

257.319b Suspension or revocation of vehicle group designations on operator's or chauffeur's license; notice of conviction, bond forfeiture, civil infraction determination, violation of law, or refusal to submit to chemical test; period of suspension or revocation; denial, cancellation, or revocation of hazardous material indorsement; notice of security risk; applicability of conditions; definitions.

Sec. 319b. (1) The secretary of state shall immediately suspend or revoke, as applicable, all vehicle group designations on the operator's or chauffeur's license of a person upon receiving notice of a conviction, bond forfeiture, or civil infraction determination of the person, or notice that a court or administrative tribunal has found the person responsible, for a violation described in this subsection of a law of this state, a local ordinance substantially corresponding to a law of this state while the person was operating a commercial motor vehicle, or a law of another state substantially corresponding to a law of this state, or notice that the person has refused to submit to a chemical test of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in the person's blood, breath, or urine while the person was operating a commercial motor vehicle as required by a law or local ordinance of this or another state. The period of suspension or revocation is as follows:

(a) Suspension for 60 days if the person is convicted of or found responsible for 1 of the following while operating a commercial motor vehicle:

(i) Two serious traffic violations arising from separate incidents within 36 months.

(ii) A violation of section 667, 668, 669, or 669a.

(iii) A violation of motor carrier safety regulations 49 CFR 392.10 or 392.11, as adopted by section 1a of the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11a.

(iv) A violation of section 57 of the pupil transportation act, 1990 PA 187, MCL 257.1857.

(v) A violation of motor carrier safety regulations 49 CFR 392.10 or 392.11, as adopted by section 31 of the motor bus transportation act, 1982 PA 432, MCL 474.131.

(vi) A violation of motor carrier safety regulations 49 CFR 392.10 or 392.11 while operating a commercial motor vehicle other than a vehicle covered under subparagraph (iii), (iv), or (v).

(b) Suspension for 120 days if the person is convicted of or found responsible for 1 of the following arising from separate incidents within 36 months while operating a commercial motor vehicle:

(i) Three serious traffic violations.

(ii) Any combination of 2 violations described in subdivision (a)(ii).

(c) Suspension for 1 year if the person is convicted of or found responsible for 1 of the following:

(i) A violation of section 625(1), (3), (4), (5), (6), (7), or (8), section 625m, or former section 625(1) or (2), or former section 625b, while operating a commercial or noncommercial motor vehicle.

(ii) Leaving the scene of an accident involving a commercial or noncommercial motor vehicle operated by the person.

(iii) Except for a felony described in 49 CFR 383.51(b)(9), a felony in which a commercial or noncommercial motor vehicle was used.

(iv) A refusal of a peace officer's request to submit to a chemical test of his or her blood, breath, or urine to determine the amount of alcohol or presence of a controlled substance or both in his or her blood, breath, or urine while he or she was operating a commercial or

noncommercial motor vehicle as required by a law or local ordinance of this state or another state.

(v) Effective October 1, 2005, operating a commercial motor vehicle in violation of a suspension, revocation, denial, or cancellation that was imposed for previous violations committed while operating a commercial motor vehicle.

(vi) Effective October 1, 2005, causing a fatality through the negligent or criminal operation of a commercial motor vehicle, including, but not limited to, the crimes of motor vehicle manslaughter, motor vehicle homicide, and negligent homicide.

(vii) A 6-point violation as provided in section 320a while operating a commercial motor vehicle.

(viii) Any combination of 3 violations described in subdivision (a)(ii) arising from separate incidents within 36 months while operating a commercial motor vehicle.

(d) Suspension for 3 years if the person is convicted of or found responsible for an offense enumerated in subdivision (c)(i) to (vii) in which a commercial motor vehicle was used if the vehicle was carrying hazardous material required to have a placard under 49 CFR parts 100 to 199.

(e) Revocation for life, but with eligibility for reissue of a group vehicle designation after not less than 10 years and after approval by the secretary of state, if the person is convicted of or found responsible for 2 violations or a combination of any 2 violations arising from 2 or more separate incidents involving any of the following:

(i) Section 625(1), (3), (4), (5), (6), (7), or (8), section 625m, or former section 625(1) or (2), or former section 625b, while operating a commercial or noncommercial motor vehicle.

(ii) Leaving the scene of an accident involving a commercial or noncommercial motor vehicle operated by the licensee.

(iii) Except for a felony described in 49 CFR 383.51(b)(9), a felony in which a commercial or noncommercial motor vehicle was used.

(iv) A refusal of a request of a police officer to submit to a chemical test of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood while he or she was operating a commercial or noncommercial motor vehicle in this state or another state.

(v) Effective October 1, 2005, operating a commercial motor vehicle in violation of a suspension, revocation, denial, or cancellation that was imposed for previous violations committed while operating a commercial motor vehicle.

(vi) Effective October 1, 2005, causing a fatality through the negligent or criminal operation of a commercial motor vehicle, including, but not limited to, the crimes of motor vehicle manslaughter, motor vehicle homicide, and negligent homicide.

(vii) Six-point violations as provided in section 320a while operating a commercial motor vehicle.

(f) Revocation for life if a person is convicted of or found responsible for any of the following:

(i) One violation of a felony in which a commercial motor vehicle was used and that involved the manufacture, distribution, or dispensing of a controlled substance or possession with intent to manufacture, distribute, or dispense a controlled substance.

(ii) A conviction of any offense described in subdivision (c) or (d) after having been approved for the reissuance of a vehicle group designation under subdivision (e).

(iii) A conviction of a violation of chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z.

(2) The secretary of state shall immediately deny, cancel, or revoke a hazardous material indorsement on the operator's or chauffeur's license of a person with a vehicle group designation upon receiving notice from a federal government agency that the person poses a security risk warranting denial, cancellation, or revocation under the uniting and strengthening America by providing appropriate tools required to intercept and obstruct terrorism (USA PATRIOT ACT) act of 2001, Public Law 107-56. The denial, cancellation, or revocation cannot be appealed under section 322 or 323 and remains in effect until the secretary of state receives a federal government notice that the person does not pose a security risk in the transportation of hazardous materials.

(3) The secretary of state shall immediately suspend all vehicle group designations on a person's operator's or chauffeur's license upon receiving notice of a conviction, bond forfeiture, or civil infraction determination of the person, or notice that a court or administrative tribunal has found the person responsible, for a violation of section 319d(4) or 319f, a local ordinance substantially corresponding to section 319d(4) or 319f, or a law or local ordinance of another state, the United States, Canada, Mexico, or a local jurisdiction of either of these countries substantially corresponding to section 319d(4) or 319f, while operating a commercial motor vehicle. The period of suspension or revocation is as follows:

(a) Suspension for 90 days if the person is convicted of or found responsible for a violation of section 319d(4) or 319f while operating a commercial motor vehicle.

(b) Suspension for 180 days if the person is convicted of or found responsible for a violation of section 319d(4) or 319f while operating a commercial motor vehicle that is either carrying hazardous material required to have a placard under 49 CFR parts 100 to 199 or designed to carry 16 or more passengers, including the driver.

(c) Suspension for 1 year if the person is convicted of or found responsible for 2 violations, in any combination, of section 319d(4) or 319f while operating a commercial motor vehicle arising from 2 or more separate incidents during a 10-year period.

(d) Suspension for 3 years if the person is convicted of or found responsible for 3 or more violations, in any combination, of section 319d(4) or 319f while operating a commercial motor vehicle arising from 3 or more separate incidents during a 10-year period.

(e) Suspension for 3 years if the person is convicted of or found responsible for 2 or more violations, in any combination, of section 319d(4) or 319f while operating a commercial motor vehicle carrying hazardous material required to have a placard under 49 CFR parts 100 to 199, or designed to carry 16 or more passengers, including the driver, arising from 2 or more separate incidents during a 10-year period.

(4) The secretary of state shall suspend or revoke, as applicable, any privilege to operate a commercial motor vehicle as directed by the federal government or its designee.

(5) For the purpose of this section only, a bond forfeiture or a determination by a court of original jurisdiction or an authorized administrative tribunal that a person has violated the law is considered a conviction.

(6) The secretary of state shall suspend or revoke a vehicle group designation under subsection (1) or deny, cancel, or revoke a hazardous material indorsement under subsection (2) notwithstanding a suspension, restriction, revocation, or denial of an operator's or chauffeur's license or vehicle group designation under another section of this act or a court order issued under another section of this act or a local ordinance substantially corresponding to another section of this act.

(7) A conviction, bond forfeiture, or civil infraction determination, or notice that a court or administrative tribunal has found a person responsible for a violation described in this subsection while the person was operating a noncommercial motor vehicle counts against

the person who holds a license to operate a commercial motor vehicle the same as if the person had been operating a commercial motor vehicle at the time of the violation. For the purpose of this subsection, a noncommercial motor vehicle does not include a recreational vehicle used off-road. This subsection applies to the following state law violations or a local ordinance substantially corresponding to any of those violations or a law of another state or out-of-state jurisdiction substantially corresponding to any of those violations:

(a) Operating a vehicle in violation of section 625.

(b) Refusing to submit to a chemical test of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or the presence of a controlled substance or both in the person's blood, breath, or urine as required by a law or local ordinance of this or another state.

(c) Leaving the scene of an accident.

(d) Using a vehicle to commit a felony.

(8) When determining the applicability of conditions listed in this section, the secretary of state shall consider only violations that occurred after January 1, 1990.

(9) When determining the applicability of conditions listed in subsection (1)(a) or (b), the secretary of state shall count only from incident date to incident date.

(10) As used in this section:

(a) "Felony in which a commercial motor vehicle was used" means a felony during the commission of which the person convicted operated a commercial motor vehicle and while the person was operating the vehicle 1 or more of the following circumstances existed:

(i) The vehicle was used as an instrument of the felony.

(ii) The vehicle was used to transport a victim of the felony.

(iii) The vehicle was used to flee the scene of the felony.

(iv) The vehicle was necessary for the commission of the felony.

(b) "Serious traffic violation" means any of the following:

(i) A traffic violation that occurs in connection with an accident in which a person died.

(ii) Careless driving.

(iii) Excessive speeding as defined in regulations promulgated under 49 USC 31301 to 31317.

(iv) Improper lane use.

(v) Following too closely.

(vi) Effective October 1, 2005, driving a commercial motor vehicle without obtaining any vehicle group designation on the person's license.

(vii) Effective October 1, 2005, driving a commercial motor vehicle without either having an operator's or chauffeur's license in the person's possession or providing proof to the court, not later than the date by which the person must appear in court or pay a fine for the violation, that the person held a valid vehicle group designation and indorsement on the date that the citation was issued.

(viii) Effective October 1, 2005, driving a commercial motor vehicle while in possession of an operator's or chauffeur's license that has a vehicle group designation but does not have the appropriate vehicle group designation or indorsement required for the specific vehicle group being operated or the passengers or type of cargo being transported.

(ix) Any other serious traffic violation as defined in 49 CFR 383.5 or as prescribed under this act.

257.320a Recording date of conviction, civil infraction determination, or probate court disposition and number of points; formula; interview; violation committed in another state.

