” means that term as defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5.

(4) “Rule” means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(5) “School” means either a public school or a nonpublic school, or both.

#### **257.1807 Definitions; S, T.**

Sec. 7. (1) “School bus” means a motor vehicle with a manufacturer’s rated seating capacity of 11 or more passengers, including the driver, used for the transportation of preprimary, primary, or secondary school pupils to or from school or school-related events or a multifunction school activity bus manufactured after September 2, 2003 as defined in 49 CFR 571.3, 49 CFR 571.108, and 49 CFR 571.131. School bus does not include a vehicle operated by a public transit agency or authority. A vehicle that is not a school bus is not subject to this act. For the purposes of this act, a parent, or legal guardian transporting his or her child or another child with written permission of the other child’s parent or legal guardian on a school-related event is not subject to this act.

(2) “Type I school bus” means a school bus with a gross vehicle weight rating of more than 10,000 pounds.

(3) “Type II school bus” means a school bus with a gross vehicle rating of 10,000 pounds or less.

#### **257.1809 Pupil transportation; regulation; routes; vehicles and equipment; rules.**

Sec. 9. The state board of education shall regulate pupil transportation. The state board or its authorized representative may review, confirm, set aside, or amend the action, order, or decision of a school with reference to the routes over which pupils shall be transported, and the suitability and number of the vehicles and equipment for the transportation of the pupils. The superintendent of public instruction shall promulgate rules as necessary to implement this act except that the department of state police, in cooperation with the

superintendent of public instruction, may promulgate rules related to vehicle and equipment standards.

**257.1810 Transportation of pupils; federal motor vehicle safety standards; restrictions.**

Sec. 10. (1) Each school bus owned or operated by a public or private nonpublic school, an agent of a school, a private business, or a unit of government for the transportation of pupils to or from school or school-related events shall meet or exceed the federal motor vehicle safety standards applicable to the construction and sale of that school bus and for all seating positions in that vehicle. A school or an agent of a school may transport pupils with disabilities in mobile seating devices in accordance with federal standards specifically applicable to such pupils, their wheelchairs, and related wheelchair securement and occupant protection systems.

(2) A vehicle, other than a school bus, with a manufacturer's rated seating capacity of 11 or more passengers, including the driver, shall not be used to transport pupils to or from school or school-related events. This subsection does not apply to motor buses that are described in section 10a.

**257.1810a Contract with motor carrier; authorization.**

Sec. 10a. (1) A school may contract with a licensed motor carrier of passengers for a motor bus to be used for occasional transportation of pupils to or from school-related events. A school shall not directly operate a motor bus for the use of pupil transportation to and from school or school-related events. A motor carrier certified by the state transportation department shall not use a motor bus to transport pupils to and from school.

(2) Before the effective date of the amendatory act that amended this section, the department of education may authorize the use of a motor bus for the regular route transportation of pupils to or from school or home. The authorization shall be in writing and shall include conditions or restrictions that are necessary to safeguard the health, safety, and welfare of the pupils. Any authorization that is entered into before the effective date of the amendatory act that amended this subsection shall remain in effect for the time it is authorized.

(3) A motor bus built to school bus specifications that complies with the applicable federal motor vehicle safety standards shall comply with the requirements of this act.

**257.1811 Applicability of MCL 257.1811 to 257.1821; body width and height of type I and type II school buses; attachment of bus to chassis; use of spacers; bus floor; doors; steps; emergency exit; insulation; book racks prohibited; electrical system; secured items; radio speakers.**

Sec. 11. (1) This section and sections 13 to 21 apply to both type I and type II school buses except where specifically provided otherwise.

(2) A type I school bus shall have an outside body width of not more than 102 inches; an outside overall length of not more than 45 feet; and an inside height of not less than 72 inches, aisle floor surface to ceiling. A type II school bus shall have an outside body width of not more than 102 inches and an inside height of not less than 60 inches, aisle floor surface to ceiling.

(3) A bus shall be attached firmly to the chassis. A spacer shall be inserted between the body and the frame at every point of contact so that shearing stresses are not put on rivet heads.

(4) A bus floor shall be of metal at least equal in strength to 14-gauge steel and so constructed and maintained that exhaust gases cannot enter the bus. The floor, including wheelhousing, aisle, and stepwell, shall be covered and maintained with a slip-resistant surface. Floors shall be covered to the walls. All closures between the body and the engine compartment shall be fitted with gaskets which effectively prevent gas from entering the body. The bus body floor, cross members, and skirts shall be completely undercoated. A transmission inspection plate, if any, need not have a slip-resistant surface but shall be firmly attached.

(5) Sedan-type doors shall not be used on type I school buses. When a jackknife-type service door is used, it shall fold forward toward the front of the bus. If a split-type service door is used, it shall open outward. Sedan-type doors may be used on service entrances of type II buses. The steps of a service door entrance shall be covered with 3/16-inch molded ribbed rubber or other nonslip surface.

(6) An emergency exit shall be provided as follows:

(a) Type I school bus: the upper and lower portion of the central rear emergency door shall be equipped with approved safety glass. The door shall be hinged on the right side and the door handle located on the extreme left. Piano hinges shall not be used. The handle shall be in the vertical position when latched. A locking device of any kind shall not be attached to, or made a part of, the emergency door unless the locking device meets all of the following criteria:

(i) The device is integrated into the ignition system.

(ii) The device is tamper resistant.

(iii) The device has an audible alarm system.

(iv) The device has an audible alarm near the driver's seat that will sound when the door is locked and the ignition is on.

(b) Type II school bus: subdivision (a) applies to type II buses except that double rear emergency doors may be used. A double rear emergency door shall have a 3-point latch.

(7) A bus body shall be lined with fiberglass or a comparable nonsettling, nonabsorbent insulation.

(8) Book racks shall not be installed in a school bus.

(9) The electrical system shall be 12 volt D.C. provided through an alternator with a minimum of 100 amp rating and a minimum battery storage capacity of 500 CCA with gasoline engine, or 900 CCA with diesel engine provided through 1 12-volt battery, 2 12-volt batteries, or 2 6-volt batteries. There shall not be an opening through the floor of the bus to service the battery.

(10) All baggage, articles, equipment, or medical supplies not held by individual passengers shall be secured in a manner which assures unrestricted access to all exits by all occupants, does not restrict the driver's ability to operate the bus, and protects all occupants against injury resulting from falling or displacement of any baggage, article, or equipment. Oxygen cylinders secured to a wheelchair shall be considered to be in compliance with this subsection, provided they do not impede access to any exit.

(11) Radio speakers shall be no closer to the driver than 3 seat positions behind the driver. This subsection does not apply to radio speakers for 2-way communication devices.

## **257.1821 Windshield wipers and washers, washer reservoir, and windshield.**

Sec. 21. A school bus shall be equipped with windshield wipers, washers, a washer reservoir, and a windshield that meets the requirements of 49 CFR 571.103 and 571.104.

**257.1823 Vision; mirrors; sun shades; applicability.**

Sec. 23. (1) A school bus shall be equipped in a manner that the driver, in a normal seated position, either by direct vision or by use of an indirect vision mirror system, shall be able to observe objects on the roadway in front of and beside the vehicle located inside a continuously visible rectangular area. The school bus shall comply with the visibility and equipment requirements of 49 CFR 571.111.

(2) The interior mirror shall be clear view, safety glass with a reflective surface that provides a clear and reasonably unobstructed view to the rear of the vehicle and complies with 49 CFR 571.111. It shall have rounded corners and padded edges.

(3) Sun shades, if installed, shall be mounted so that the mounting brackets are not likely to cause injury in the event of an accident.

**257.1825 Fire extinguisher; first aid kit; fusees and reflectors.**

Sec. 25. (1) A school bus shall be equipped with at least 1, 2A-10BC dry chemical fire extinguisher, or its equivalent, that has an aluminum, brass, or bronze valve. The extinguisher shall be mounted securely in an accessible place in the driver’s compartment and shall be in satisfactory operating condition at all times.

(2) A school bus shall be equipped with a first aid kit which shall be firmly mounted with a quick release bracket in an accessible location in the driver’s compartment and which shall contain, at a minimum, all of the following:

- (a) Bandage compress (sterile gauze pads), 4-inch ..... 2 packages.
- (b) Bandage compress (sterile gauze pads), 2-inch ..... 2 packages.
- (c) Adhesive compress, 1-inch..... 2 packages.
- (d) Triangular bandage with 2 safety pins, 40-inch ..... 1 package.
- (e) Roll gauze ..... 1 package.
- (f) Elastic bandage, 3-inch ..... 1 package.

(3) A school bus shall be equipped with 3 bidirectional emergency reflective triangles which are properly cased and securely mounted and 3 red-burning fusees which are capable of burning not less than 15 minutes and which are properly cased and securely mounted in the driver’s compartment. Fusees and reflectors shall comply with the standards set forth in this act and the rules promulgated pursuant to this act.

**257.1827 Safety glass; push-out window sash; definition.**

Sec. 27. (1) A school bus shall be equipped with safety glass wherever glass is used in doors, windows, and windshields. Rigid safety plastic which meets the test requirements of American national standards institute standard Z26.1-1966 may be used on school buses in lieu of safety glass, except that front windshields shall be equipped with safety glass. School buses shall be fitted with at least 1 push-out window sash on each side of any school bus on which the plastic panes are installed.

(2) As used in this section, “safety glass” means a product composed of glass, so manufactured, fabricated, or treated as substantially to prevent shattering and flying of the glass when struck or broken.

**257.1829 Fuel tank or container; intake pipe; fuel lines.**

Sec. 29. Any part of a fuel tank or container or intake pipe shall not be located within or above the passenger-carrying portion of a school bus unless securely sealed off from

that portion by means of a substantial metal cover. Fuel lines shall not extend above the frame rails. The gasoline container, including intake pipe, cap and vent on a school bus manufactured subsequent to December 31, 1964, shall be so designed that, in the event of overturn, the fuel will not be spilled at a rate in excess of 1 ounce per minute.

### **257.1831 Flashing, oscillating, or rotating light; location; color; use; conditions.**

Sec. 31. A school bus may be equipped with a flashing, oscillating, or rotating light mounted on the roof of the bus approximately 6 feet from the rear of the vehicle which displays a white light to the front, side, and rear of the bus. If a school bus is equipped with such a light, there is no requirement that a driver use it. The light shall not be actuated by the driver unless 1 or more of the following conditions exist:

- (a) Inclement weather such as fog, rain, or snow.
- (b) When passengers are boarding or being discharged.
- (c) From 1/2 hour after sunset until 1/2 hour before sunrise.
- (d) Where conditions hinder the visibility of the school bus.

### **257.1833 Paint.**

Sec. 33. (1) A school bus shall be painted as follows:

- (a) The body, cowl, hood, and fenders shall be national school bus chrome yellow.
- (b) The bumper, body trim, wheels, and lettering shall be black. The wheel rims shall be gray, black, white, or natural, as provided by the manufacturer.
- (c) The wheel covers, if painted, shall be black.
- (d) The grill, if not chrome, shall be national school bus chrome yellow.
- (e) The mirrors, if painted, shall be black or yellow.
- (f) The name of the school district or contractor shall be permanently affixed in black letters that are at least 6 inches high on the sides of the bus. The name of the school district or contractor shall be permanently affixed on the front and back of the bus in black letters.
- (g) The words "school bus" shall be permanently affixed on the front and back of the bus between the overhead flashers in black letters that are at least 8 inches in height.
- (h) The outside of a school bus shall not have any other lettering, symbol, marking, or advertising, except that animal pictures, cartoon figures, and similar insignia may be affixed to the bus in a temporary manner near the entrance door, but not closer than the second window, to assist in identifying the bus route. A unique identification number may be permanently affixed on the upper corners of the back, front, or sides of the bus. A contractor shall display a USDOT number when required and in the manner required by 49 CFR parts 390 to 399.
- (i) Wording for school bus roof and door emergency exits, for inside and outside the bus, shall comply with the motor vehicle safety standards found in 49 CFR 571.217.
- (j) The roof of a school bus may be white or yellow. However, no part of a school bus may be white below the drip rail above the side windows.

(2) Except for a bus leased seasonally to transport agricultural workers to and from a field for agricultural operations, a bus, other than a school bus, shall not be painted, in whole or in part, in the colors and design specified in subsection (1).

(3) Subsection (1) does not apply to multifunction school activity buses.

(4) This section does not apply to a motor carrier certified by the state transportation department using a motor bus for school-related event transportation.

### **257.1839 Inspections.**

Sec. 39. (1) The department of state police shall inspect each school bus annually, and as the department of state police determines necessary where school bus defects have been found, to determine if the school bus meets the requirements of this act and the rules promulgated pursuant to this act. The department of state police may delegate the inspection of school buses to publicly employed inspectors if the inspection complies with this section.

(2) Inspection of a school bus may be accomplished at any time, at any location, on or off a school site, and as frequently as the department of state police considers necessary to secure passenger safety. A school bus may be rejected by the inspecting state police official for further use in transportation of passengers if it does not meet the requirements of this act and the rules promulgated pursuant to this act. However, if a school bus is determined to be safe for operation even though in unsatisfactory condition, the official may determine that not more than 60 days shall be allowed to effect a specific repair.

(3) A person, school, or school bus owner shall not operate or permit to be operated a school bus which has not been inspected under this section.

(4) Any public or private entity that owns or uses a school bus for pupil transportation shall identify itself to the department of state police so an inspection can be scheduled. If an entity has had school buses inspected in the previous year, it is considered to have identified itself. If an entity stops pupil transportation in 1 year and restarts pupil transportation in a later year, it must identify itself to the department of state police as requiring inspection before restarting pupil transportation. An entity is considered to have identified itself by notifying a person of the department of state police responsible for conducting inspections under this act.

(5) When an inspection is scheduled by the department of state police, an entity shall identify to the state police inspector all of the school buses that it intends to use for pupil transportation in that school year. Any school bus that is not submitted for inspection shall be rejected and have a red sticker affixed pursuant to section 41.

(6) The department of state police may prohibit the placement and use of any device or equipment on a school bus that presents a safety hazard to the pupils, driver, or motorists during the loading, unloading, or transportation of pupils.

(7) A school, before establishing a contract with a company for school bus services, shall require the company to verify in writing that the buses used by the contractor have been inspected by the department of state police and have passed that inspection. The school shall specify in a written contract that the contractor will not use any school buses that have not been inspected or have failed inspection, and that a violation of this provision of the contract will result in revocation of the contract. The contract shall specify that the contractor shall submit, in writing, the inspection results of its entire fleet of buses to the school within 30 days of the completion of the department of state police inspection. A school shall identify to the department of state police all of the contractors the school is using upon request.

### **Repeal of MCL 257.1835, 257.1837, 257.1852, 257.1863.**

Enacting section 1. Sections 35, 37, 52, and 63 of the pupil transportation act, 1990 PA 187, MCL 257.1835, 257.1837, 257.1852, and 257.1863, are repealed.



**Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 932 of the 93rd Legislature is enacted into law.

**Effective date.**

Enacting section 3. This amendatory act takes effect August 15, 2006.

This act is ordered to take immediate effect.

Approved April 7, 2006.

Filed with Secretary of State April 7, 2006.

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**Compiler's note:** Senate Bill No. 932, referred to in enacting section 2, was filed with the Secretary of State April 7, 2006, and became 2006 PA 108, Eff. Aug. 15, 2006.

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**[No. 108]****(SB 932)**

AN ACT to amend 1990 PA 187, entitled "An act to regulate the equipment, maintenance, operation, and use of school buses and pupil transportation vehicles; to prescribe the qualifications of school bus and pupil transportation vehicle drivers; to prescribe the powers and duties of certain state and local governmental agencies; to create an advisory committee and to prescribe its powers and duties; and to prescribe remedies and penalties," by amending sections 41, 43, 49, 51, 53, 55, 57, 61, 67, 69, 70, and 73 (MCL 257.1841, 257.1843, 257.1849, 257.1851, 257.1853, 257.1855, 257.1857, 257.1861, 257.1867, 257.1869, 257.1870, and 257.1873), section 49 as amended by 1994 PA 309, section 53 as amended by 2004 PA 131, section 55 as amended by 2004 PA 231, and section 57 as amended by 1996 PA 170.

*The People of the State of Michigan enact:*

**257.1841 Rejection; red sticker; yellow sticker; reinspection; passing sticker.**

Sec. 41. (1) A school bus may be rejected by the inspecting state official for use in transporting passengers if it does not meet the requirements of this act and the rules promulgated pursuant to this act.

(2) A vehicle that is determined by a state police official to be unsafe for further operation as a school bus shall not be used. An unsafe vehicle shall have affixed to its windshield, by the state police official, a red sticker which shall read as follows: "This vehicle may not be driven. Utilization of this vehicle is in violation of law. {reverse side} Do not remove without State Police authorization." The sticker shall remain until the condition is corrected. A school bus may be transported to a maintenance facility for repair if the school bus driver provides written proof of destination to a state police official upon request.

(3) A school bus that is considered to be in unsatisfactory condition, but that is safe for operation, shall have affixed to its windshield by the state police official a yellow sticker

which shall read as follows: “This vehicle has equipment defects. {reverse side} Repairs and reinspection shall be obtained on or before \_\_\_\_\_. Do not remove without State Police authorization.” If, upon reinspection, the vehicle defect has not been repaired, replaced, or corrected, the state police official shall remove the yellow sticker and affix a red sticker to the vehicle. Exceptions may be made when the necessary parts or equipment has been ordered but not received at the time of reinspection. Reinspection may take place within 60 days after the original inspection.

(4) A school bus that is considered to be in satisfactory condition after inspection by a state police official shall have a Michigan vehicle inspection passing sticker affixed to its windshield. The owner of a school bus shall remove or destroy the pass sticker before selling the school bus. The display of a pass sticker on a vehicle other than a school bus is a state civil infraction. All stickers are the property of the department of state police.

### **257.1843 Inspection of new school bus; acceptance of delivery.**

Sec. 43. The department of state police shall inspect a new school bus before a school accepts delivery. The department of state police shall determine whether the new vehicle is acceptable for delivery. The department of state police may delegate the inspection of new school buses to publicly employed inspectors if the inspection complies with this subsection. A school shall not accept delivery of a new school bus unless the new vehicle has been inspected and passed by the department of state police under this subsection and title to the school bus has been obtained by the school in compliance with this act.

### **257.1849 Age of driver; chauffeur’s license, vehicle group designation, passenger vehicle indorsement, and school bus indorsement required; persons prohibited from operation of school bus; administration of commercial driver license skills test.**

Sec. 49. (1) A person, whether or not licensed under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, who is 17 years of age or less shall not drive a school bus.