Sec. 320a. (1) Until October 1, 2005, within 10 days after the receipt of a properly prepared abstract from this state or another state, or, beginning October 1, 2005, within 5 days after the receipt of a properly prepared abstract from this state or another state, the secretary of state shall record the date of conviction, civil infraction determination, or probate court disposition, and the number of points for each, based on the following formula, except as otherwise provided in this section and section 629c:

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| (a) Manslaughter, negligent homicide, or a felony resulting from the operation of a motor vehicle, ORV, or snowmobile | 6 points |
| (b) A violation of section 601b(2) or (3), 601c(1) or (2), 601d, or 653a(3) or (4) | 6 points |
| (c) A violation of section 625(1), (4), (5), (7), or (8), section 81134 or 82127(1) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 and 324.82127, or a law or ordinance substantially corresponding to section 625(1), (4), (5), (7), or (8), or section 81134 or 82127(1) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 and 324.82127..... | 6 points |
| (d) Failing to stop and disclose identity at the scene of an accident when required by law..... | 6 points |
| (e) Operating a motor vehicle in violation of section 626..... | 6 points |
| (f) Fleeing or eluding an officer | 6 points |
| (g) A violation of section 627(9) pertaining to speed in a work zone described in that section by exceeding the lawful maximum by more than 15 miles per hour | 5 points |
| (h) A violation of any law other than the law described in subdivision (g) or ordinance pertaining to speed by exceeding the lawful maximum by more than 15 miles per hour | 4 points |
| (i) A violation of section 625(3) or (6), section 81135 or 82127(3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81135 and 324.82127, or a law or ordinance substantially corresponding to section 625(3) or (6) or section 81135 or 82127(3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81135 and 324.82127 | 4 points |
| (j) A violation of section 626a or a law or ordinance substantially corresponding to section 626a | 4 points |
| (k) A violation of section 653a(2) | 4 points |
| (l) A violation of section 627(9) pertaining to speed in a work zone described in that section by exceeding the lawful maximum by more than 10 but not more than 15 miles per hour | 4 points |
| (m) A moving violation resulting in an at-fault collision with another vehicle, a person, or any other object..... | 4 points |
| (n) A violation of any law other than the law described in subdivision (l) or ordinance pertaining to speed by exceeding the lawful maximum by more than 10 but not more than 15 miles per hour or careless driving in violation of section 626b or a law or ordinance substantially corresponding to section 626b..... | 3 points |

- (o) A violation of section 627(9) pertaining to speed in a work zone described in that section by exceeding the lawful maximum by 10 miles per hour or less... 3 points
 - (p) A violation of any law other than the law described in subdivision (o) or ordinance pertaining to speed by exceeding the lawful maximum by 10 miles per hour or less 2 points
 - (q) Disobeying a traffic signal or stop sign, or improper passing 3 points
 - (r) A violation of section 624a, 624b, or a law or ordinance substantially corresponding to section 624a or 624b..... 2 points
 - (s) A violation of section 310e(4) or (6) or a law or ordinance substantially corresponding to section 310e(4) or (6) 2 points
 - (t) All other moving violations pertaining to the operation of motor vehicles reported under this section..... 2 points
 - (u) A refusal by a person less than 21 years of age to submit to a preliminary breath test required by a peace officer under section 625a..... 2 points
- (2) Points shall not be entered for a violation of section 310e(14), 311, 625m, 658, 717, 719, 719a, or 723.
- (3) Points shall not be entered for bond forfeitures.
- (4) Points shall not be entered for overweight loads or for defective equipment.
- (5) If more than 1 conviction, civil infraction determination, or probate court disposition results from the same incident, points shall be entered only for the violation that receives the highest number of points under this section.
- (6) If a person has accumulated 9 points as provided in this section, the secretary of state may call the person in for an interview as to the person’s driving ability and record after due notice as to time and place of the interview. If the person fails to appear as provided in this subsection, the secretary of state shall add 3 points to the person’s record.
- (7) If a person violates a speed restriction established by an executive order issued during a state of energy emergency as provided by 1982 PA 191, MCL 10.81 to 10.89, the secretary of state shall enter points for the violation pursuant to subsection (1).
- (8) The secretary of state shall enter 6 points upon the record of a person whose license is suspended or denied pursuant to section 625f. However, if a conviction, civil infraction determination, or probate court disposition results from the same incident, additional points for that offense shall not be entered.
- (9) If a Michigan driver commits a violation in another state that would be a civil infraction if committed in Michigan, and a conviction results solely because of the failure of the Michigan driver to appear in that state to contest the violation, upon receipt of the abstract of conviction by the secretary of state, the violation shall be noted on the driver’s record, but no points shall be assessed against his or her driver’s license.

257.601d Person who commits moving violation causing death of another person or serious impairment of body function; other violations; “moving violation” defined.

Sec. 601d. (1) A person who commits a moving violation that causes the death of another person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

(2) A person who commits a moving violation that causes serious impairment of a body function to another person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(3) This section does not prohibit the person from being charged with, convicted of, or punished for any other violation of law.

(4) As used in this section, “moving violation” means an act or omission prohibited under this act or a local ordinance substantially corresponding to this act that involves the operation of a motor vehicle, and for which a fine may be assessed.

257.625 Operating motor vehicle while intoxicated; operating motor vehicle when visibly impaired; penalties for causing death or serious impairment of a body function; operation of motor vehicle by person less than 21 years of age; requirements; controlled substances; costs; enhanced sentence; guilty plea or nolo contendere; establishment of prior conviction; special verdict; public record; burden of proving religious service or ceremony; ignition interlock device; “prior conviction” defined.

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

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

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

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

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

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

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

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

(3) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state when, due to the consumption of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance, the person’s ability to operate the vehicle is visibly impaired. If a person is charged with violating subsection (1), a finding of guilty under this subsection may be rendered.

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

(a) Except as provided in subdivision (b), the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not less than \$2,500.00 or more than

\$10,000.00, or both. The judgment of sentence may impose the sanction permitted under section 625n. If the vehicle is not ordered forfeited under section 625n, the court shall order vehicle immobilization under section 904d in the judgment of sentence.

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

(5) A person, whether licensed or not, who operates a motor vehicle in violation of subsection (1), (3), or (8) and by the operation of that motor vehicle causes a serious impairment of a body function of another person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not less than \$1,000.00 or more than \$5,000.00, or both. The judgment of sentence may impose the sanction permitted under section 625n. If the vehicle is not ordered forfeited under section 625n, the court shall order vehicle immobilization under section 904d in the judgment of sentence.

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

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

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

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

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

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

(A) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

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

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

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

(B) Probation with imprisonment in the county jail for not less than 30 days or more than 1 year and community service for not less than 60 days or more than 180 days. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

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

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

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

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

(C) Imprisonment for not more than 93 days.

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

(A) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

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

(c) In the judgment of sentence under subdivision (a)(i) or (b)(i), the court may, unless the vehicle is ordered forfeited under section 625n, order vehicle immobilization as provided in section 904d. In the judgment of sentence under subdivision (a)(ii) or (b)(ii), the court shall, unless the vehicle is ordered forfeited under section 625n, order vehicle immobilization as provided in section 904d.

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

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

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

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

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

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

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

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

(i) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of the term of imprisonment imposed under this subparagraph shall be served consecutively.

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

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

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

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

(d) A term of imprisonment imposed under subdivision (b) or (c) shall not be suspended.

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

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

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

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

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

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

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

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

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

(ii) Imprisonment for not more than 93 days.

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

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

(i) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of the term of imprisonment imposed under this subparagraph shall be served consecutively.

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

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

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

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

(d) A term of imprisonment imposed under subdivision (b) or (c) shall not be suspended.

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

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

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

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

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

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

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

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

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

(iii) Imprisonment for not more than 93 days.

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

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

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

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

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

(a) A copy of a judgment of conviction.

- (b) An abstract of conviction.
- (c) A transcript of a prior trial or a plea-taking or sentencing proceeding.
- (d) A copy of a court register of actions.
- (e) A copy of the defendant's driving record.
- (f) Information contained in a presentence report.
- (g) An admission by the defendant.

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

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

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

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

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

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

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

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

(24) The court may order as a condition of probation that a person convicted of violating subsection (1) or (8), or a local ordinance substantially corresponding to subsection (1) or (8),

shall not operate a motor vehicle unless that vehicle is equipped with an ignition interlock device approved, certified, and installed as required under sections 625k and 625l.

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

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

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

(ii) Section 625m.

(iii) Former section 625b.

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

(c) Section 601d or 626(3) or (4).

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

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

257.625c Consent to chemical tests; persons not considered to have given consent to withdrawal of blood; administration of tests.

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

(a) If the person is arrested for a violation of section 625(1), (3), (4), (5), (6), (7), or (8), section 625a(5), or section 625m or a local ordinance substantially corresponding to section 625(1), (3), (6), or (8), section 625a(5), or section 625m.

(b) If the person is arrested for a violation of section 601d, section 626(3) or (4), or manslaughter, or murder resulting from the operation of a motor vehicle, and the peace officer had reasonable grounds to believe the person was operating the vehicle in violation of section 625.

(2) A person who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician is not considered to have given consent to the withdrawal of blood.

(3) The tests shall be administered as provided in section 625a(6).

257.625m Operation of commercial motor vehicle by person with certain alcohol content; arrest without warrant; violation as misdemeanor; sentence; “prior conviction” defined.

Sec. 625m. (1) A person, whether licensed or not, who has an alcohol content of 0.04 grams or more but less than 0.08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or, beginning October 1, 2013, an alcohol content of 0.04 grams or more but less than 0.10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, shall not operate a commercial motor vehicle within this state.

(2) A peace officer may arrest a person without a warrant under either of the following circumstances:

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

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

(3) Except as otherwise provided in subsections (4) and (5), a person who is convicted of a violation of this section or a local ordinance substantially corresponding to this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$300.00, or both, together with costs of the prosecution.

(4) A person who violates this section or a local ordinance substantially corresponding to this section within 7 years of 1 prior conviction may be sentenced to imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(5) A person who violates this section or a local ordinance substantially corresponding to this section within 10 years of 2 or more prior convictions is guilty of a felony and shall be sentenced to pay a fine of not less than \$500.00 or more than \$5,000.00 and to either of the following:

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

(b) Probation with imprisonment in the county jail for not less than 30 days or more than 1 year and community service for not less than 60 days or more than 180 days. Not less than 48 hours of the imprisonment imposed under this subdivision shall be served consecutively.

(6) A term of imprisonment imposed under subsection (4) or (5) shall not be suspended.

(7) Subject to subsection (9), as used in this section, “prior conviction” means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(a) Except as provided in subsection (8), a violation or attempted violation of any of the following:

(i) This section.

(ii) Section 625, except a violation of section 625(2), or a violation of any prior enactment of section 625 in which the defendant operated a vehicle while under the influence of intoxicating or alcoholic liquor or a controlled substance, or a combination of intoxicating or alcoholic liquor and a controlled substance, or while visibly impaired, or with an unlawful bodily alcohol content.

(iii) Former section 625b.

(iv) Section 601d or section 626(3) or (4).

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

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

(9) If 2 or more convictions described in subsection (7) are convictions for violations arising out of the same transaction, only 1 conviction shall be used to determine whether the person has a prior conviction.

257.625n Forfeiture of vehicle or return to lessor.

Sec. 625n. (1) Except as otherwise provided in this section and in addition to any other penalty provided for in this act, the judgment of sentence for a conviction for a violation of section 625(1) described in section 625(9)(b) or (c), a violation of section 625(3) described in section 625(11)(b) or (c), a violation of section 625(4), (5), or (7), a violation of section 626(3) or (4), or a violation of section 904(4) or (5) may require 1 of the following with regard to the vehicle used in the offense if the defendant owns the vehicle in whole or in part or leases the vehicle:

(a) Forfeiture of the vehicle if the defendant owns the vehicle in whole or in part.

(b) Return of the vehicle to the lessor if the defendant leases the vehicle.

(2) The vehicle may be seized pursuant to an order of seizure issued by the court having jurisdiction upon a showing of probable cause that the vehicle is subject to forfeiture or return to the lessor.

(3) The forfeiture of a vehicle is subject to the interest of the holder of a security interest who did not have prior knowledge of or consent to the violation.

(4) Within 14 days after the defendant's conviction for a violation described in subsection (1), the prosecuting attorney may file a petition with the court for the forfeiture of the vehicle or to have the court order return of a leased vehicle to the lessor. The prosecuting attorney shall give notice by first-class mail or other process to the defendant and his or her attorney, to all owners of the vehicle, and to any person holding a security interest in the vehicle that the court may require forfeiture or return of the vehicle.

(5) If a vehicle is seized before disposition of the criminal proceedings, a defendant who is an owner or lessee of the vehicle may move the court having jurisdiction over the proceedings to require the seizing agency to file a lien against the vehicle and to return the vehicle to the owner or lessee pending disposition of the criminal proceedings. The court shall hear the motion within 7 days after the motion is filed. If the defendant establishes at the hearing that he or she holds the legal title to the vehicle or that he or she has a leasehold interest and that it is necessary for him or her or a member of his or her family to use the vehicle pending the outcome of the forfeiture action, the court may order the seizing agency to return the vehicle to the owner or lessee. If the court orders the return of the vehicle to the owner or lessee, the court shall order the defendant to post a bond in an amount equal to the retail value of the vehicle, and shall also order the seizing agency to file a lien against the vehicle.

(6) Within 14 days after notice by the prosecuting attorney is given under subsection (4), the defendant, an owner, lessee, or holder of a security interest may file a claim of interest in the vehicle with the court. Within 21 days after the expiration of the period for filing claims, but before or at sentencing, the court shall hold a hearing to determine the legitimacy of

any claim, the extent of any co-owner's equity interest, the liability of the defendant to any co-lessee, and whether to order the vehicle forfeited or returned to the lessor. In considering whether to order forfeiture, the court shall review the defendant's driving record to determine whether the defendant has multiple convictions under section 625 or a local ordinance substantially corresponding to section 625, or multiple suspensions, restrictions, or denials under section 904, or both. If the defendant has multiple convictions under section 625 or multiple suspensions, restrictions, or denials under section 904, or both, that factor shall weigh heavily in favor of forfeiture.

(7) If a vehicle is forfeited under this section, the unit of government that seized the vehicle shall sell the vehicle and dispose of the proceeds in the following order of priority:

(a) Pay any outstanding security interest of a secured party who did not have prior knowledge of or consent to the commission of the violation.

(b) Pay the equity interest of a co-owner who did not have prior knowledge of or consent to the commission of the violation.

(c) Satisfy any order of restitution entered in the prosecution for the violation.

(d) Pay the claim of each person who shows that he or she is a victim of the violation to the extent that the claim is not covered by an order of restitution.

(e) Pay any outstanding lien against the property that has been imposed by a governmental unit.

(f) Pay the proper expenses of the proceedings for forfeiture and sale, including, but not limited to, expenses incurred during the seizure process and expenses for maintaining custody of the property, advertising, and court costs.

(g) The balance remaining after the payment of items (a) through (f) shall be distributed by the court having jurisdiction over the forfeiture proceedings to the unit or units of government substantially involved in effecting the forfeiture. Seventy-five percent of the money received by a unit of government under this subdivision shall be used to enhance enforcement of the criminal laws and 25% of the money shall be used to implement the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834. A unit of government receiving money under this subdivision shall report annually to the department of management and budget the amount of money received under this subdivision that was used to enhance enforcement of the criminal laws and the amount that was used to implement the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

(8) The court may order the defendant to pay to a co-lessee any liability determined under subsection (6). The order may be enforced in the same manner as a civil judgment.

(9) The return of a vehicle to the lessor under this section does not affect or impair the lessor's rights or the defendant's obligations under the lease.

(10) A person who knowingly conceals, sells, gives away, or otherwise transfers or disposes of a vehicle with the intent to avoid forfeiture or return of the vehicle to the lessor under this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(11) The failure of the court or prosecutor to comply with any time limit specified in this section does not preclude the court from ordering forfeiture of a vehicle or its return to a lessor, unless the court finds that the owner or claimant suffered substantial prejudice as a result of that failure.

(12) The forfeiture provisions of this section do not preclude the prosecuting attorney from pursuing a forfeiture proceeding under any other law of this state or a local ordinance substantially corresponding to this section.

257.626 Reckless driving on highway, frozen public lake, or parking place; violation as misdemeanor; penalty; operation of motor vehicle causing impairment of body function to another person or death of another person; penalty.

Sec. 626. (1) A person who operates a vehicle upon a highway or a frozen public lake, stream, or pond or other place open to the general public, including, but not limited to, an area designated for the parking of motor vehicles, in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(2) Except as provided in subsections (3) and (4), a person who operates a vehicle in violation of subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(3) A person who operates a vehicle in violation of subsection (1) and by the operation of that vehicle causes serious impairment of a body function to another person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not less than \$1,000.00 or more than \$5,000.00, or both. The judgment of sentence may impose the sanction permitted under section 625n. If the vehicle is not ordered forfeited under section 625n, the court shall order vehicle immobilization under section 904d in the judgment of sentence.

(4) A person who operates a vehicle in violation of subsection (1) and by the operation of that vehicle causes the death of another person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not less than \$2,500.00 or more than \$10,000.00, or both. The judgment of sentence may impose the sanction permitted under section 625n. If the vehicle is not ordered forfeited under section 625n, the court shall order vehicle immobilization under section 904d in the judgment of sentence.

(5) In a prosecution under subsection (4), the jury shall not be instructed regarding the crime of moving violation causing death.

257.727 Arrest without warrant; arraignment by magistrate or family division of circuit court.

Sec. 727. If a person is arrested without a warrant in any of the following cases, the arrested person shall, without unreasonable delay, be arraigned by the magistrate who is nearest or most accessible within the judicial district as provided in section 13 of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.13, or, if a minor, taken before the family division of circuit court within the county in which the offense charged is alleged to have been committed:

(a) The person is arrested under section 601d.

(b) The person is arrested under section 625(1), (3), (4), (5), (6), (7), or (8), or an ordinance substantially corresponding to section 625(1), (3), (6), or (8).

(c) A person is arrested under section 626 or an ordinance substantially corresponding to that section. If under the existing circumstances it does not appear that releasing the person pending the issuance of a warrant will constitute a public menace, the arresting officer may proceed as provided by section 728.

(d) A person arrested does not have in his or her immediate possession a valid operator's or chauffeur's license or the receipt described in section 311a. If the arresting officer otherwise satisfactorily determines the identity of the person and the practicability of subsequent apprehension if the person fails to voluntarily appear before a designated magistrate or the family division of circuit court as directed, the officer may release the person from custody with instructions to appear in court, given in the form of a citation as prescribed by section 728.

257.732a Driver responsibility fee; assessment; notice; payment by installment; failure to pay fee; reinstatement; fire protection fund; creation; disposition of funds; transmission of funds to state treasurer.

Sec. 732a. (1) An individual, whether licensed or not, who accumulates 7 or more points on his or her driving record pursuant to sections 320a and 629c within a 2-year period for any violation not listed under subsection (2) shall be assessed a \$100.00 driver responsibility fee. For each additional point accumulated above 7 points not listed under subsection (2), an additional fee of \$50.00 shall be assessed. The secretary of state shall collect the fees described in this subsection once each year that the point total on an individual driving record is 7 points or more.

(2) An individual, whether licensed or not, who violates any of the following sections or another law or local ordinance that substantially corresponds to those sections shall be assessed a driver responsibility fee as follows:

(a) Upon posting an abstract indicating that an individual has been found guilty for a violation of law listed or described in this subdivision, the secretary of state shall assess a \$1,000.00 driver responsibility fee each year for 2 consecutive years:

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

(ii) Section 601b(2) or (3), 601c(1) or (2), 601d, 626(3) or (4), or 653a(3) or (4).

(iii) Section 625(1), (4), or (5), section 625m, or section 81134 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134, or a law or ordinance substantially corresponding to section 625(1), (4), or (5), section 625m, or section 81134 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134.

(iv) Failing to stop and disclose identity at the scene of an accident when required by law.

(v) Fleeing or eluding an officer.

(b) Upon posting an abstract indicating that an individual has been found guilty for a violation of law listed in this subdivision, the secretary of state shall assess a \$500.00 driver responsibility fee each year for 2 consecutive years:

(i) Section 625(3), (6), (7), or (8).

(ii) Section 626(2).

(iii) Section 904.

(iv) Section 3101, 3102(1), or 3103 of the insurance code of 1956, 1956 PA 218, MCL 500.3101, 500.3102, and 500.3103.

(c) Upon posting an abstract indicating that an individual has been found guilty for a violation of section 301, the secretary of state shall assess a \$150.00 driver responsibility fee each year for 2 consecutive years.

(d) Upon posting an abstract indicating that an individual has been found guilty or determined responsible for a violation listed in section 328, the secretary of state shall assess a \$200.00 driver responsibility fee each year for 2 consecutive years.

(3) The secretary of state shall send a notice of the driver responsibility assessment, as prescribed under subsection (1) or (2), to the individual by regular mail to the address on the records of the secretary of state. If payment is not received within 30 days after the notice is mailed, the secretary of state shall send a second notice that indicates that if payment is not received within the next 30 days, the driver's driving privileges will be suspended.

(4) The secretary of state may authorize payment by installment for a period not to exceed 24 months.

(5) Except as otherwise provided under this subsection, if payment is not received or an installment plan is not established after the time limit required by the second notice prescribed under subsection (3) expires, the secretary of state shall suspend the driving privileges until the assessment and any other fees prescribed under this act are paid. However, if the individual's license to operate a motor vehicle is not otherwise required under this act to be denied, suspended, or revoked, the secretary of state shall reinstate the individual's operator's driving privileges if the individual requests an installment plan under subsection (4) and makes proper payment under that plan. Fees required to be paid for the reinstatement of an individual's operator's driving privileges as described under this subsection shall, at the individual's request, be included in the amount to be paid under the installment plan. If the individual establishes a payment plan as described in this subsection and subsection (4) but fails to make full or timely payments under that plan, the secretary of state shall suspend the individual's driving privileges. The secretary of state shall only reinstate a license under this subsection once.

(6) A fee shall not be assessed under this section for 7 points or more on a driving record on October 1, 2003. Points assigned after October 1, 2003 shall be assessed as prescribed under subsections (1) and (2).

(7) A driver responsibility fee shall be assessed under this section in the same manner for a conviction or determination of responsibility for a violation or an attempted violation of a law of this state, of a local ordinance substantially corresponding to a law of this state, or of a law of another state substantially corresponding to a law of this state.

(8) The fire protection fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The department of energy, labor, and economic growth shall expend money from the fund, upon appropriation, only for fire protection grants to cities, villages, and townships with state owned facilities for fire services, as provided in 1977 PA 289, MCL 141.951 to 141.956.

(9) The secretary of state shall transmit the fees collected under this section to the state treasurer. The state treasurer shall credit fee money received under this section in each fiscal year as follows:

(a) The first \$65,000,000.00 shall be credited to the general fund.

(b) If more than \$65,000,000.00 is collected under this section, the next amount collected in excess of \$65,000,000.00 up to \$68,500,000.00 shall be credited to the fire protection fund created in this section.

(c) If more than \$100,000,000.00 is collected under this section, the next amount collected in excess of \$100,000,000.00 up to \$105,000,000.00 shall be credited to the fire protection fund created in this section.

(d) Any amount collected after crediting the amounts under subdivisions (a), (b), and (c) shall be credited to the general fund.

257.904d Vehicle immobilization; order; "vehicle immobilization" defined; prior conviction; installation of ignition interlock device.

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

(a) For a conviction under section 625(1), (3), (7), or (8) or a local ordinance substantially corresponding to section 625(1) or (3) with no prior convictions, or under section 626(3) or (4), the court may order vehicle immobilization for not more than 180 days.

(b) For a conviction under section 625(4) or (5) with no prior convictions, the court shall order vehicle immobilization for not more than 180 days.

(c) For a conviction under section 625(1), (3), (4), (5), (7), or (8) within 7 years after a prior conviction, or for a conviction under section 625(2), the court shall order vehicle immobilization for not less than 90 days or more than 180 days.

(d) For a conviction under section 625(1), (3), (4), (5), (7), or (8) after 2 or more prior convictions, the court shall order vehicle immobilization for not less than 1 year or more than 3 years.

(2) For a conviction or civil infraction determination resulting from a violation that occurred during a period of suspension, revocation, or denial, the following apply:

(a) Except as provided in subdivision (b), for 1 prior suspension, revocation, or denial under section 904(10), (11), or (12) or former section 904(2) or (4) within the past 7 years, the court may order vehicle immobilization for not more than 180 days.

(b) Except as provided in subdivisions (c) and (d), if the person is convicted under section 904(4) or (5), the court shall order vehicle immobilization for not more than 180 days.

(c) For any combination of 2 or 3 prior suspensions, revocations, or denials under section 904(10), (11), or (12) or former section 904(2) or (4) within the past 7 years, the court shall order vehicle immobilization for not less than 90 days or more than 180 days.

(d) For any combination of 4 or more prior suspensions, revocations, or denials under section 904(10), (11), or (12) or former section 904(2) or (4) within the past 7 years, the court shall order vehicle immobilization for not less than 1 year or more than 3 years.

(3) The defendant shall provide to the court the vehicle identification number and registration plate number of the vehicle involved in the violation.

(4) The court may order vehicle immobilization under this section under either of the following circumstances:

(a) The defendant is the owner, co-owner, lessee, or co-lessee of the vehicle operated during the violation.

(b) The owner, co-owner, lessee, or co-lessee knowingly permitted the vehicle to be operated in violation of section 625(2) or section 904(2) regardless of whether a conviction resulted.

(5) Except as otherwise provided in subsection (11), an order required to be issued under this section shall not be suspended.

(6) If a defendant is ordered imprisoned for the violation for which immobilization is ordered, the period of immobilization shall begin at the end of the period of imprisonment.

(7) This section does not apply to any of the following:

(a) A suspension, revocation, or denial based on a violation of the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.

(b) A vehicle that is registered in another state or that is a rental vehicle.

(c) A vehicle owned by the federal government, this state, or a local unit of government of this state.