(2) A person shall not operate a school bus unless that person possesses a valid chauffeur’s license, the appropriate vehicle group designation, a passenger vehicle indorsement, and a school bus indorsement as required under section 312e of the Michigan vehicle code, 1949 PA 300, MCL 257.312e. A person with a commercial driver license shall not operate a school bus, and a school, school bus owner, or lessee shall not allow a person with a commercial driver license to operate a school bus, unless the operation is in compliance with the drug and alcohol testing regulations under 49 CFR parts 40 and 382.

(3) A person shall not operate a school bus or a school administrator or a person or entity under contract with a school to provide pupil transportation services shall not knowingly permit a person to operate a school bus for the transportation of pupils to and from school or school-related events if that person has 7 or more penalty points for moving violations on his or her driving record under section 320a of the Michigan vehicle code, 1949 PA 300, MCL 257.320a, or if the person has a restricted license due to a conviction for a violation of section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

(4) A commercial driver license skills test shall be administered by a state authorized commercial driver license examiner to a school bus driver who has had 1 or more of the following:

(a) Had his or her driver license or commercial driver license suspended, canceled, or denied under section 303 or 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.303 and 257.319.

(b) Has been disqualified from operating a commercial motor vehicle.

(c) Has been convicted of any of the disqualifying offenses in 49 CFR 383.51(b) while operating a commercial motor vehicle or any offense in a noncommercial motor vehicle that would be a disqualifying condition under 49 CFR 383.51(b) if committed in a commercial motor vehicle.

(d) Has more than 1 conviction of any of the serious traffic violations defined in 49 CFR 383.5, while operating a commercial motor vehicle within the last 3 years.

(e) Has been convicted of any motor vehicle traffic violation that resulted in an accident while operating a commercial motor vehicle.

(f) Has been disqualified from operating a school bus under section 49(3).

(g) A driver who is required to take a test under this subsection shall not operate a school bus until the driver has passed the test. The commercial driver license skills test shall be conducted by an examiner not employed or under contract with the same agency or school of the driver being tested.

### **257.1851 School bus safety education.**

Sec. 51. (1) A driver of a school bus transporting passengers shall have in his or her possession a certificate stating that he or she has enrolled in the entry level school bus safety education course or has successfully completed a course in school bus safety education within the immediately preceding 2 years. The entry level course shall be available to the school bus driver within 90 days of enrollment. Enrollment certificates shall expire 10 days after the end of the entry level course in which the driver is enrolled. A second enrollment certificate shall not be issued. The entry level course and subsequent 6-hour continuing education course shall be approved by the superintendent of public instruction and shall be provided by an approved educational agency. The certificate of successful completion of each course shall be prescribed by the superintendent of public instruction and successfully completed by an instructor of the course. Failure to successfully complete the entry level course or to complete the 6-hour continuing education course within 2 years after certification of successful completion of a prior course shall be reported by the instructional agency to the department of education and to the school which employs the driver. A driver who fails to successfully complete the entry level course within 90 days after enrollment or to meet the continuing education requirements shall not be permitted to drive a school bus transporting passengers.

(2) The person or persons in charge of school bus operations at a school shall have, at a minimum, successfully completed the beginning school bus driver training program in his or her first year serving as the person or persons in charge of the operation. The person or persons in charge of school bus operations at a school shall successfully complete 6 hours of supervisory continuing education every 2 years after the successful completion of the beginning school bus driver training program. The continuing education course or courses shall be approved by the superintendent of public instruction and shall be provided by an approved educational agency.

(3) The cost of any course instruction and the base rate of compensation of the driver shall be reimbursed by the state on an equal basis for public and nonpublic schools as provided for by the department of education. Attendance by a person at an entry level course, a continuing education course, or an on-road driver skills test as required by this section or section 52 shall be considered compensable work time by the school and the person shall be paid at not less than their base rate as determined by their individual contract of employment or their contractual rate as negotiated between the school and the person's collective bargaining representative.

(4) The legislature shall appropriate the funds necessary to implement this section.

**257.1853 Drivers of school buses; qualifications; records; background check; smoking; alcoholic liquor or controlled substance; third party reimbursement or certain benefits not required.**

Sec. 53. (1) A driver of a school bus shall, at a minimum, meet the following qualifications:

(a) The requirements of sections 49 and 51.

(b) For a school bus operating in intrastate transportation, the annual physical requirements for school bus drivers as authorized by the superintendent of public instruction. In meeting these physical requirements, the driver shall be examined by a licensed physician, physicians' assistant, or certified nurse practitioner and shall present the medical certificate to the employer.

(c) An employer who has reason to believe that a driver is not physically qualified to drive may require a physical examination for that driver in accordance with subdivision (b) at more frequent intervals. If an employer requests a physical examination under this subdivision, the employer shall indicate in writing what physical impairment covered under the requirements of subdivision (b) the driver is to be examined for and shall only be entitled to that portion of the examination results that pertain to that impairment. An examination requested by the employer under this subdivision shall be paid for by the employer.

(d) A copy of the medical certificate for a driver shall be carried by that driver while he or she is operating a school bus.

(2) A record of each employed school bus driver, including a copy of his or her medical certificate, department of education certification, driver license, certificate of road test application for employment, and any other information that relates to driver qualification or ability to safely drive a school bus, shall be maintained in the employer's administrative office.

(3) A school shall submit transportation safety related documents, such as driver qualification records, and vehicle maintenance records upon request for inspection and copying to motor carrier officers or vehicle safety inspectors of the department of state police.

(4) Upon receipt of an application from a person for the position of school bus driver, a school shall request from the department of state police a background check to determine whether the person was convicted of any of the following offenses:

(a) Criminal sexual conduct in any degree.

(b) Assault with intent to commit criminal sexual conduct.

(c) An attempt to commit criminal sexual conduct in any degree.

(d) Felonious assault on a child, child abuse, or cruelty, torture, or indecent exposure involving a child.

(e) A violation of section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(5) A person shall not smoke on a school bus.

(6) A person shall not possess or consume alcoholic liquor or a controlled substance on a school bus.

(7) This section does not require new or additional third party reimbursement or worker's compensation benefits for services rendered.

**257.1855 Actuation of alternately flashing lights; procedures for receiving and discharging pupils from bus; crossing road; prohibited stops; instruction on proper school bus etiquette; reimbursement; “required to cross the roadway” explained.**

Sec. 55. (1) A school bus driver shall actuate alternately flashing lights only when the school bus is stopped or stopping on a highway or private road for the purpose of receiving or discharging pupils in the manner provided in this act. A school bus driver shall not actuate the alternately flashing lights when operating on a public highway or private road and transporting passengers primarily other than school pupils.

(2) The driver of a school bus while operating upon the public highways or private roadways open to the public shall receive or discharge pupils from the bus in the following manner:

(a) If pupils are required to cross the roadway, the driver of a school bus equipped with only the alternately flashing overhead red lights in accordance with section 17 shall activate the alternately flashing overhead red lights not less than 200 feet before the stop, stop the school bus on the roadway or private road to provide for the safety of the pupils being boarded or discharged, and continue to activate the alternately flashing overhead red lights while receiving or discharging pupils. The bus shall stop in the extreme right-hand lane when boarding or discharging pupils. Before resuming motion, the driver shall deactivate these lights and allow congested traffic to disperse where practicable. The deactivation of these lights is the signal for stopped traffic to proceed.

(b) If the pupils are required to cross the roadway, the driver of a school bus equipped with red and amber alternately flashing overhead lights in accordance with section 19 shall activate the alternately flashing overhead amber lights not less than 200 feet before the stop, stop the bus on the roadway or private road to provide for the safety of the pupils being boarded or discharged, deactivate the alternately flashing overhead amber lights, and activate the alternately flashing overhead red lights while receiving or discharging pupils. The bus shall stop in the extreme right-hand lane for the purpose of boarding or discharging pupils. Before resuming motion, the driver shall deactivate these lights and allow congested traffic to disperse where practicable. The deactivation of these lights is the signal for stopped traffic to proceed.

(c) If the pupils are not required to cross the roadway, the driver of a school bus equipped with only the alternately flashing overhead red lights in accordance with section 17 shall activate the alternately flashing overhead red lights not less than 200 feet before the stop, stop the bus as far off the roadway or private road as practicable to provide for the safety of the pupils being boarded or discharged, and continue to activate the alternately flashing overhead red lights while receiving or discharging pupils. Before resuming motion, the driver shall deactivate these lights and allow congested traffic to disperse where practicable. The deactivation of these lights is the signal for stopped traffic to proceed.

(d) If the pupils are not required to cross the roadway, the driver of a school bus equipped with red and amber alternately flashing overhead lights in accordance with section 19 shall activate the alternately flashing overhead amber lights not less than 200 feet before the stop, stop the bus as far off the roadway or private road as practicable to provide for the safety of the pupils being boarded or discharged, deactivate the alternately flashing overhead amber lights, and activate the alternately flashing overhead red lights while receiving or discharging pupils. Before resuming motion, the driver shall deactivate these lights and allow congested traffic to disperse where practicable. The deactivation of these lights is the signal for stopped traffic to proceed.