(d) A vehicle not subject to registration under section 216.

(e) Any of the following:

(i) A violation of chapter II.

(ii) A violation of chapter V.

(iii) A violation for failure to change address.

(iv) A parking violation.

(v) A bad check violation.

(vi) An equipment violation.

(vii) A pedestrian, passenger, or bicycle violation, other than a violation of section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or section 624a or 624b or a local ordinance substantially corresponding to section 624a or 624b.

(viii) A violation of a local ordinance substantially corresponding to a violation described in subparagraphs (i) to (vii).

(8) As used in this section:

(a) Subject to subsections (9) and (10), “prior conviction” means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(i) Except as otherwise provided in subsection (10), a violation or attempted violation of any of the following:

(A) Section 625, except a violation of section 625(2), or a violation of any prior enactment of section 625 in which the defendant operated a vehicle while under the influence of intoxicating or alcoholic liquor or a controlled substance, or a combination of intoxicating or alcoholic liquor and a controlled substance, or while visibly impaired, or with an unlawful bodily alcohol content.

(B) Section 625m.

(C) Former section 625b.

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

(iii) A violation of section 601d or section 626(3) or (4).

(b) “Vehicle immobilization” means requiring the motor vehicle involved in the violation immobilized in a manner provided in section 904e.

(9) If 2 or more convictions described in subsection (8)(a) are convictions for violations arising out of the same incident, only 1 conviction shall be used to determine whether the person has a prior conviction.

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

(11) If the person obtains a restricted operator’s or chauffeur’s license from the secretary of state and an ignition interlock device is properly installed in the vehicle, the court shall suspend the immobilization order issued under subsection (1)(c) for a conviction under section 625l(2).

(12) The court may reinstate vehicle immobilization issued under subsection (1)(c) for a conviction under section 625l(2) if an ignition interlock device is tampered with, circumvented, or disabled, or if the person’s restricted operator’s or chauffeur’s license is suspended or revoked.

257.907 Civil infraction not crime; payment of civil fine and costs; program of treatment, education, or rehabilitation; sanctions; schedule of civil fines and costs; recommended range of civil fines and costs; certification of repair of defective equipment; collection of civil fines or costs; noncompliance with order or judgment; additional assessment; waiver of fines and costs; “moving violation” defined.

Sec. 907. (1) A violation of this act, or a local ordinance substantially corresponding to a provision of this act, that is designated a civil infraction shall not be considered a lesser included offense of a criminal offense.

(2) If a person is determined pursuant to sections 741 to 750 to be responsible or responsible “with explanation” for a civil infraction under this act or a local ordinance substantially corresponding to a provision of this act, the judge or district court magistrate may order the person to pay a civil fine of not more than \$100.00 and costs as provided in subsection (4). However, if the civil infraction was a moving violation that resulted in an at-fault collision with another vehicle, a person, or any other object, the civil fine ordered under this section shall be increased by \$25.00 but the total civil fine shall not exceed \$100.00. However, for a violation of section 674(1)(s) or a local ordinance substantially corresponding to section 674(1)(s), the person shall be ordered to pay costs as provided in subsection (4) and a civil fine of not less than \$100.00 or more than \$250.00. For a violation of section 328, the civil fine ordered under this subsection shall be not more than \$50.00. For a violation of section 710d, the civil fine ordered under this subsection shall not exceed \$10.00. For a violation of section 710e, the civil fine and court costs ordered under this subsection shall be \$25.00. For a violation of section 682 or a local ordinance substantially corresponding to section 682, the person shall be ordered to pay costs as provided in subsection (4) and a civil fine of not less than \$100.00 or more than \$500.00. For a violation of section 240, the civil fine ordered under this subsection shall be \$15.00. For a violation of section 252a(1), the civil fine ordered under this subsection shall be \$50.00. For a violation of section 676a(3), the civil fine ordered under this section shall be not more than \$10.00. For a violation of section 319f(1), the civil fine ordered under this section shall be not less than \$1,100.00 or more than \$2,750.00. For a violation of section 319g(1)(a), the civil fine ordered under this section shall be not more than \$10,000.00. For a violation of section 319g(1)(b), the civil fine ordered under this section shall be not less than \$2,750.00 or more than \$11,000.00. Permission may be granted for payment of a civil fine and costs to be made within a specified period of time or in specified installments, but unless permission is included in the order or judgment, the civil fine and costs shall be payable immediately.

(3) Except as provided in this subsection, if a person is determined to be responsible or responsible “with explanation” for a civil infraction under this act or a local ordinance substantially corresponding to a provision of this act while driving a commercial motor vehicle, he or she shall be ordered to pay costs as provided in subsection (4) and a civil fine of not more than \$250.00. If a person is determined to be responsible or responsible “with explanation” for a civil infraction under section 319g or a local ordinance substantially corresponding to section 319g, that person shall be ordered to pay costs as provided in subsection (4) and a civil fine of not more than \$10,000.00.

(4) If a civil fine is ordered under subsection (2) or (3), the judge or district court magistrate shall summarily tax and determine the costs of the action, which are not limited to the costs taxable in ordinary civil actions, and may include all expenses, direct and indirect, to which the plaintiff has been put in connection with the civil infraction, up to the entry of judgment. Costs shall not be ordered in excess of \$100.00. A civil fine ordered under subsection (2) or (3) shall not be waived unless costs ordered under this subsection are waived. Except as otherwise provided by law, costs are payable to the general fund of the plaintiff.

(5) In addition to a civil fine and costs ordered under subsection (2) or (3) and subsection (4) and the justice system assessment ordered under subsection (14), the judge or district court magistrate may order the person to attend and complete a program of treatment, education, or rehabilitation.

(6) A district court magistrate shall impose the sanctions permitted under subsections (2), (3), and (5) only to the extent expressly authorized by the chief judge or only judge of the district court district.

(7) Each district of the district court and each municipal court may establish a schedule of civil fines, costs, and assessments to be imposed for civil infractions that occur within the respective district or city. If a schedule is established, it shall be prominently posted and readily available for public inspection. A schedule need not include all violations that are designated by law or ordinance as civil infractions. A schedule may exclude cases on the basis of a defendant's prior record of civil infractions or traffic offenses, or a combination of civil infractions and traffic offenses.

(8) The state court administrator shall annually publish and distribute to each district and court a recommended range of civil fines and costs for first-time civil infractions. This recommendation is not binding upon the courts having jurisdiction over civil infractions but is intended to act as a normative guide for judges and district court magistrates and a basis for public evaluation of disparities in the imposition of civil fines and costs throughout the state.

(9) If a person has received a civil infraction citation for defective safety equipment on a vehicle under section 683, the court shall waive a civil fine, costs, and assessments upon receipt of certification by a law enforcement agency that repair of the defective equipment was made before the appearance date on the citation.

(10) A default in the payment of a civil fine or costs ordered under subsection (2), (3), or (4) or a justice system assessment ordered under subsection (14), or an installment of the fine, costs, or assessment, may be collected by a means authorized for the enforcement of a judgment under chapter 40 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or under chapter 60 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6001 to 600.6098.

(11) If a person fails to comply with an order or judgment issued pursuant to this section within the time prescribed by the court, the driver's license of that person shall be suspended pursuant to section 321a until full compliance with that order or judgment occurs. In addition to this suspension, the court may also proceed under section 908.

(12) The court shall waive any civil fine, cost, or assessment against a person who received a civil infraction citation for a violation of section 710d if the person, before the appearance date on the citation, supplies the court with evidence of acquisition, purchase, or rental of a child seating system meeting the requirements of section 710d.

(13) Until October 1, 2003, in addition to any civil fines and costs ordered to be paid under this section, the judge or district court magistrate shall levy an assessment of \$5.00 for each civil infraction determination, except for a parking violation or a violation for which the total fine and costs imposed are \$10.00 or less. An assessment paid before October 1, 2003 shall be transmitted by the clerk of the court to the state treasurer to be deposited into the Michigan justice training fund. An assessment ordered before October 1, 2003 but collected on or after October 1, 2003 shall be transmitted by the clerk of the court to the state treasurer for deposit in the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181. An assessment levied under this subsection is not a civil fine for purposes of section 909.

(14) Effective October 1, 2003, in addition to any civil fines or costs ordered to be paid under this section, the judge or district court magistrate shall order the defendant to pay a justice system assessment of \$40.00 for each civil infraction determination, except for a parking violation or a violation for which the total fine and costs imposed are \$10.00 or less. Upon payment of the assessment, the clerk of the court shall transmit the assessment collected to the state treasury to be deposited into the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181. An assessment levied under this subsection is not a civil fine for purposes of section 909.

(15) If a person has received a citation for a violation of section 223, the court shall waive any civil fine, costs, and assessment, upon receipt of certification by a law enforcement agency that the person, before the appearance date on the citation, produced a valid registration certificate that was valid on the date the violation of section 223 occurred.

(16) If a person has received a citation for a violation of section 328(1) for failing to produce a certificate of insurance pursuant to section 328(2), the court may waive the fee described in section 328(3)(c) and shall waive any fine, costs, and any other fee or assessment otherwise authorized under this act upon receipt of verification by the court that the person, before the appearance date on the citation, produced valid proof of insurance that was in effect at the time the violation of section 328(1) occurred. Insurance obtained subsequent to the time of the violation does not make the person eligible for a waiver under this subsection.

(17) As used in this section, “moving violation” means an act or omission prohibited under this act or a local ordinance substantially corresponding to this act that involves the operation of a motor vehicle and for which a fine may be assessed.

Repeal of MCL 257.626c.

Enacting section 1. Section 626c of the Michigan vehicle code, 1949 PA 300, MCL 257.626c, is repealed.

Repeal of 750.324 and 750.325.

Enacting section 2. Sections 324 and 325 of the Michigan penal code, 1931 PA 328, MCL 750.324 and 750.325, are repealed.

Effective date.

Enacting section 3. This amendatory act takes effect October 31, 2010.

This act is ordered to take immediate effect.

Approved January 9, 2009.

Filed with Secretary of State January 9, 2009.

[No. 464]

(HB 4017)

AN ACT to amend 1949 PA 300, entitled “An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of

sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date,” (MCL 257.1 to 257.923) by adding section 653b.

The People of the State of Michigan enact:

257.653b Approaching and passing stationary solid waste collection vehicle, utility service vehicle, or road maintenance vehicle; reduction and maintenance of safe speed; definitions.

Sec. 653b. (1) Upon approaching and passing a stationary solid waste collection vehicle, a utility service vehicle, or a road maintenance vehicle that is giving a visual signal by means of flashing, rotating, or oscillating amber lights as permitted by section 698, the driver of an approaching vehicle shall reduce to and maintain a safe speed for weather, road conditions, and vehicular or pedestrian traffic and proceed with due care and caution.

(2) As used in this section:

(a) “Road maintenance authority” means any of the following:

(i) The state department of transportation.

(ii) A local authority.

(iii) An entity operating under contract with the state department of transportation or a local authority to provide road construction or road maintenance services.

(b) “Road maintenance vehicle” means a vehicle owned or operated by a road maintenance authority.

(c) “Solid waste” means that term as defined in section 11506 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11506.

(d) “Solid waste collection vehicle” means a solid waste transporting unit that is used for the curbside collection of municipal solid waste.

(e) “Solid waste hauler” means that term as defined in section 11506 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11506.

(f) “Solid waste transporting unit” means that term as defined in section 11506 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11506.

(g) “Utility provider” means an entity that does any of the following and that is regulated as a utility under the laws of this state or of the United States:

(i) Generates or distributes electrical power to the public.

(ii) Generates or distributes natural gas to the public.

(iii) Provides sewage collection services to the public.

(iv) Provides water distribution services to the public.

(v) Provides telephone services to the public.

(vi) Provides cable or video services to the public.

(h) “Utility service vehicle” means a vehicle owned or operated by a utility provider.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 104 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved January 9, 2009.

Filed with Secretary of State January 9, 2009.

Compiler's note: Senate Bill No. 104, referred to in enacting section 1, was filed with the Secretary of State January 9, 2009, and became 2008 PA 463, Eff. Oct. 31, 2010.

[No. 465]**(SB 1581)**

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 82147 (MCL 324.82147), as amended by 2001 PA 148.

The People of the State of Michigan enact:

324.82147 Issuance of order by secretary of state; operation of snowmobile prohibited; imposition of suspension for more than 1 conviction or probate court dispositions from same incident.