(e) If the pupils are not required to cross the roadway and where the road has adequate width for the school bus to be pulled to the far right of or off the roadway or private road allowing traffic to flow and to provide for the safety of pupils being boarded or discharged, the driver shall activate the hazard warning lights before the stop and continue to display the lights until the process of receiving or discharging passengers has been completed if the lawful speed limit is 45 miles per hour or less. Before resuming motion, the driver shall deactivate these lights. The driver of a school bus shall only use this procedure at stops where the school administrator or person or entity under contract with a school to provide pupil transportation services has approved its use. If this hazard warning light option is not used, the driver shall use the appropriate procedure in subdivision (a), (b), (c), or (d) as if pupils were not required to cross the roadway.

(f) Except as provided in subdivision (e), if the pupils are not required to cross the roadway and where the school bus may be pulled off the roadway or private road or where the road has adequate width for the school bus to be pulled off to the far right of the roadway or private road leaving the normal traffic flow unobstructed and to provide for the safety of pupils being boarded or discharged, the driver shall activate the hazard warning lights before the stop and continue to display the lights until the process of receiving or discharging passengers has been completed. Before resuming motion, the driver shall deactivate these lights. The driver of a school bus shall only use this procedure at stops where the school administrator or entity under contract with a school to provide pupil transportation services has approved its use. If this hazard warning light option is not used, the driver shall use the appropriate procedure in subdivision (a), (b), (c), or (d) as if pupils were not required to cross the roadway.

(g) The distance of not less than 200 feet required for light activation by this subsection shall be measured on the roadway or private road on which the stop is made for receiving or discharging pupils.

(3) Pupils crossing the roadway upon being discharged from a school bus shall cross in front of the stopped school bus. If a school district authorizes its school bus drivers to signal pupils to cross in front of the stopped school bus, the signal shall be uniform throughout the school district.

(4) The driver of a school bus shall not stop the bus for the purpose of receiving or discharging pupils in the following instances:

(a) Within 200 feet of a public or private roadway intersection unless the stop is approved by the school administrator or entity under contract with a school to provide pupil transportation services.

(b) Upon a limited access highway or freeway, or upon any other highway or roadway that has been divided into 2 roadways by leaving an intervening space, a physical barrier, or clearly divided sections so constructed as to impede vehicular traffic if the pupils are required to cross the roadway.

(c) Upon a roadway constructed or marked to permit 3 or more separate lanes of vehicular traffic in either direction if the pupils are required to cross the roadway.

(5) The driver of a school bus when using the alternately flashing overhead red lights shall not stop the bus on any highway or roadway for the purpose of receiving or discharging pupils under the following conditions:

(a) If the lawful speed limit is more than 35 miles per hour and the stopped bus is not clearly and continuously visible to approaching vehicles on that highway or roadway for at least 400 feet. When the distance from the stopped bus to the end of the highway or roadway is less than 400 feet, clear and continuous visibility must be available from the bus to the end of the highway or roadway.

(b) If the lawful speed limit is 35 miles per hour or less and the stopped bus is not clearly and continuously visible to approaching vehicles on that highway or roadway, for at least 200 feet. When the distance from the stopped bus to the end of the highway or roadway is less than 200 feet, clear and continuous visibility must be available from the bus to the end of the highway or roadway.

(c) Within 50 feet of an intersection if the intersection is controlled by a traffic control signal.

(6) A school may provide instruction on proper school bus etiquette which may include, but not be limited to, boarding and leaving the bus, evacuation of the bus in an emergency, and road crossing procedures and the correct hand signal in the district, if any. If a school uses school bus drivers for this instruction, the state board may reimburse the school for this training.

(7) For the purpose of this section, “required to cross the roadway” does not include crossing the roadway with the assistance of a traffic control signal, or with the assistance of a school crossing guard as defined in section 57b of the Michigan vehicle code, 1949 PA 300, MCL 257.57b, and applies only to the roadway on which the stop is being made.

(8) For purposes of this section, a school bus is clearly and continuously visible if approaching traffic is able to see the entire width of the front and back of a school bus from a horizontal line tangent with the top of the vehicle’s front and rear bumpers to a horizontal line tangent with the vehicle’s most forward and rearward roofline for the entire 400-foot sight line to the school bus with no obstruction of the area for the entire 400-foot sight line to the school bus in its stopped position.

### **257.1857 Railroad track grade crossings; requirements; “abandoned railroad track” defined; violation as civil infraction; fine; processing.**

Sec. 57. (1) Except as provided in subsections (2), (3), and (4), the driver of a school bus, before crossing a railroad track at grade, shall stop the vehicle within 50 feet but not less than 15 feet from the nearest rail, activate hazard warning lights, turn off all interior switches including fans, heaters, and radios, open the passenger door and driver-side window, and while stopped shall listen and look in both directions along the track for an approaching train and for signals indicating the approach of a train, and shall not proceed until the driver can do so safely. After stopping as required in this subsection, and upon proceeding when it is safe to do so, the driver of the vehicle shall cross only in a gear of the vehicle that does not require changing gears while traversing the crossing. The driver shall not shift gears while crossing the track or tracks.

(2) A stop need not be made at a railroad track grade crossing where a uniformed police officer or a traffic-control signal directs traffic to proceed.

(3) A stop need not be made at an abandoned railroad track grade crossing. As used in this subsection, “abandoned railroad track” means a railroad track which meets both of the following requirements:

(a) The track has been completely paved over or removed.

(b) All signs, signals, and other warning devices are removed.

(4) A stop shall not be made at a railroad track grade crossing on a freeway or limited access highway where the crossing is protected by a clearly visible signal, crossing gate, or barrier at a time when the signal, crossing gate, or barrier is not activated.

(5) A person who violates this section is responsible for a civil infraction and may be ordered to pay a civil fine of not more than \$100.00. A civil infraction under this subsection shall be processed in the same manner as a civil infraction under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

**257.1861 Speed limits; violation; penalty.**

Sec. 61. A person operating a school bus shall not exceed the speed limits established for this type of vehicle under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923. A person who violates this section is subject to the penalty assessed for violation of section 627 of the Michigan vehicle code, 1949 PA 300, MCL 257.627.

**257.1867 Contract for use of school bus by government; costs; insurance; stipulation; limitation.**

Sec. 67. (1) In compliance with section 65(8), if a determination is made that economically feasible private transportation does not exist, a school may contract with a federal, state, or local unit of government, or a subcontractor of these units, for the use of a school bus to transport persons to or from an activity or function sponsored or operated by the unit of government. The governmental agency, or subcontractors of the governmental agency, shall pay the full costs incurred in the use of a school bus. A school bus may be contracted out only in compliance with the provisions of the school insurance policy and any joint stipulations of the school and the school bus drivers including, but not limited to, any collective bargaining agreements in force or if no collective bargaining agreement exists, agreement with the bargaining agent if it has been designated. A school shall not purchase additional school buses for the sole purpose of implementing this provision of law.

(2) The provision of school buses for the purpose provided in subsection (1) shall not be made if bus service for pupils of the school would be compromised.

**257.1869 Purchasing school buses; rehabilitation of school buses; costs; rules.**

Sec. 69. The cost of purchasing school buses and the rehabilitation of school buses to extend the period of usefulness shall conform with the rules promulgated by the department of education to provide state aid to eligible school districts for the purchase of school buses and the cost of rehabilitation of school buses to extend the period of usefulness.

**257.1870 Advisory committee; establishment; purpose; membership; duties.**

Sec. 70. (1) The department of education shall establish an advisory committee to advise the department on issues and topics concerning school buses and school bus safety. The advisory committee shall consist of a member from each of the following departments or organizations:

- (a) The department.
- (b) The department of state police.
- (c) The state transportation department.
- (d) The department of state.
- (e) The Michigan association for pupil transportation.
- (f) The Michigan association of school business officials.
- (g) The Michigan association of school administrators.
- (h) The training agency association of Michigan.
- (i) A member representing nonpublic schools.
- (j) The Michigan education association.
- (k) The Michigan association of school boards.



(l) Other organizations representing school bus drivers as the department considers appropriate.

(m) Any other organizations or groups the department considers necessary.

(2) The advisory committee shall include members representing bus drivers and supervisors in rural areas, suburban areas, and cities in the Lower and Upper Peninsula.

(3) The advisory committee shall assist the department in the development of continuing education courses for school bus drivers and supervisors, any modifications to the introductory school bus safety course, the program to evaluate driving skills and on-road procedural performance skills of each school bus driver, and the minimum threshold for a required safety evaluation, which may include, but is not limited to, number of points on a driving record, operating impaired or under the influence of alcohol, at-fault accidents, or violations of safety procedures, for requiring drivers to take the on-road driver skills test.

(4) The advisory committee shall assist the department in updating physical examination requirements as necessary to comply with changes in federal and state law or rules.

### **257.1873 Violation as civil infraction or felony; powers of motor carrier officers.**

Sec. 73. (1) A person who violates this act is responsible for a state civil infraction and shall be assessed a fine of not more than \$500.00, unless that violation is by this act or other law of this state declared to be a felony or a civil infraction.

(2) Motor carrier officers appointed by the director of the department of state police shall have all the powers conferred upon peace officers by the general laws of this state to enforce this act and the rules promulgated pursuant to this act.

#### **Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5494 of the 93rd Legislature is enacted into law.

#### **Effective date.**

Enacting section 2. This amendatory act takes effect August 15, 2006.

This act is ordered to take immediate effect.

Approved April 7, 2006.

Filed with Secretary of State April 7, 2006.

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**Compiler's note:** House Bill No. 5494, referred to in enacting section 1, was filed with the Secretary of State April 7, 2006, and became 2006 PA 107, Eff. Aug. 15, 2006.