Sec. 82147. (1) Notwithstanding a court order issued under section 82127(1), (3), (4), or (5), section 15a(1), (3), (4), or (5) of former 1968 PA 74, sections 82141 to 82142, or a local ordinance substantially corresponding to section 82127(1) or (3), or sections 82141 to 82142, if a court has not ordered a person not to operate a snowmobile as authorized by this part, the secretary of state shall issue an order that the person not operate a snowmobile as follows:

(a) For 90 days, upon receiving a record of the conviction of the person for a violation of section 82127(3), section 15a(3) of former 1968 PA 74, a local ordinance substantially corresponding to section 82127(3), or a law of another state substantially corresponding to section 82127(3), if the person has no prior convictions within 7 years for a violation of section 82127(1), (3), (4), or (5), section 15a(1), (3), (4), or (5) of former 1968 PA 74, or section 15a of former 1968 PA 74, a local ordinance substantially corresponding to section 82127(1) or (3) or section 15a of former 1968 PA 74, or a law of another state substantially corresponding to section 82127(1), (3), (4), or (5) or section 15a of former 1968 PA 74.

(b) For 1 year for a violation of section 324, 413, or 414 of the Michigan penal code, 1931 PA 328, MCL 750.324, 750.413, and 750.414; or a violation of section 626(3) or (4) of the Michigan vehicle code, 1949 PA 300, MCL 257.626.

(c) For 6 months, if the person has the following convictions within a 7-year period, whether under the law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(i) One conviction under section 82127(1), section 15a(1) of former 1968 PA 74, or section 15a of former 1968 PA 74.

(ii) Two convictions under section 82127(3), section 15a(3) of former 1968 PA 74, or section 15a of former 1968 PA 74.

(iii) One conviction under section 82127(1) or section 15a(1) of former 1968 PA 74 and 1 conviction under section 82127(3), section 15a(3) of former 1968 PA 74, or section 15a of former 1968 PA 74.

(iv) One conviction under section 82127(4) or (5) or section 15a(4) or (5) of former 1968 PA 74 followed by 1 conviction under section 82127(3) or section 15a(3) of former 1968 PA 74.

(2) If the secretary of state receives records of more than 1 conviction or probate court or family division of circuit court disposition of a person resulting from the same incident, a suspension shall be imposed only for the violation to which the longest period of suspension applies under this section.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 104 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved January 9, 2009.

Filed with Secretary of State January 9, 2009.

Compiler's note: Senate Bill No. 104, referred to in enacting section 1, was filed with the Secretary of State January 9, 2009, and became 2008 PA 463, Eff. Oct. 31, 2010.

[No. 466]

(HB 6629)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 1f of chapter IX (MCL 769.1f), as amended by 2002 PA 120.

The People of the State of Michigan enact:

CHAPTER IX

769.1f Expenses for which court may order person convicted to reimburse state or local unit of government; payment; reimbursement as condition of probation or parole; enforcement of order; expenses for emergency response; definitions.

Sec. 1f. (1) As part of the sentence for a conviction of any of the following offenses, in addition to any other penalty authorized by law, the court may order the person convicted to reimburse the state or a local unit of government for expenses incurred in relation to that incident including but not limited to expenses for an emergency response and expenses for prosecuting the person, as provided in this section:

(a) A violation or attempted violation of section 601d, 625(1), (3), (4), (5), (6), or (7), section 625m, or section 626(3) or (4) of the Michigan vehicle code, 1949 PA 300, MCL 257.601d, 257.625, 257.625m, and 257.626, or of a local ordinance substantially corresponding to section 601d(1), 625(1), (3), or (6) or section 625m or 626 of the Michigan vehicle code, 1949 PA 300, MCL 257.601d, 257.625, 257.625m, and 257.626.

(b) Felonious driving, negligent homicide, manslaughter, or murder, or attempted felonious driving, negligent homicide, manslaughter, or murder, resulting from the operation of a motor vehicle, snowmobile, ORV, aircraft, vessel, or locomotive engine while the person was impaired by or under the influence of intoxicating liquor or a controlled substance, as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104, or a combination of intoxicating liquor and a controlled substance, or had an unlawful blood alcohol content.

(c) A violation or attempted violation of section 82127 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82127.

(d) A violation or attempted violation of section 81134 or 81135 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 and 324.81135.

(e) A violation or attempted violation of section 185 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.185.

(f) A violation or attempted violation of section 80176(1), (3), (4), or (5) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, or a local ordinance substantially corresponding to section 80176(1) or (3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176.

(g) A violation or attempted violation of section 353 of the railroad code of 1993, 1993 PA 354, MCL 462.353.

(h) A violation or attempted violation of section 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.411a.

(i) A finding of guilt for criminal contempt for a violation of a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or for a violation of a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i.

(2) The expenses for which reimbursement may be ordered under this section include all of the following:

(a) The salaries or wages, including overtime pay, of law enforcement personnel for time spent responding to the incident from which the conviction arose, arresting the person convicted, processing the person after the arrest, preparing reports on the incident, investigating

the incident, and collecting and analyzing evidence, including, but not limited to, determining bodily alcohol content and determining the presence of and identifying controlled substances in the blood, breath, or urine.

(b) The salaries, wages, or other compensation, including overtime pay, of fire department and emergency medical service personnel, including volunteer fire fighters or volunteer emergency medical service personnel, for time spent in responding to and providing fire fighting, rescue, and emergency medical services in relation to the incident from which the conviction arose.

(c) The cost of medical supplies lost or expended by fire department and emergency medical service personnel, including volunteer fire fighters or volunteer emergency medical service personnel, in providing services in relation to the incident from which the conviction arose.

(d) The salaries, wages, or other compensation, including, but not limited to, overtime pay of prosecution personnel for time spent investigating and prosecuting the crime or crimes resulting in conviction.

(e) The cost of extraditing a person from another state to this state including, but not limited to, all of the following:

(i) Transportation costs.

(ii) The salaries or wages of law enforcement and prosecution personnel, including overtime pay, for processing the extradition and returning the person to this state.

(3) If police, fire department, or emergency medical service personnel from more than 1 unit of government incurred expenses as described in subsection (2), the court may order the person convicted to reimburse each unit of government for the expenses it incurred.

(4) The amount ordered to be paid under this section shall be paid to the clerk of the court, who shall transmit the appropriate amount to the unit or units of government named in the order to receive reimbursement. If not otherwise provided by the court under this subsection, the reimbursement ordered under this section shall be made immediately. However, the court may require that the person make the reimbursement ordered under this section within a specified period or in specified installments.

(5) If the person convicted is placed on probation or paroled, any reimbursement ordered under this section shall be a condition of that probation or parole. The court may revoke probation and the parole board may revoke parole if the person fails to comply with the order and if the person has not made a good faith effort to comply with the order. In determining whether to revoke probation or parole, the court or parole board shall consider the person's employment status, earning ability, number of dependents, and financial resources, the willfulness of the person's failure to pay, and any other special circumstances that may have a bearing on the person's ability to pay.

(6) An order for reimbursement under this section may be enforced by the prosecuting attorney or the state or local unit of government named in the order to receive the reimbursement in the same manner as a judgment in a civil action.

(7) Notwithstanding any other provision of this section, a person shall not be imprisoned, jailed, or incarcerated for a violation of parole or probation, or otherwise, for failure to make a reimbursement as ordered under this section unless the court determines that the person has the resources to pay the ordered reimbursement and has not made a good faith effort to do so.

(8) A local unit of government may elect to be reimbursed for expenses under this section or a local ordinance, or a combination of this section and a local ordinance. This subsection does not allow a local unit of government to be fully reimbursed more than once for any expense incurred by that local unit of government.

(9) As part of the sentence for a conviction of any violation or attempted violation of chapter XXXIII, section 327, 327a, 328, or 436, or chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.200 to 750.212a, 750.327, 750.327a, 750.328, and 750.436, and 750.543a to 750.543z, in addition to any other penalty authorized by law, the court shall order the person convicted to reimburse any government entity for expenses incurred in relation to that incident including, but not limited to, expenses for an emergency response and expenses for prosecuting the person, as provided in subsections (2) to (8). As used in this subsection, “government entity” means this state, a local unit of government, or the United States government.

(10) As used in this section:

(a) “Aircraft” means that term as defined in section 4 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.4.

(b) “Local unit of government” means any of the following:

(i) A city, village, township, or county.

(ii) A local or intermediate school district.

(iii) A public school academy.

(iv) A community college.

(c) “Motor vehicle” means that term as defined in section 33 of the Michigan vehicle code, 1949 PA 300, MCL 257.33.

(d) “ORV” means that term as defined in section 81101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101.

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

(f) “State” includes a state institution of higher education.

(g) “Vessel” means that term as defined in section 80104 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80104.

Effective date.

Enacting section 1. This amendatory act takes effect October 31, 2010.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 104 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved January 9, 2009.

Filed with Secretary of State January 9, 2009.

Compiler's note: Senate Bill No. 104, referred to in enacting section 2, was filed with the Secretary of State January 9, 2009, and became 2008 PA 463, Eff. Oct. 31, 2010.

[No. 467]

(HB 6630)

AN ACT to amend 1927 PA 175, entitled “An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide

laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending sections 12g and 16p of chapter XVII (MCL 777.12g and 777.16p), section 12g as added by 2002 PA 34 and section 16p as amended by 2005 PA 168.

The People of the State of Michigan enact:

CHAPTER XVII

777.12g MCL 257.626(3) to 257.744a; felonies to which chapter applicable.

Sec. 12g. This chapter applies to the following felonies enumerated in sections 626 to 750 of chapter VI of the Michigan vehicle code, 1949 PA 300, within chapter 257 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
257.626(3)	Person	E	Reckless driving causing serious impairment	5
257.626(4)	Person	C	Reckless driving causing death	15
257.653a(3)	Person	G	Failure to use due care and caution causing injury to emergency personnel	2
257.653a(4)	Person	C	Failure to use due care and caution causing death to emergency personnel	15
257.744a	Pub saf	D	False statement in citation — perjury	15

777.16p MCL 750.317 to 750.329a; felonies to which chapter applicable.

Sec. 16p. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.317	Person	M2	Second degree murder	Life

750.317a	Person	A	Delivery of controlled substance causing death	Life
750.321	Person	C	Manslaughter	15
750.322	Person	C	Willful killing of unborn quick child	15
750.323	Person	C	Abortion resulting in death	15
750.327	Person	A	Death by explosives on vehicle or vessel	Life
750.328	Person	A	Death by explosives in or near building	Life
750.329	Person	C	Homicide — weapon aimed with intent but not malice	15
750.329a	Person	E	Assisting a suicide	5

Effective date.

Enacting section 1. This amendatory act takes effect October 31, 2010.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 104 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved January 9, 2009.

Filed with Secretary of State January 9, 2009.

Compiler's note: Senate Bill No. 104, referred to in enacting section 1, was filed with the Secretary of State January 9, 2009, and became 2008 PA 463, Eff. Oct. 31, 2010.

[No. 468]**(SB 1576)**

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 3341 (MCL 500.3341), as amended by 2002 PA 656.

The People of the State of Michigan enact:

500.3341 Coverage for certain convictions; premium surcharges.

Sec. 3341. As part of its secondary or merit rating plan, the facility shall provide for premium surcharges for any or all coverages, other than comprehensive coverage, for convictions for 1 or more of the following, when that information becomes available to the facility:

- (a) A violation of section 904 of the Michigan vehicle code, 1949 PA 300, MCL 257.904.
- (b) A violation of section 904a of the Michigan vehicle code, 1949 PA 300, MCL 257.904a.
- (c) A violation of section 91 of the Michigan penal code, 1931 PA 328, MCL 750.91, resulting from or in connection with the operation of a motor vehicle.
- (d) A violation of section 316 of the Michigan penal code, 1931 PA 328, MCL 750.316, resulting from or in connection with the operation of a motor vehicle.
- (e) A violation of section 317 of the Michigan penal code, 1931 PA 328, MCL 750.317, resulting from or in connection with the operation of a motor vehicle.
- (f) A violation of section 321 of the Michigan penal code, 1931 PA 328, MCL 750.321, resulting from or in connection with the operation of a motor vehicle.
- (g) A violation of section 324 of the Michigan penal code, 1931 PA 328, MCL 750.324, or section 601d of the Michigan vehicle code, 1949 PA 300, MCL 257.601d.
- (h) A violation of section 382 of the Michigan penal code, 1931 PA 328, MCL 750.382, resulting from or in connection with the operation of a motor vehicle.
- (i) A violation of section 413 of the Michigan penal code, 1931 PA 328, MCL 750.413.
- (j) A violation of section 626c of the Michigan vehicle code, 1949 PA 300, MCL 257.626c.
- (k) A violation substantially similar to any of the violations listed in subdivisions (a) through (j) under the laws of another state or a local unit of government of this state or another state.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 104 of the 94th Legislature is enacted into law.