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**[No. 109]**

**(HB 5497)**

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights,

powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 1204c (MCL 500.1204c), as amended by 2005 PA 247.

*The People of the State of Michigan enact:*

**500.1204c Definitions; insurance producer hours of study; review; continuing education requirements; program of study; approval; hearing; revocation; filing certificate of attendance or instruction; waiver; reciprocal agreements; fees; sale of business and failure to meet continuing education requirements; cancellation of license.**

Sec. 1204c. (1) As used in this section:

- (a) "Hour" means a period of time of not less than 50 minutes.
- (b) "Insurance producer" means a life-health agent or property-casualty agent.
- (c) "Life-health agent" means a resident or nonresident individual insurance producer licensed for life, limited life, mortgage redemption, accident and health, or any combination thereof.
- (d) "Property-casualty agent" means a resident or nonresident individual insurance producer or solicitor licensed for automobile, fire, multiple lines, any limited or minor property and casualty line, or any combination thereof.

(2) Unless the insurance producer has renewed his or her license pursuant to subsection (4), an insurance producer's hours of study accrued under this section shall be reviewed for license continuance as follows:

(a) If the insurance producer's license number ends in "1" as follows:

(i) If the insurance producer's last name starts with A to L, on January 1, 1995 and on January 1 every 2 years thereafter.

(ii) If the insurance producer's last name starts with M to Z, on January 1, 1996 and on January 1 every 2 years thereafter.

(b) If the insurance producer's license number ends in "2" as follows:

(i) If the insurance producer's last name starts with A to L, on February 1, 1995 and on February 1 every 2 years thereafter.

(ii) If the insurance producer's last name starts with M to Z, on February 1, 1996 and on February 1 every 2 years thereafter.

(c) If the insurance producer's license number ends in "3" as follows:

(i) If the insurance producer's last name starts with A to L, on March 1, 1995 and on March 1 every 2 years thereafter.

(ii) If the insurance producer's last name starts with M to Z, on March 1, 1996 and on March 1 every 2 years thereafter.

(d) If the insurance producer's license number ends in "4" as follows:

(i) If the insurance producer's last name starts with A to L, on June 1, 1995 and on June 1 every 2 years thereafter.

(ii) If the insurance producer's last name starts with M to Z, on June 1, 1996 and on June 1 every 2 years thereafter.

(e) If the insurance producer's license number ends in "5" as follows:

(i) If the insurance producer's last name starts with A to L, on July 1, 1995 and on July 1 every 2 years thereafter.

(ii) If the insurance producer's last name starts with M to Z, on July 1, 1996 and on July 1 every 2 years thereafter.

(f) If the insurance producer's license number ends in "6" as follows:

(i) If the insurance producer's last name starts with A to L, on August 1, 1995 and on August 1 every 2 years thereafter.

(ii) If the insurance producer's last name starts with M to Z, on August 1, 1996 and on August 1 every 2 years thereafter.

(g) If the insurance producer's license number ends in "7" as follows:

(i) If the insurance producer's last name starts with A to L, on September 1, 1995 and on September 1 every 2 years thereafter.

(ii) If the insurance producer's last name starts with M to Z, on September 1, 1996 and on September 1 every 2 years thereafter.

(h) If the insurance producer's license number ends in "8" as follows:

(i) If the insurance producer's last name starts with A to L, on October 1, 1995 and on October 1 every 2 years thereafter.

(ii) If the insurance producer's last name starts with M to Z, on October 1, 1996 and on October 1 every 2 years thereafter.

(i) If the insurance producer's license number ends in "9" as follows:

(i) If the insurance producer's last name starts with A to L, on November 1, 1995 and on November 1 every 2 years thereafter.

(ii) If the insurance producer's last name starts with M to Z, on November 1, 1996 and on November 1 every 2 years thereafter.

(j) If the insurance producer's license number ends in "0" as follows:

(i) If the insurance producer's last name starts with A to L, on December 1, 1995 and on December 1 every 2 years thereafter.

(ii) If the insurance producer's last name starts with M to Z, on December 1, 1996 and on December 1 every 2 years thereafter.

(3) If an insurance producer's hours of study would be reviewed according to the schedule under subsection (2) within 23 months after issuance of the initial license, the hours shall not be reviewed on the first scheduled date following the issuance of the initial license and shall be reviewed on the next scheduled review date following the first review date according to the schedule under subsection (2), unless the insurance producer has renewed his or her license pursuant to subsection (4).

(4) Except as provided in subsections (11) to (14), before the review date of each applicable 2-year period provided for under subsection (2) or (3), an insurance producer wishing to renew his or her license shall renew his or her license by attending or instructing not less than 24 hours of continuing education classes approved by the commissioner or 24 hours of home study if evidenced by successful completion of course work approved by the commissioner. Of the 24 hours of continuing education required, not less than 3 hours shall be in ethics in insurance classes or course work.

(5) After reviewing recommendations made by the council under section 1204b, the commissioner shall approve a program of study if the commissioner determines that the program increases knowledge of insurance and related subjects as follows:

(a) For a life-health agent program of study, the program offers instruction in 1 or more of the following:

(i) The fundamental considerations and major principles of life insurance.

(ii) The fundamental considerations and major principles of health insurance.

(iii) Estate planning and taxation as related to insurance.

(iv) Industry and legal standards concerning ethics in insurance.

(v) Legal, legislative, and regulatory matters concerning insurance, the insurance code, and the insurance industry.

(vi) Principal provisions used in life insurance contracts, health insurance contracts, or annuity contracts and differences in types of coverages.

(vii) Accounting and actuarial considerations in insurance.

(viii) Principles of agency management, excluding telemarketing or other marketing instruction.

(b) For a property-casualty agent program of study, the program offers instructions in 1 or more of the following:

(i) The fundamental considerations and major principles of property insurance.

(ii) The fundamental considerations and major principles of casualty insurance.

(iii) Basic principles of risk management.

(iv) Industry and legal standards concerning ethics in insurance.

(v) Legal, legislative, and regulatory matters concerning insurance, the insurance code, and the insurance industry.

(vi) Principal provisions used in casualty insurance contracts, no-fault insurance contracts, or property insurance contracts and differences in types of coverages.

(vii) Accounting and actuarial considerations in insurance.

(viii) Principles of agency management, excluding telemarketing or other marketing instruction.

(6) A provider of a program of study for insurance producers applying for approval or reapproval from the commissioner under this section shall file, on a form provided by the commissioner, a description of the course of study including a description of the subject matter and course materials, hours of instruction, location of classroom, qualifications of instructors, and maximum student-instructor ratio and shall pay a nonrefundable \$25.00 filing fee. Any material change in a program of study shall require reapproval by the commissioner. If the information in an application for approval or reapproval is insufficient for the commissioner to determine whether the program of study meets the requirements under subsection (5), the commissioner shall give written notice to the provider, within 15 days after the provider's filing of the application for approval or reapproval, of the additional information needed by the commissioner. An application for approval or reapproval shall be considered approved unless disapproved by the commissioner within 90 days after the application for approval or reapproval is filed, or within 90 days after the receipt of additional information if the information was requested by the commissioner, whichever is later.

(7) A provider of a program of study approved by the commissioner under this section shall pay a provider authorization fee of \$500.00 for the first year the provider's program of study was approved under this section and a \$100.00 provider renewal fee for each year thereafter that the provider offers the approved program of study.

(8) A person dissatisfied with an approved program of study may petition the commissioner for a hearing on the program or the commissioner on his or her own initiative may request a hearing on a program of study. If the commissioner finds the petition to have been submitted in good faith, that the petition if true shows the program of study does not satisfy the criteria in subsection (5), or that the petition otherwise justifies holding a hearing, the commissioner shall hold a hearing pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287, within 30 days after receipt of the petition and upon not less than 10 days' written notice to the petitioner and the provider of the program of study. If the commissioner requests a hearing on a program of study on his or her own initiative, the commissioner shall hold a hearing pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287, upon not less than 10 days' written notice to the provider of the program of study.

(9) If after a hearing under subsection (8) the commissioner finds that the program of study does not satisfy the requirements under subsection (5), the commissioner shall state, in a written order mailed first-class to the petitioner and provider of the program of study, his or her findings and the date upon which the commissioner will revoke approval of the program of study which date shall be within a reasonable time of the issuance of the order.

(10) A certificate of attendance or instruction of an approved program of study or a certificate of successful completion of course work shall be filed as directed by the commissioner on a form prescribed by the commissioner and shall indicate the name and number of the course of study, the number of hours, dates of completion, and the name and number of schools attended or taught by the insurance producer or the evidence of successful completion of course work. A representative of the approved program of study shall file the form

and a fee of \$1.00 per hour for course credit for each insurance producer license renewal as directed by the commissioner within 30 days after the insurance producer completes the program. A copy of the form shall also be mailed first-class to the insurance producer who attended, taught, or successfully completed the program of study. The commissioner may enter into contracts to provide for the administrative functions of this subsection.

(11) The commissioner shall waive the continuing education requirements of this section for an insurance producer if the producer is unable to comply with the continuing education requirements of this section due to military service or if the commissioner determines that enforcement of the requirements would cause a severe hardship. The commissioner shall waive the continuing education requirements of this section for the following insurance producers:

(a) An insurance producer who is licensed to write only travel or baggage insurance policies and whose employment is for a purpose other than the sale of those policies.