Effective date.

Enacting section 2. This amendatory act takes effect October 31, 2010.

This act is ordered to take immediate effect.

Approved January 9, 2009.

Filed with Secretary of State January 9, 2009.

Compiler's note: Senate Bill No. 104, referred to in enacting section 1, was filed with the Secretary of State January 9, 2009, and became 2008 PA 463, Eff. Oct. 31, 2010.

[No. 469]

(HB 5046)

AN ACT to provide for restroom access for persons with certain medical conditions; to provide immunity from liability for permitting restroom access; and to prescribe penalties.

The People of the State of Michigan enact:

446.71 Definitions.

Sec. 1. As used in this act:

- (a) "Customer" means an individual who is lawfully on the premises of a retail establishment.
- (b) "Doctor" means a licensed doctor of medicine or a licensed doctor of osteopathic medicine and surgery.
- (c) "Eligible medical condition" means Crohn's disease, ulcerative colitis, any other inflammatory bowel disease, irritable bowel syndrome, pregnancy, or any other medical condition that requires immediate access to a toilet facility.
- (d) "Retail establishment" means a place of business open to the general public for the sale of goods or services.

446.72 Retail establishment; use of toilet facility by customer; conditions.

Sec. 2. A retail establishment that has a toilet facility for its employees shall allow a customer to use that facility during normal business hours if all of the following are met:

- (a) The customer requesting use of the employee toilet facility suffers from an eligible medical condition or utilizes an ostomy device.
- (b) Two or more employees of the retail establishment are working at the time the customer requests use of the employee toilet facility.
- (c) The customer provides the retail establishment with a copy of a statement on a prescription form that indicates the customer suffers from an eligible medical condition or utilizes an ostomy device, signed by a doctor.
- (d) The retail establishment does not normally make a restroom available to the public.
- (e) The employee toilet facility is not located in an area where providing access would create an obvious health or safety risk to the customer or an obvious security risk to the retail establishment.
- (f) A public restroom is not immediately accessible to the customer.

446.73 Liability.

Sec. 3. A retail establishment or an employee of a retail establishment is not civilly liable for any injury to or death of a customer allowed to use an employee toilet facility that is not a public restroom, or to an individual other than an employee accompanying the customer, unless all of the following are met:

(a) The retail establishment or the employee of the retail establishment knew or should have known of the condition that caused the injury or death, should have realized that the condition involved an unreasonable risk of harm to a customer or other individual, and should have expected that the customer or other individual would not discover or realize the danger.

(b) The retail establishment or the employee of the retail establishment failed to exercise reasonable care to make the condition safe or to warn the customer or other individual of the condition and the risk.

(c) The customer or other individual did not know or have reason to know of the condition and the risk involved.

(d) The injury or death occurred in an area of the retail establishment that is not accessible to the public.

446.74 Violation; fine.

Sec. 4. A retail establishment or an employee of a retail establishment that violates section 2 is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00.

446.75 Physical changes to toilet facility not required.

Sec. 5. A retail establishment is not required to make any physical changes to an employee toilet facility under this act.

446.76 Prohibited conduct; violation as misdemeanor.

Sec. 6. A person who does any of the following is guilty of a misdemeanor:

(a) Falsely makes, publishes, passes, alters, or forges a prescription form described in section 2(c).

(b) Alters or forges a doctor's signature on a prescription form described in section 2(c).

(c) Knowingly possesses a false, forged, or altered prescription form described in section 2(c).

Approved January 9, 2009.

Filed with Secretary of State January 9, 2009.

[No. 470]

(HB 5118)

AN ACT to amend 2007 PA 36, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations," by amending section 265 (MCL 208.1265), as amended by 2007 PA 145.

The People of the State of Michigan enact:

208.1265 Financial institution; tax base; net capital; computation; determination; unitary business group of financial institutions; change in organization; combination of financial institutions.

Sec. 265. (1) For a financial institution, tax base means the financial institution's net capital. Net capital means equity capital as computed in accordance with generally accepted accounting principles less goodwill and the average daily book value of United States obligations and Michigan obligations. If the financial institution does not maintain its books and records in accordance with generally accepted accounting principles, net capital shall be computed in accordance with the books and records used by the financial institution, so long as the method fairly reflects the financial institution's net capital for purposes of the tax levied by this chapter. Net capital does not include up to 125% of the minimum regulatory capitalization requirements of a person subject to the tax imposed under chapter 2A.

(2) Net capital shall be determined by adding the financial institution's net capital as of the close of the current tax year and preceding 4 tax years and dividing the resulting sum by 5. If a financial institution has not been in existence for a period of 5 tax years, net capital shall be determined by adding together the financial institution's net capital for the number of tax years the financial institution has been in existence and dividing the resulting sum by the number of years the financial institution has been in existence. For purposes of this section, a partial year shall be treated as a full year.

(3) For a unitary business group of financial institutions, net capital calculated under this section does not include the investment of 1 member of the unitary business group in another member of that unitary business group.

(4) For purposes of this section, each of the following applies:

(a) A change in identity, form, or place of organization of 1 financial institution shall be treated as if a single financial institution had been in existence for the entire tax year in which the change occurred and each tax year after the change.

(b) The combination of 2 or more financial institutions into 1 shall be treated as if the constituent financial institutions had been a single financial institution in existence for the entire tax year in which the combination occurred and each tax year after the combination, and the book values and deductions for United States obligations and Michigan obligations of the constituent institutions shall be combined. A combination shall include any acquisition required to be accounted for by the surviving financial institution in accordance with generally accepted accounting principles or a statutory merger or consolidation.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2008.

This act is ordered to take immediate effect.

Approved January 9, 2009.

Filed with Secretary of State January 9, 2009.

[No. 471]

(HB 5651)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental,

and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” (MCL 333.1101 to 333.25211) by adding section 16334 and part 179A.

The People of the State of Michigan enact:

333.16334 Massage therapist; fees.

Sec. 16334. Fees for an individual licensed or seeking licensure as a massage therapist under part 179A are as follows:

- (a) Application processing fee..... \$20.00
- (b) License fee, per year..... 75.00

PART 179A. MASSAGE THERAPY

333.17951 Definitions.

Sec. 17951. (1) As used in this part:

(a) “Feldenkrais method” means a system of somatic education in which touch and words are used to eliminate faulty habits, learn new patterns of self-organization and action, and improve a person’s own functional movement patterns. Feldenkrais method is based on principles of physics, biomechanics, and an understanding of, or learning about, human development.

(b) “Massage therapist” means an individual engaged in the practice of massage therapy.

(c) “Polarity therapy” means diverse applications affecting the human energy system and includes energetic approaches to somatic contact, verbal facilitation, nutrition, exercise, and health education. Polarity therapy does not make medical claims, diagnose physical ailments, or allow prescription of medications.

(d) “Practice of massage therapy” means the application of a system of structured touch, pressure, movement, and holding to the soft tissue of the human body in which the primary intent is to enhance or restore the health and well-being of the client. Practice of massage therapy includes complementary methods, including the external application of water, heat, cold, lubrication, salt scrubs, body wraps, or other topical preparations; and electromechanical devices that mimic or enhance the actions possible by the hands. Practice of massage therapy does not include medical diagnosis; practice of physical therapy; high-velocity, low-amplitude thrust to a joint; electrical stimulation; application of ultrasound; or prescription of medicines.

(e) “School” means any of the following accredited or licensed institutions of higher education that meet the minimum standards and curriculum, in compliance with section 16148:

- (i) A public or private community college, college, or university.

(ii) A public or private trade, vocational, or occupational school.

(f) “Trager approach” means a form of movement education that uses subtle directed movements and the skilled touch of a practitioner. The Trager approach combines physical movement with sensory awareness and internal imagery designed to increase the client’s self-awareness and generate physiological changes in the body tissues so as to allow the client to experience a new way of moving his or her body.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this act and part 161 contains definitions applicable to this part.

333.17953 Use of certain titles, words, or initials.

Sec. 17953. An individual shall not use the titles “licensed massage therapist”, “massage therapist”, “masseur”, “massagist”, “certified massage therapist”, “clinical massage therapist”, “medical massage therapist”, “manual massage therapist”, “board certified massage therapist”, “massage technician”, “myomassologist”, “masseuse”, “l.m.t.”, “m.m.t.”, and “c.m.t.”, or similar words or initials that indicate that the individual is a massage therapist, unless the individual is licensed under this article as a massage therapist. This section does not prevent the use of a name, title, or initials that are registered or otherwise protected under law and used by a person certified or otherwise approved by a private organization.

333.17955 Michigan board of massage therapy; creation; membership; qualifications; terms; appointment; vacancy.

Sec. 17955. (1) The Michigan board of massage therapy is created in the department and consists of the following 11 members appointed by the governor who meet the requirements of part 161:

- (a) Seven individuals who meet the requirements of section 16135(2).
- (b) Four public members.

(2) Except as otherwise provided in this subsection, the terms of office of individual members of the board created under subsection (1) expire 4 years after appointment on December 31 of the year in which the term will expire. Of the members first appointed to the board under subsection (1), 4 shall be appointed for terms of 4 years, 4 shall be appointed for terms of 3 years, and 3 shall be appointed for terms of 2 years. The term of office of an individual appointed to fill a vacancy expires at the end of the term of the vacancy being filled.

333.17957 Massage therapy; license required; exceptions.

Sec. 17957. (1) An individual shall not engage in the practice of massage therapy unless licensed under this part. The practices for which a license is not required under this subsection include, but are not limited to, all of the following:

(a) The use of touch, words, or directed movement to deepen awareness of patterns of movement in the body as long as those services are not designated or implied to be massage or massage therapy. These practices include, but are not limited to, all of the following:

- (i) The Feldenkrais method.
- (ii) The Trager approach.

(b) The affectation of the human energy system or acupoints or qi meridians of the human body while engaged within the scope of practice of a profession with established standards and ethics and as long as those services are not designated or implied to be massage or massage therapy. These practices include, but are not limited to, all of the following:

- (i) Polarity or polarity therapy.

(ii) Asian bodywork therapy.

(iii) Reiki.

(iv) Shiatsu.

(c) Reflexology.

(d) Structural integration.

(2) The department shall provide for a 3-year license cycle.

(3) Subsection (1) does not prevent any of the following:

(a) An individual licensed under any other part or act from performing activities that are considered massage therapy services if those activities are within the individual's scope of practice and if the individual does not use the titles, words, or initials protected under section 17953.

(b) The practice of massage therapy that is an integral part of a program of study by students enrolled in a school, provided that they are identified as students and provide massage therapy services only while under the supervision of a licensed massage therapist.

(c) Self-care by a patient or uncompensated care by a friend or family member who does not represent or hold himself or herself out to be a licensed massage therapist.

333.17959 License; issuance; requirements.

Sec. 17959. (1) The department shall, upon submission of a completed application and payment of the appropriate application processing and license fee, issue a license under this part to an individual who fulfills all of the following requirements:

(a) Has a high school diploma or the equivalent as determined by the board.

(b) Is of good moral character as defined in section 1 of 1974 PA 381, MCL 338.41.

(c) Is at least 18 years of age.

(d) Has successfully passed an examination meeting the requirements of section 17961. The passage of this examination may have occurred before the effective date of this section.

(e) Has successfully completed at least 1 of the following:

(i) A supervised curriculum in a school that has not less than 500 hours of classroom instruction.

(ii) At least 500 hours of course and clinical massage education in a substantially equivalent program in another state, country, jurisdiction, territory, or province that, on a case-by-case review, is found by the board to be sufficient.

(2) The department shall issue a license to an applicant who meets the requirements of subsection (1)(a), (b), and (c) and who is currently licensed as a massage therapist in another state, country, jurisdiction, territory, or province that requires standards for licensure that are substantially equivalent to the requirements for licensure under this part, as determined by the board.

(3) Until 2 years after the effective date of this part, the board may issue a license to an applicant who meets the requirements of subsection (1)(a), (b), and (c) and presents proof acceptable to the board that he or she has fulfilled 1 of the following requirements:

(a) For at least 1 year before the effective date of this part, has been an active member, as a massage therapist, of a national professional massage therapy association that was established before the year 2000, that offers professional liability insurance as a benefit of membership, and that has an established code of professional ethics.

(b) Has practiced massage therapy for an average of at least 10 hours per week for 5 or more years, as established by affidavit of the applicant.

(c) Has practiced massage therapy for an average of at least 10 hours per week for at least 3 years, as established by affidavit of the applicant, and has successfully completed at least 300 hours of formal training in massage therapy acceptable to the board, as established by evidence from the school or schools attended.

(d) Has successfully passed an examination meeting the requirements of section 17961. The passage of this examination may have occurred before the effective date of this section.

(e) Has fulfilled the requirement under subsection (1)(e).

333.17961 Examination.

Sec. 17961. (1) The board shall provide that applicants pass an examination that measures entry level competence before issuance of a license under this part.

(2) For licensure purposes under this part, the board shall adopt only those examinations that meet all of the following requirements:

(a) Are statistically validated through a job analysis under current standards for educational and professional testing.

(b) Has examination standards that comply with pertinent state and federal equal employment opportunity guidelines.

(c) Are available to all potential candidates for licensure.

333.17963 Rules.

Sec. 17963. (1) The board shall promulgate rules to create a code of professional ethics.

(2) A licensee shall make a written referral of a client to an appropriate health professional if the client's physical or medical condition appears to constitute a contraindication for massage therapy.

(3) The board and department shall not, by rule or otherwise, restrict the right of a licensee to participate in and become a member of any nationally recognized trade or professional association.

333.17965 Renewal; continuing education.

Sec. 17965. Subject to section 16204, the board shall, by rule, require as a condition of renewal of a license the furnishing of evidence of at least 18 hours, or the equivalent acceptable to the board, of continuing education for each 3-year license cycle. The courses shall be approved by the board and shall include subjects related to the practice of massage therapy.

333.17967 Licensing requirements; maintenance by local government prohibited.

Sec. 17967. Beginning the effective date of this part, a local unit of government shall not establish or maintain licensing requirements for a massage therapist licensed under this part.

333.17969 Third party reimbursement or mandated worker's compensation benefits.

Sec. 17969. This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed under this part.

This act is ordered to take immediate effect.

Approved January 9, 2009.

Filed with Secretary of State January 9, 2009.

[No. 472]**(HB 5924)**

AN ACT to amend 2007 PA 36, entitled “An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations,” by amending section 113 (MCL 208.1113), as amended by 2008 PA 177.

The People of the State of Michigan enact:

208.1113 Definitions; P and R.

Sec. 113. (1) “Partner” means a partner or member of a partnership.

(2) “Partnership” means a taxpayer that is required to or has elected to file as a partnership for federal income tax purposes.

(3) “Person” means an individual, firm, bank, financial institution, insurance company, limited partnership, limited liability partnership, copartnership, partnership, joint venture, association, corporation, subchapter S corporation, limited liability company, receiver, estate, trust, or any other group or combination of groups acting as a unit.

(4) “Professional employer organization” means an organization that provides the management and administration of the human resources of another entity by contractually assuming substantial employer rights and responsibilities through a professional employer agreement that establishes an employer relationship with the leased officers or employees assigned to the other entity by doing all of the following:

(a) Maintaining a right of direction and control of employees’ work, although this responsibility may be shared with the other entity.

(b) Paying wages and employment taxes of the employees out of its own accounts.

(c) Reporting, collecting, and depositing state and federal employment taxes for the employees.

(d) Retaining a right to hire and fire employees.

(5) Professional employer organization is not a staffing company as that term is defined in subsection (6).

(6) “Purchases from other firms” means all of the following:

(a) Inventory acquired during the tax year, including freight, shipping, delivery, or engineering charges included in the original contract price for that inventory.

(b) Assets, including the costs of fabrication and installation, acquired during the tax year of a type that are, or under the internal revenue code will become, eligible for depreciation, amortization, or accelerated capital cost recovery for federal income tax purposes.

(c) To the extent not included in inventory or depreciable property, materials and supplies, including repair parts and fuel.

(d) For a staffing company, compensation of personnel supplied to customers of staffing companies. As used in this subdivision:

(i) “Compensation” means that term as defined under section 107 plus all payroll tax and worker’s compensation costs.

(ii) “Staffing company” means a taxpayer whose business activities are included in industry group 736 under the standard industrial classification code as compiled by the United States department of labor.

(e) For a person included in major group 15, 16, or 17 under the standard industrial classification code as compiled by the United States department of labor that does not qualify for a credit under section 417, both of the following:

(i) Payments to subcontractors for a construction project under a contract specific to that project.

(ii) To the extent not deducted under subdivisions (a) and (c), payments for materials deducted as purchases in determining the cost of goods sold for the purpose of calculating total income on the taxpayer’s federal income tax return.

(f) For the 2008 tax year and each tax year after 2008, all film rental or royalty payments paid by a theater owner to a film distributor, a film producer, or a film distributor and producer.

(g) For a taxpayer licensed under article 25 or 26 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518 and 339.2601 to 339.2637, payments to an independent contractor licensed under article 25 or 26 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518 and 339.2601 to 339.2637.

(7) “Revenue mile” means the transportation for a consideration of 1 net ton in weight or 1 passenger the distance of 1 mile.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6122 of the 94th Legislature is enacted into law.

Amendatory act as retroactive; effective date.

Enacting section 2. This amendatory act is retroactive and is effective January 1, 2008.

This act is ordered to take immediate effect.

Approved January 9, 2009.

Filed with Secretary of State January 9, 2009.

Compiler’s note: House Bill No. 6122, referred to in enacting section 1, was filed with the Secretary of State January 9, 2009, and became 2008 PA 473, Eff. Jan. 1, 2007.

[No. 473]

(HB 6122)

AN ACT to amend 1993 PA 330, entitled “An act to impose a state tax on the transfer of an interest in real property; to provide for the administration of this act; to prescribe the powers and duties of certain state and local officers; to provide for the collection and distribution of the tax; and to prescribe penalties and provide remedies,” by amending sections 2, 3, and 6 (MCL 207.522, 207.523, and 207.526), section 6 as amended by 2003 PA 128.

The People of the State of Michigan enact:

207.522 Definitions.

Sec. 2. As used in this act:

(a) “Controlling interest” means more than 80% of the total value of all classes of stock of a corporation; more than 80% of the total interest in capital and profits of a partnership,

association, limited liability company, or other unincorporated form of doing business; or more than 80% of the beneficial interest in a trust.

(b) “Person” means an individual, partnership, corporation, limited liability company, association, governmental entity, or other legal entity. If used in a penalty clause, person includes the partners or members of a firm, a partnership, or an association and the officers of a corporation.

(c) “Property” includes land, tenements, real estate, and real property and all rights to and interests in land, tenements, real estate, or real property.

(d) “Tax” means the state real estate transfer tax imposed under this act.

(e) “Transfer”, unless otherwise exempt under this act, means the conveyance of title to or other transfer of a present interest or beneficial interest or any other interest in real property by any method, including the interest in real property acquired through the acquisition of a controlling interest in any entity with an interest in the property.

(f) “Treasurer” means the state treasurer.

(g) “Value” means the current or fair market worth in terms of legal monetary exchange at the time of the transfer. The tax shall be based on the value of the real property transferred and shall be collected at the time the instrument of conveyance is submitted for recording. In the case of a controlling interest in any entity that owns real property, value shall mean the value of the real property or interest in the real property, apportioned based on the percentage of the ownership interest transferred or acquired in the entity.

207.523 Written instruments subject to tax; person liable for tax; payment date.

Sec. 3. (1) There is imposed, in addition to all other taxes, a tax upon the following written instruments executed within this state when the instrument is recorded:

(a) Contracts for the sale or exchange of property or any interest in the property or any combination of sales or exchanges or any assignment or transfer of property or any interest in the property.

(b) Deeds or instruments of conveyance of property or any interest in property, for consideration.

(c) Contracts for the transfer or acquisition of a controlling interest in any entity only if the real property owned by that entity comprises 90% or more of the fair market value of the assets of the entity determined in accordance with generally accepted accounting principles which shall be recorded.

(2) The person who is the seller or grantor of the property is liable for the tax imposed under this act.

(3) The tax imposed under this act shall be paid to the county treasurer where the real property is located not later than 15 days after the delivery of the instrument effecting the conveyance by the seller or grantor to the buyer or grantee or not later than 15 days after the transfer of a controlling interest in any entity with an interest in the real property. For purposes of this section, the date of the instrument effecting the transfer is presumed to be the date of delivery of the instrument.

207.526 Written instruments and transfers of property exempt from tax.

Sec. 6. The following written instruments and transfers of property are exempt from the tax imposed by this act:

(a) A written instrument in which the value of the consideration for the property is less than \$100.00.

(b) A written instrument evidencing a contract or transfer that is not to be performed wholly within this state only to the extent the written instrument includes land lying outside of this state.

(c) A written instrument that this state is prohibited from taxing under the United States constitution or federal statutes.

(d) A written instrument given as security or an assignment or discharge of the security interest.

(e) A written instrument evidencing a lease, including an oil and gas lease, or a transfer of a leasehold interest.

(f) A written instrument evidencing an interest that is assessable as personal property.

(g) A written instrument evidencing the transfer of a right and interest for underground gas storage purposes.

(h) Any of the following written instruments:

(i) A written instrument in which the grantor is the United States, this state, a political subdivision or municipality of this state, or an officer of the United States or of this state, or a political subdivision or municipality of this state, acting in his or her official capacity.

(ii) A written instrument given in foreclosure or in lieu of foreclosure of a loan made, guaranteed, or insured by the United States, this state, a political subdivision or municipality of this state, or an officer of the United States or of this state, or a political subdivision or municipality of this state, acting in his or her official capacity.

(iii) A written instrument given to the United States, this state, or 1 of their officers acting in an official capacity as grantee, pursuant to the terms or guarantee or insurance of a loan guaranteed or insured by the grantee.

(i) A conveyance from a husband or wife or husband and wife creating or disjoining a tenancy by the entireties in the grantors or the grantor and his or her spouse.

(j) A conveyance from an individual to that individual's child, stepchild, or adopted child.

(k) A conveyance from an individual to that individual's grandchild, step-grandchild, or adopted grandchild.

(l) A judgment or order of a court of record making or ordering a transfer, unless a specific monetary consideration is specified or ordered by the court for the transfer.

(m) A written instrument used to straighten boundary lines if no monetary consideration is given.

(n) A written instrument to confirm title already vested in a grantee, including a quit-claim deed to correct a flaw in title.

(o) A land contract in which the legal title does not pass to the grantee until the total consideration specified in the contract has been paid.

(p) A conveyance that meets 1 of the following:

(i) A transfer between any corporation and its stockholders or creditors, between any limited liability company and its members or creditors, between any partnership and its partners or creditors, or between a trust and its beneficiaries or creditors when the transfer is to effectuate a dissolution of the corporation, limited liability company, partnership, or trust and it is necessary to transfer the title of real property from the entity to the stockholders, members, partners, beneficiaries, or creditors.

(ii) A transfer between any limited liability company and its members if the ownership interests in the limited liability company are held by the same persons and in the same proportion as in the limited liability company prior to the transfer.

(iii) A transfer between any partnership and its partners if the ownership interests in the partnership are held by the same persons and in the same proportion as in the partnership prior to the transfer.

(iv) A transfer of a controlling interest in an entity with an interest in real property if the transfer of the real property would qualify for exemption if the transfer had been accomplished by deed to the real property between the persons that were parties to the transfer of the controlling interest.

(v) A transfer in connection with the reorganization of an entity and the beneficial ownership is not changed.

(q) A written instrument evidencing the transfer of mineral rights and interests.

(r) A written instrument creating a joint tenancy between 2 or more persons if at least 1 of the persons already owns the property.

(s) A transfer made pursuant to a bona fide sales agreement made before the date the tax is imposed under sections 3 and 4, if the sales agreement cannot be withdrawn or altered, or contains a fixed price not subject to change or modification.

(t) A written instrument evidencing a contract or transfer of property to a person sufficiently related to the transferor to be considered a single employer with the transferor under section 414(b) or (c) of the internal revenue code of 1986, 26 USC 414.

(u) A written instrument conveying an interest in property for which an exemption is claimed under section 7cc of the general property tax act, 1893 PA 206, MCL 211.7cc, if the state equalized valuation of that property is equal to or lesser than the state equalized valuation on the date of purchase or on the date of acquisition by the seller or transferor for that same interest in property. If after an exemption is claimed under this subsection, the sale or transfer of property is found by the treasurer to be at a value other than the true cash value, then a penalty equal to 20% of the tax shall be assessed in addition to the tax due under this act to the seller or transferor.