(b) An insurance producer who is licensed to write only limited line credit insurance.

(12) The commissioner may enter into reciprocal continuing education agreements with insurance commissioners from other states.

(13) If an insurance producer has not met his or her continuing education requirements by the expiration date of his or her license, the insurance producer shall have a 90-day grace period in which to meet the continuing education requirements of this section. During the 90-day grace period, the insurance producer shall not solicit or sell new policies of insurance, bind coverage, or otherwise act as an insurance producer except that the insurance producer may continue to service policies previously sold and may receive commissions on policies previously sold. If the insurance producer has not met his or her continuing education requirements by the expiration of the 90-day grace period, the insurance producer's license shall be canceled. An insurance producer whose license has been canceled under this section may reapply for license to act as an insurance producer under section 1204, except that the program of study requirements under section 1204 shall not be waived.

(14) An insurance producer who has sold his or her insurance business and who has not met the continuing education requirements of this section shall not solicit or sell new policies of insurance, bind coverage, or otherwise act as an insurance producer except that the insurance producer may continue to service policies previously sold and may receive commissions on policies previously sold as well as receive partial commissions on policies of insurance sold by a purchasing insurance producer. An insurance producer who is in the process of selling his or her insurance business and who has not met the continuing education requirements of this section shall not solicit or sell new policies of insurance, bind coverage, or otherwise act as an insurance producer except that the insurance producer may continue to service policies previously sold and may receive commissions on policies previously sold as well as receive partial commissions on policies of insurance sold by a purchasing insurance producer, for a period not to exceed 12 months after the selling insurance producer's license review date under subsection (2). An insurance producer whose license has been canceled and who wishes to resume soliciting or selling new policies of insurance, bind coverage, or otherwise act as an insurance producer and who has not met the continuing education requirements within the immediately preceding 2-year period may reapply for license to act as an insurance producer under section 1204.

This act is ordered to take immediate effect.

Approved April 7, 2006.

Filed with Secretary of State April 7, 2006.

**[No. 110]****(HB 4398)**

AN ACT to codify the laws regarding local units of government regulating the development and use of land; to provide for the adoption of zoning ordinances; to provide for the establishment in counties, townships, cities, and villages of zoning districts; to prescribe the powers and duties of certain officials; to provide for the assessment and collection of fees; to authorize the issuance of bonds and notes; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

## ARTICLE I

## GENERAL PROVISIONS

**125.3101 Short title.**

Sec. 101. This act shall be known and may be cited as the “Michigan zoning enabling act”.

**125.3102 Definitions.**

Sec. 102. As used in this act:

(a) “Agricultural land” means substantially undeveloped land devoted to the production of plants and animals useful to humans, including, but not limited to, forage and sod crops, grains, feed crops, field crops, dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, Christmas trees, and other similar uses and activities.

(b) “Airport” means an airport licensed by the Michigan department of transportation, bureau of aeronautics under section 86 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.86.

(c) “Airport approach plan” and “airport layout plan” mean a plan, or an amendment to a plan, filed with the zoning commission under section 151 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.151.

(d) “Airport manager” means that term as defined in section 10 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.10.

(e) “Airport zoning regulations” means airport zoning regulations under the airport zoning act, 1950 (Ex Sess) PA 23, MCL 259.431 to 259.465, for an airport hazard area that lies in whole or part in the area affected by a zoning ordinance under this act.

(f) “Conservation easement” means that term as defined in section 2140 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2140.

(g) “Coordinating zoning committee” means a coordinating zoning committee as described under section 307.

(h) “Development rights” means the rights to develop land to the maximum intensity of development authorized by law.

(i) “Development rights ordinance” means an ordinance, which may comprise part of a zoning ordinance, adopted under section 308.

(j) “Family day-care home” and “group day-care home” mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111, and only apply to the bona fide private residence of the operator of the family or group day-care home.

(k) “Greenway” means a contiguous or linear open space, including habitats, wildlife corridors, and trails, that links parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes.

(l) “Improvements” means those features and actions associated with a project that are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety, and welfare of the residents of a local unit of government and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements do not include the entire project that is the subject of zoning approval.

(m) “Intensity of development” means the height, bulk, area, density, setback, use, and other similar characteristics of development.

(n) “Legislative body” refers to the county board of commissioners of a county, the board of trustees of a township, the council of a city or village, or other similar duly elected representative body of a county, township, city, or village.

(o) “Local unit of government” means a county, township, city, or village.

(p) “Other eligible land” means land that has a common property line with agricultural land from which development rights have been purchased and is not divided from that agricultural land by a state or federal limited access highway.

(q) “Population” means the population according to the most recent federal decennial census or according to a special census conducted under section 7 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.907, whichever is the more recent.

(r) “Site plan” includes the documents and drawings required by the zoning ordinance to insure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

(s) “State licensed residential facility” means a structure constructed for residential purposes that is licensed by the state under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or 1973 PA 116, MCL 722.111 to 722.128, and provides residential services for 6 or fewer persons under 24-hour supervision or care.

(t) “Undeveloped state” means a natural state preserving natural resources, natural features, scenic or wooded conditions, agricultural use, open space, or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children’s play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.

(u) “Zoning board” means a county zoning commission created under the county zoning act, 1943 PA 185, MCL 125.201 to 125.240, or a township zoning board created under the township zoning act, 1943 PA 184, MCL 125.271 to 125.310, that existed on the effective date of this act.

(v) “Zoning commission” means a zoning commission as described under section 301.

(w) “Zoning jurisdiction” refers to the area encompassed by the legal boundaries of a city or village or to the area encompassed by the legal boundaries of a county or township outside the limits of incorporated cities and villages. The zoning jurisdiction of a county does not include the areas subject to township zoning by a township that has adopted a zoning ordinance under this act.



**125.3103 Notice; publication; mail or personal delivery; requirements.**

Sec. 103. (1) Except as otherwise provided under this act, if a local unit of government is required to provide notice and hearing under this act, the local unit of government shall publish notice of the request in a newspaper of general circulation in the local unit of government.

(2) Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.

(3) The notice shall be given not less than 15 days before the date the application will be considered for approval. If the name of the occupant is not known, the term “occupant” may be used in making notification under this subsection. The notice shall do all of the following:

(a) Describe the nature of the request.

(b) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.

(c) State when and where the request will be considered.

(d) Indicate when and where written comments will be received concerning the request.

## ARTICLE II

## ZONING AUTHORIZATION AND INITIATION

**125.3201 Regulation of land development and establishment of districts; provisions; uniformity of regulations; designations; limitations.**

Sec. 201. (1) A local unit of government may provide by zoning ordinance for the regulation of land development and the establishment of 1 or more districts within its zoning jurisdiction which regulate the use of land and structures to meet the needs of the state’s citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to ensure that use of the land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities, to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements, and to promote public health, safety, and welfare.

(2) Except as otherwise provided under this act, the regulations shall be uniform for each class of land or buildings, dwellings, and structures within a district.

(3) A local unit of government may provide under the zoning ordinance for the regulation of land development and the establishment of districts which apply only to land areas and activities involved in a special program to achieve specific land management objectives and avert or solve specific land use problems, including the regulation of land development and the establishment of districts in areas subject to damage from flooding or beach erosion.

(4) A local unit of government may adopt land development regulations under the zoning ordinance designating or limiting the location, height, bulk, number of stories, uses,

and size of dwellings, buildings, and structures that may be erected or altered, including tents and recreational vehicles.

**125.3202 Zoning ordinance; determination by local legislative body; amendments or supplements; notice of proposed rezoning.**

Sec. 202. (1) The legislative body of a local government may provide by ordinance for the manner in which the regulations and boundaries of districts or zones shall be determined and enforced or amended, supplemented, or changed. Amendments or supplements to the zoning ordinance shall be made in the same manner as provided under this act for the enactment of the original ordinance.

(2) If an individual property or 10 or fewer adjacent properties are proposed for rezoning, the zoning commission shall give a notice of the proposed rezoning in the same manner as required under section 103.

(3) If 11 or more adjacent properties are proposed for rezoning, the zoning commission shall give a notice of the proposed rezoning in the same manner as required under section 103, except for the requirement of section 103(2) and except that no individual addresses of properties are required to be listed under section 103(3)(b).

(4) An amendment to a zoning ordinance by a city or village is subject to a protest petition under section 403.

(5) An amendment for the purpose of conforming a provision of the zoning ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the legislative body and the notice of the adopted amendment published without referring the amendment to any other board or agency provided for under this act.

**125.3203 Zoning ordinance; plan; incorporation of airport layout plan or airport approach plan; zoning ordinance adopted after March 28, 2001.**

Sec. 203. (1) The zoning ordinance shall be based upon a plan designed to promote the public health, safety, and general welfare, to encourage the use of lands in accordance with their character and adaptability, to limit the improper use of land, to conserve natural resources and energy, to meet the needs of the state's residents for food, fiber, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to insure that uses of the land shall be situated in appropriate locations and relationships, to avoid the overcrowding of population, to provide adequate light and air, to lessen congestion on the public roads and streets, to reduce hazards to life and property, to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements, and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources, and properties. The zoning ordinance shall be made with reasonable consideration to the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building, and population development.

(2) If a local unit of government adopts or revises a plan required under subsection (1) after an airport layout plan or airport approach plan has been filed with the local unit of government, the local unit of government shall incorporate the airport layout plan or airport approach plan into the plan adopted under subsection (1).

(3) In addition to the requirements of subsection (1), a zoning ordinance adopted after March 28, 2001 shall be adopted after reasonable consideration of both of the following:

(a) The environs of any airport within a district.

(b) Comments received at or before a public hearing under section 306 or transmitted under section 308 from the airport manager of any airport.

(4) If a zoning ordinance was adopted before March 28, 2001, the zoning ordinance is not required to be consistent with any airport zoning regulations, airport layout plan, or airport approach plan. A zoning ordinance amendment adopted or variance granted after March 28, 2001 shall not increase any inconsistency that may exist between the zoning ordinance or structures or uses and any airport zoning regulations, airport layout plan, or airport approach plan. This section does not limit the right to petition for submission of a zoning ordinance amendment to the electors under section 402 or the right to file a protest petition under section 403.

#### **125.3204 Single-family residence; instruction in craft or fine art as home occupation.**

Sec. 204. A zoning ordinance adopted under this act shall provide for the use of a single-family residence by an occupant of that residence for a home occupation to give instruction in a craft or fine art within the residence. This section does not prohibit the regulation of noise, advertising, traffic, hours of operation, or other conditions that may accompany the use of a residence under this section.

#### **125.3205 Ordinance subject to MCL 460.561 to 460.575; regulation or control of oil or gas wells; prohibition.**

Sec. 205. (1) An ordinance adopted under this act is subject to the electric transmission line certification act, 1995 PA 30, MCL 460.561 to 460.575.

(2) A county or township shall not regulate or control the drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes and shall not have jurisdiction with reference to the issuance of permits for the location, drilling, completion, operation, or abandonment of such wells.

#### **125.3206 Residential use of property; adult foster care facilities; family or group day-care homes.**

Sec. 206. (1) Except as otherwise provided in subsection (2), a state licensed residential facility shall be considered a residential use of property for the purposes of zoning and a permitted use in all residential zones and is not subject to a special use or conditional use permit or procedure different from those required for other dwellings of similar density in the same zone.

(2) Subsection (1) does not apply to adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

(3) For a county or township, a family day-care home is considered a residential use of property for the purposes of zoning and a permitted use in all residential zones and is not subject to a special use or conditional use permit or procedure different from those required for other dwellings of similar density in the same zone.

(4) For a county or township, a group day-care home shall be issued a special use permit, conditional use permit, or other similar permit if the group day-care home meets all of the following standards:

(a) Is located not closer than 1,500 feet to any of the following:

(i) Another licensed group day-care home.

(ii) Another adult foster care small group home or large group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(iii) A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under article 6 of the public health code, 1978 PA 368, MCL 333.6101 to 333.6523.

(iv) A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.

(b) Has appropriate fencing for the safety of the children in the group day-care home as determined by the local unit of government.

(c) Maintains the property consistent with the visible characteristics of the neighborhood.

(d) Does not exceed 16 hours of operation during a 24-hour period. The local unit of government may limit but not prohibit the operation of a group day-care home between the hours of 10 p.m. and 6 a.m.

(e) Meets regulations, if any, governing signs used by a group day-care home to identify itself.

(f) Meets regulations, if any, requiring a group day-care home operator to provide off-street parking accommodations for his or her employees.

(5) For a city or village, a group day-care home may be issued a special use permit, conditional use permit, or other similar permit.

(6) A licensed or registered family or group day-care home that operated before March 30, 1989 is not required to comply with the requirements of this section.

(7) The requirements of this section shall not prevent a local unit of government from inspecting and enforcing a family or group day-care home for the home's compliance with the local unit of government's zoning ordinance. For a county or township, an ordinance shall not be more restrictive for a family or group day-care home than as provided under 1973 PA 116, MCL 722.111 to 722.128.

(8) The subsequent establishment of any of the facilities listed under subsection (4)(a) will not affect any subsequent special use permit renewal, conditional use permit renewal, or other similar permit renewal pertaining to the group day-care home.

(9) The requirements of this section shall not prevent a local unit of government from issuing a special use permit, conditional use permit, or other similar permit to a licensed or registered group day-care home that does not meet the standards listed under subsection (4).

(10) The distances required under subsection (4)(a) shall be measured along a road, street, or place maintained by this state or a local unit of government and generally open to the public as a matter of right for the purpose of vehicular traffic, not including an alley.

**125.3207 Zoning ordinance or decision; effect as prohibiting establishment of land use.**

Sec. 207. A zoning ordinance or zoning decision shall not have the effect of totally prohibiting the establishment of a land use within a local unit of government in the presence of a demonstrated need for that land use within either that local unit of government or the surrounding area within the state, unless a location within the local unit of government does not exist where the use may be appropriately located or the use is unlawful.

**125.3208 Nonconforming uses or structures.**

Sec. 208. (1) If the use of a dwelling, building, or structure or of the land is lawful at the time of enactment of a zoning ordinance or an amendment to a zoning ordinance, then that use may be continued although the use does not conform to the provisions of the zoning ordinance or amendment.

(2) The legislative body may provide in a zoning ordinance for the completion, resumption, restoration, reconstruction, extension, or substitution of nonconforming uses or structures upon terms and conditions provided in the zoning ordinance. In establishing terms for the completion, resumption, restoration, reconstruction, extension, or substitution of nonconforming uses or structures, different classes of nonconforming uses may be established in the zoning ordinance with different requirements applicable to each class.

(3) The legislative body may acquire, by purchase, condemnation, or otherwise, private property or an interest in private property for the removal of nonconforming uses and structures. The legislative body may provide that the cost and expense of acquiring private property may be paid from general funds or assessed to a special district in accordance with the applicable statutory provisions relating to the creation and operation of special assessment districts for public improvements in local units of government. Property acquired under this subsection by a city or village shall not be used for public housing.

(4) The elimination of the nonconforming uses and structures in a zoning district is declared to be for a public purpose and for a public use. The legislative body may institute proceedings for condemnation of nonconforming uses and structures under 1911 PA 149, MCL 213.21 to 213.25.

**125.3209 Township zoning ordinance not subject to county ordinance, rule, or regulation.**

Sec. 209. Except as otherwise provided under this act, a township that has enacted a zoning ordinance under this act is not subject to an ordinance, rule, or regulation adopted by a county under this act.

**125.3210 Ordinance as controlling.**

Sec. 210. Except as otherwise provided under this act, an ordinance adopted under this act shall be controlling in the case of any inconsistencies between the ordinance and an ordinance adopted under any other law.

**125.3211 Appointment of zoning commission by legislative body; purposes; petition; initiation of action to formulate zoning commission and zoning ordinance.**

Sec. 211. (1) The legislative body may proceed with the adoption of a zoning ordinance containing land development regulations and establishing zoning districts under this act upon appointment of a zoning commission as provided in section 301.

(2) The legislative body may appoint a zoning commission for purposes of formulating a zoning ordinance on its own initiative or upon receipt of a petition requesting that action as provided under subsection (3).

(3) Upon receipt of a petition signed by a number of qualified and registered voters residing in the zoning jurisdiction equal to not less than 8% of the total votes cast within the zoning jurisdiction for all candidates for governor at the last preceding general election at which a governor was elected, filed with the clerk of the local unit of government requesting the legislative body to appoint a zoning commission for purposes of formulating a zoning ordinance, the legislative body, at the next regular meeting, may initiate action to formulate a zoning commission and zoning ordinance under this act.

### ARTICLE III

#### ZONING COMMISSION

#### **125.3301 Zoning commission; creation; transfer of powers to planning commission; resolution; membership; terms; successors; vacancy; limitation; removal of member; officers.**

Sec. 301. (1) Each local unit of government in which the legislative body exercises authority under this act shall create a zoning commission. A zoning board in existence on the effective date of this act may continue as a zoning commission subject to a transfer of power under subsection (2) or until 5 years from the effective date of this act, whichever is earlier. A planning commission exercising the authority of a zoning board before the effective date of this act may continue to exercise that authority subject to this act.

(2) Except as otherwise provided under this subsection, if the legislative body has transferred the powers of the zoning commission to the planning commission as provided by law, the zoning commission shall be the planning commission of the local unit of government. The legislative body shall have 5 years from the effective date of this act to transfer the powers of the zoning commission to the planning commission. Except as provided under this subsection, 5 years after the effective date of this act, the zoning commission shall not have any authority under this act or an ordinance adopted under this act.

(3) If a zoning commission is created after the effective date of this act, the zoning commission shall be created by resolution and be composed of not fewer than 5 or more than 11 members appointed by the legislative body. Not less than 2 of the members of a county zoning commission shall be recommended for membership by the legislative bodies of townships that are, or shall be, subject to the county zoning ordinance. This requirement may be met as vacancies occur on a county zoning commission that existed on the effective date of this act.

(4) The members of the zoning commission shall be selected upon the basis of the members' qualifications and fitness to serve as members of a zoning commission.

(5) The first zoning commission appointed shall be divided as nearly as possible into 3 equal groups, with terms of each group as follows:

- (a) One group for 1 year.
- (b) One group for 2 years.
- (c) One group for 3 years.

(6) Upon the expiration of the terms of the members first appointed, successors shall be appointed in like manner for terms of 3 years each. A member of the zoning commission shall serve until a successor is appointed and has been qualified.

(7) A vacancy shall be filled in the same manner as is provided under this section for the remainder of the unexpired term.