(v) A written instrument transferring an interest in property pursuant to a foreclosure of a mortgage including a written instrument given in lieu of foreclosure of a mortgage. This exemption does not apply to a subsequent transfer of the foreclosed property by the entity that foreclosed on the mortgage.

(w) A written instrument conveying an interest from a religious society in property exempt from the collection of taxes under section 7s of the general property tax act, 1893 PA 206, MCL 211.7s, to a religious society if that property continues to be exempt from the collection of taxes under section 7s of the general property tax act, 1893 PA 206, MCL 211.7s.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5924 of the 94th Legislature is enacted into law.

Effective date.

Enacting section 2. This amendatory act shall take effect January 1, 2007.

This act is ordered to take immediate effect.

Approved January 9, 2009.

Filed with Secretary of State January 9, 2009.

[No. 474]**(HB 6644)**

AN ACT to amend 1998 PA 58, entitled “An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to prohibit the use of certain devices for the dispensing of alcoholic vapor; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts,” by amending section 203 (MCL 436.1203), as amended by 2005 PA 268.

The People of the State of Michigan enact:

436.1203 Sale, delivery, or importation of alcoholic liquor or wine; duties of direct shipper of wine; verification that individual accepting delivery is of legal age; original purchase and importation into state of spirits for sale, use, storage, or distribution; requirements; exceptions; direct shipper license required; qualifications; fee; violation; delivery of beer and wine to home or designated location of consumer; holder of specially designated merchant license, out-of-state retailer holding equivalent license, or brewpub or microbrewer; definitions.

Sec. 203. (1) Except as provided in this section and section 301, a sale, delivery, or importation of alcoholic liquor, including alcoholic liquor for personal use, shall not be made in this state unless the sale, delivery, or importation is made by the commission, the commission's authorized agent or distributor, an authorized distribution agent approved by order of the commission, a person licensed by the commission, or by prior written order of the commission.

(2) Notwithstanding R 436.1011(7)(b) and R 436.1527 of the Michigan administrative code and except as provided in subsection (1), a retailer shall not deliver alcoholic liquor to a Michigan consumer at the home or business of the consumer or at any location away from the licensed premises of the retailer. The purpose of this subsection is to exercise the state of Michigan's authority under section 2 of amendment XXI of the constitution of the United States, to maintain the inherent police powers to regulate the transportation and delivery of alcoholic liquor, and to promote a transparent system for the transportation and delivery of alcoholic liquor. The regulation described in this subsection is considered necessary for both of the following reasons:

(a) To promote the public health, safety, and welfare.

(b) To maintain strong, stable, and effective regulation by having beer and wine sold by retailers to Michigan consumers by passing through the 3-tier distribution system established under this act.

(3) For purposes of subsection (1), the sale, delivery, or importation of wine, to consumers in this state, by a person who both produces and bottles the wine or wine that is manufactured by a wine maker for another wine maker and that is transacted or caused to be transacted by means of any mail order, internet, telephone, computer, device, or other electronic means, or sold directly to a consumer on the winery premises, shall only be done by a direct shipper. If a retail sale, delivery, or importation of wine occurs to a consumer by any means described in this subsection, the direct shipper must comply with all of the following:

(a) Hold a direct shipper license.

(b) Pay any applicable taxes to the commission and pay any applicable taxes to the department of treasury as directed by the department of treasury. Upon the request of the department of treasury, a direct shipper shall furnish an affidavit to verify payment.

(c) Comply with all prohibitions of the laws of this state, including, but not limited to, sales to minors.

(d) Verify the age of the individual placing the order by obtaining from him or her a copy of a photo identification issued by this state, another state, or the federal government or by utilizing an identification verification service. The person receiving and accepting the order on behalf of the direct shipper shall record the name, address, date of birth, and telephone number of the person placing the order on the order form or other verifiable record of a type and generated in a manner approved by the commission and provide a duplicate to the commission.

(e) Upon request of the commission, make available to the commission any document used to verify the age of the individual ordering or receiving the wine from the direct shipper.

(f) Stamp, print, or label on the outside of the shipping container that the package “Contains Alcohol. Must be delivered to a person 21 years of age or older.” The recipient at the time of the delivery is required to provide photo identification verifying his or her age along with a signature.

(g) Place a label on the top panel of the shipping container containing the direct shipper license number, the order number, the name and address of the individual placing the order, and the name of the designated recipient if different from the name of the individual placing the order.

(h) Direct ship not more than 1,500 9-liter cases, or 13,500 liters in total, of wine in a calendar year to Michigan consumers. If a direct shipper, whether located in this state or outside this state, owns, in whole or in part, or commonly manages 1 or more direct shippers, it shall not in combination ship to consumers in this state more than 13,500 liters of wine in the aggregate.

(i) Pay wine taxes quarterly and report to the commission quarterly the total amount of wine, by type, brand, and price, shipped to consumers in this state during the preceding calendar quarter, and the order numbers.

(j) Authorize and allow the commission and the department of treasury to conduct an audit of the direct shipper’s records.

(k) Consent and submit to the jurisdiction of the commission, the department of treasury, and the courts of this state concerning enforcement of this section and any related laws, rules, and regulations.

(4) Notwithstanding subsection (3), in the case of a sale, delivery, or importation of alcoholic liquor occurring by any means described in subsection (3), a person taking the order on behalf of the direct shipper must comply with subsection (3)(c) through (g).

(5) The person who delivers the wine shall verify that the individual accepting delivery is of legal age and is the individual who placed the order or the designated recipient, is an

individual of legal age currently occupying or present at the address, or is an individual otherwise authorized through a rule promulgated under this act by the commission to receive alcoholic liquor under this section. If the delivery person, after a diligent inquiry, determines that the purchaser or designated recipient is not of legal age, the delivery person shall return the wine to the direct shipper. A delivery person who returns wine to the direct shipper due to inability to obtain the purchaser's or designated recipient's legal age is not liable for any damages suffered by the purchaser or direct shipper.

(6) All spirits for sale, use, storage, or distribution in this state, shall originally be purchased by and imported into the state by the commission, or by prior written authority of the commission.

(7) This section does not apply in the case of an alcoholic liquor brought into this state for personal or household use in an amount permitted by federal law by a person of legal age to purchase alcoholic liquor at the time of reentry into this state from without the territorial limits of the United States if the person has been outside the territorial limits of the United States for more than 48 hours and has not brought alcoholic liquor into the United States during the preceding 30 days.

(8) A person who is of legal age to purchase alcoholic liquor may do either of the following in relation to alcoholic liquor that contains less than 21% alcohol by volume:

(a) Personally transport from another state, once in a 24-hour period, not more than 312 ounces of alcoholic liquor for that person's personal use, notwithstanding subsection (1).

(b) Ship or import from another state alcoholic liquor for that person's personal use so long as that personal importation is done in compliance with subsection (1).

(9) A direct shipper shall not engage in the sale, delivery, or importation of wine to a consumer unless it applies for and is granted a direct shipper license from the commission. This subsection does not prohibit wine tasting or the selling at retail by a wine maker of wines he or she produced and bottled or wine manufactured for that wine maker by another wine maker, if done in compliance with this act. Only the following persons qualify for the issuance of a direct shipper license:

(a) A licensed wine maker.

(b) A wine producer and bottler located inside this country but outside of this state holding both a federal basic permit issued by the alcohol and tobacco tax and trade bureau and a license to manufacture wine in its state of domicile.

(10) An applicant for a direct shipper license shall submit an application to the commission in a written or electronic format provided by the commission and accompanied by an application and initial license fee of \$100.00. The application shall be accompanied by a copy or other evidence of the existing federal basic permit or license, or both, held by the applicant. The direct shipper may renew its license annually by submission of a license renewal fee of \$100.00 and a completed renewal application. The commission shall use the fees collected under this section to conduct investigations and audits of direct shippers. The failure to renew, or the revocation or suspension of, the applicant's existing Michigan license, federal basic permit, or license to manufacture wine in its state of domicile is grounds for revocation or denial of the direct shipper license. If a direct shipper is found guilty of violating this act or a rule promulgated by the commission, the commission shall notify both the alcoholic liquor control agency in the direct shipper's state of domicile and the alcohol and tobacco tax and trade bureau of the United States department of treasury of the violation.

(11) A retailer that holds a specially designated merchant license in this state; an out-of-state retailer that holds its state's substantial equivalent license; or a brewpub, microbrewer;

or an out-of-state entity that is the substantial equivalent of a brewpub or microbrewer may deliver beer and wine to the home or other designated location of a consumer in this state if all of the following conditions are met and except as otherwise provided in subsection (12):

(a) The beer or wine, or both, is delivered by the retailer's, brewpub's, or microbrewer's employee and not by an agent or by a third party delivery service.

(b) The retailer, brewpub, or microbrewer or its employee who delivers the beer or wine, or both, verifies that the person accepting delivery is at least 21 years of age.

(c) If the retailer, brewpub, or microbrewer or its employee intends to provide service to consumers, the retailer, brewpub, or microbrewer or its employee providing the service must have received alcohol server training through a server training program approved by the commission.

(12) A retailer that holds a specially designated merchant license in this state or an out-of-state retailer that holds its state's substantial equivalent license may utilize a third party that provides delivery service to municipalities in this state that are surrounded by water and inaccessible by motor vehicle to deliver beer and wine to the home or other designated location of that consumer if the delivery service is approved by the commission and agrees to verify that the person accepting delivery of the beer and wine is at least 21 years of age.

(13) As used in this section:

(a) "Computer" means any connected, directly interoperable or interactive device, equipment, or facility that uses a computer program or other instructions to perform specific operations including logical, arithmetic, or memory functions with or on computer data or a computer program and that can store, retrieve, alter, or communicate the results of the operations to a person, computer program, computer, computer system, or computer network.

(b) "Computer network" means the interconnection of hardwire or wireless communication lines with a computer through remote terminals, or a complex consisting of 2 or more interconnected computers.

(c) "Computer program" means a series of internal or external instructions communicated in a form acceptable to a computer that directs the functioning of a computer, computer system, or computer network in a manner designed to provide or produce products or results from the computer, computer system, or computer network.

(d) "Computer system" means a set of related, connected or unconnected, computer equipment, devices, software, or hardware.

(e) "Consumer" means an individual who purchases wine for personal consumption and not for resale.

(f) "Device" includes, but is not limited to, an electronic, magnetic, electrochemical, biochemical, hydraulic, optical, or organic object that performs input, output, or storage functions by the manipulation of electronic, magnetic, or other impulses.

(g) "Diligent inquiry" means a diligent good faith effort to determine the age of a person, which includes at least an examination of an official Michigan operator's or chauffeur's license, an official Michigan personal identification card, or any other bona fide picture identification that establishes the identity and age of the person.

(h) "Direct shipper" means a person who engages in the sale, delivery, or importation of wine, to consumers in this state, that he or she produces and bottles or wine that is manufactured by a wine maker for another wine maker and that is transacted or caused to be transacted through the use of any mail order, internet, telephone, computer, device, or other electronic means, or sells directly to consumers on the winery premises.

(i) “Identification verification service” means any internet-based service approved by the commission specializing in age and identity verification.

Approved January 5, 2009.

Filed with Secretary of State January 9, 2009.

[No. 475]

(SB 1193)

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 356a (MCL 750.356a), as amended by 1998 PA 311.

The People of the State of Michigan enact:

750.356a Larceny; stealing or removing property from motor vehicles or trailers; aggregate value; prior convictions; breaking or entering; damages.

Sec. 356a. (1) A person who commits larceny by stealing or unlawfully removing or taking any wheel, tire, air bag, catalytic converter, radio, stereo, clock, telephone, computer, or other electronic device in or on any motor vehicle, house trailer, trailer, or semitrailer is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(2) Except as provided in subsection (3), a person who enters or breaks into a motor vehicle, house trailer, trailer, or semitrailer to steal or unlawfully remove property from it is guilty of a crime as follows:

(a) If the value of the property is less than \$200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the value of the property, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the value of the property, whichever is greater, or both imprisonment and a fine:

(i) The value of the property is \$200.00 or more but less than \$1,000.00.

(ii) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(c) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the property, whichever is greater, or both imprisonment and a fine:

(i) The value of the property is \$1,000.00 or more but less than \$20,000.00.

(ii) The person violates subdivision (b)(i) and has 1 or more prior convictions for violating or attempting to violate this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).