(8) An elected officer of the local unit of government or an employee of the legislative body shall not serve simultaneously as a member or an employee of the zoning commission, except that 1 member of the zoning commission may be a member of the legislative body.

(9) The legislative body shall provide for the removal of a member of the zoning commission for misfeasance, malfeasance or nonfeasance in office upon written charges and after public hearing.

(10) The zoning commission shall elect from its members a chairperson, a secretary, and other officers or establish such committees it considers necessary and may engage any employees, including for technical assistance, it requires. The election of officers shall be held not less than once in every 2-year period.

### **125.3302 Expenses; compensation.**

Sec. 302. Members of the zoning commission may be reimbursed for reasonable expenses actually incurred in the discharge of their duties and may receive compensation as fixed by the legislative body.

### **125.3303 Planning expert; compensation.**

Sec. 303. (1) With the approval of the legislative body, the zoning commission may engage the services of a planning expert. Compensation for the planning expert shall be paid by the legislative body.

(2) The zoning commission shall consider any information and recommendations furnished by appropriate public officials, departments, or agencies.

### **125.3304 Regular meetings; notice; zoning commission subject to open meetings act.**

Sec. 304. The zoning commission shall hold a minimum of 2 regular meetings annually, giving notice of the time and place by publication in a newspaper of general circulation in the zoning jurisdiction. Notice shall be given not less than 15 days before the meeting. The zoning commission is subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

### **125.3305 Recommendations of zoning commission; adoption and filing.**

Sec. 305. The zoning commission shall adopt and file with the legislative body the following recommendations:

- (a) A zoning plan for the areas subject to zoning of the local unit of government.
- (b) The establishment of zoning districts, including the boundaries of those districts.
- (c) The text of a zoning ordinance with the necessary maps and zoning regulations to be adopted for a zoning district or the zoning jurisdiction as a whole.
- (d) The manner of administering and enforcing the zoning ordinance.

### **125.3306 Recommendations of zoning commission; submission to legislative body; public hearing; notice; examination of proposed text and maps.**

Sec. 306. (1) Before submitting its recommendations for a proposed zoning ordinance to the legislative body, the zoning commission shall hold at least 1 public hearing. Notice of the time and place of the public hearing shall be given in the same manner as required under section 103(1) for the initial adoption of a zoning ordinance or section 202 for any other subsequent zoning text or map amendments.

(2) Notice of the time and place of the public hearing shall also be given by mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the clerk of the legislative body for the purpose of receiving the notice of public hearing.

(3) The notices required under this section shall include the places and times at which the proposed text and any maps of the zoning ordinance may be examined.

**125.3307 Review and recommendations after hearing; submission to township; submission to coordinating zoning committee; waiver of right to review.**

Sec. 307. (1) Following the hearing required in section 306, a township shall submit for review and recommendation the proposed zoning ordinance, including any zoning maps, to the zoning commission of the county in which the township is situated if a county zoning commission has been appointed as provided under this act.

(2) If there is not a county zoning commission or county planning commission, the proposed zoning ordinance shall be submitted to the coordinating zoning committee. The coordinating zoning committee shall be composed of either 3 or 5 members appointed by the legislative body of the county for the purpose of coordinating the zoning ordinances proposed for adoption under this act with the zoning ordinances of a township, city, or village having a common boundary with the township.

(3) The county will have waived its right for review and recommendation of an ordinance if the recommendation of the county zoning commission, planning commission, or coordinating zoning committee has not been received by the township within 30 days from the date the proposed ordinance is received by the county.

(4) The legislative body of a county by resolution may waive its right to review township ordinances and amendments under this section.

**125.3308 Summary of public hearing comments; transmission to legislative body by zoning commission; report.**

Sec. 308. (1) Following the required public hearing under section 306, the zoning commission shall transmit a summary of comments received at the hearing and its proposed zoning ordinance, including any zoning maps and recommendations, to the legislative body of the local unit of government.

(2) Following the enactment of the zoning ordinance, the zoning commission shall at least once per year prepare for the legislative body a report on the administration and enforcement of the zoning ordinance and recommendations for amendments or supplements to the ordinance.

ARTICLE IV

ZONING ADOPTION AND ENFORCEMENT

**125.3401 Public hearing to be held by legislative body; conditions; notice; approval of zoning ordinance and amendments by legislative body; filing; notice of ordinance adoption; notice mailed to airport manager; information to be included in notice; other statutory requirements superseded.**

Sec. 401. (1) After receiving a zoning ordinance under section 308(1) or an amendment under section 202, the legislative body may hold a public hearing if it considers it necessary or as may otherwise be required.



(2) Notice of the hearing to be held by the legislative body shall be given in the same manner as required under section 103(1) for the initial adoption of a zoning ordinance or section 202 for any other zoning text or map amendments.

(3) The legislative body may refer any proposed amendments to the zoning commission for consideration and comment within a time specified by the legislative body.

(4) The legislative body shall grant a hearing on a proposed ordinance provision to a property owner who requests a hearing by certified mail, addressed to the clerk of the legislative body.

(5) After the public hearing held as allowed under this section, the legislative body shall consider and vote upon the adoption of a zoning ordinance, with or without amendments. A zoning ordinance and any amendments shall be approved by a majority vote of the members of the legislative body.

(6) Except as otherwise provided under section 402, a zoning ordinance shall take effect upon the expiration of 7 days after publication as required by this section or at such later date after publication as may be specified by the legislative body.

(7) Following adoption of a zoning ordinance and any subsequent amendments by the legislative body, the zoning ordinance or subsequent amendments shall be filed with the clerk of the legislative body, and a notice of ordinance adoption shall be published in a newspaper of general circulation in the local unit of government within 15 days after adoption.

(8) A copy of the notice required under subsection (7) shall be mailed to the airport manager of an airport entitled to notice under section 306.

(9) The notice required under this section shall include all of the following information:

(a) In the case of a newly adopted zoning ordinance, the following statement: “A zoning ordinance regulating the development and use of land has been adopted by the legislative body of the [county, township, city, or village] of \_\_\_\_\_.”.

(b) In the case of an amendment to an existing zoning ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.

(c) The effective date of the ordinance or amendment.

(d) The place where and time when a copy of the ordinance or amendment may be purchased or inspected.

(10) The filing and publication requirements under this section supersede any other statutory requirements relating to the filing and publication of county, township, city, or village ordinances.

### **125.3402 Notice of intent to file petition.**

Sec. 402. (1) Within 7 days after publication of a zoning ordinance under section 401, a registered elector residing in the zoning jurisdiction of a county or township may file with the clerk of the legislative body a notice of intent to file a petition under this section.

(2) If a notice of intent is filed under subsection (1), the petitioner shall have 30 days following the publication of the zoning ordinance to file a petition signed by a number of registered electors residing in the zoning jurisdiction not less than 15% of the total vote cast within the zoning jurisdiction for all candidates for governor at the last preceding general election at which a governor was elected, with the clerk of the legislative body requesting the submission of a zoning ordinance or part of a zoning ordinance to the electors residing in the zoning jurisdiction for their approval.

(3) Upon the filing of a notice of intent under subsection (1), the zoning ordinance or part of the zoning ordinance adopted by the legislative body shall not take effect until 1 of the following occurs:

(a) The expiration of 30 days after publication of the ordinance, if a petition is not filed within that time.

(b) If a petition is filed within 30 days after publication of the ordinance, the clerk of the legislative body determines that the petition is inadequate.

(c) If a petition is filed within 30 days after publication of the ordinance, the clerk of the legislative body determines that the petition is adequate and the ordinance or part of the ordinance is approved by a majority of the registered electors residing in the zoning jurisdiction voting on the petition at the next regular election or at any special election called for that purpose. The legislative body shall provide the manner of submitting the zoning ordinance or part of the zoning ordinance to the electors for their approval or rejection and determining the result of the election.

(4) A petition and an election under this section are subject to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

### **125.3403 Amendment to zoning ordinance; filing of protest petition; vote.**

Sec. 403. (1) An amendment to a zoning ordinance by a city or village is subject to a protest petition as required by this subsection. If a protest petition is filed, approval of the amendment to the zoning ordinance shall require a 2/3 vote of the legislative body, unless a larger vote, not to exceed a 3/4 vote, is required by ordinance or charter. The protest petition shall be presented to the legislative body of the city or village before final legislative action on the amendment and shall be signed by 1 or more of the following:

(a) The owners of at least 20% of the area of land included in the proposed change.

(b) The owners of at least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.

(2) Publicly owned land shall be excluded in calculating the 20% land area requirement under subsection (1).

### **125.3404 Interim zoning ordinance.**

Sec. 404. (1) To protect the public health, safety, and general welfare of the inhabitants and the lands and resources of a local unit of government during the period required for the preparation and enactment of an initial zoning ordinance under this act, the legislative body of a local unit of government may direct the zoning commission to submit, within a specified period of time, recommendations as to the provisions of an interim zoning ordinance.

(2) Before presenting its recommendations to the legislative body, the zoning commission of a township shall submit the interim zoning ordinance, or an amendment to the ordinance, to the county zoning commission or the coordinating zoning committee, for the purpose of coordinating the zoning ordinance with the zoning ordinances of a township, city, or village having a common boundary with the township. The ordinance shall be considered approved 15 days from the date the zoning ordinance is submitted to the legislative body.

(3) After approval, the legislative body, by majority vote of its members, may give the interim ordinance or amendments to the interim ordinance immediate effect. An interim ordinance and subsequent amendments shall be filed and published as required under section 401.