487.1022 Joint examination or investigation.

Sec. 22. (1) The commissioner may conduct an on-site examination or investigation of records maintained under section 25, including a joint examination or investigation conducted with representatives of other departments or agencies of this state, 1 or more agencies of another state, or of the federal government.

(2) The commissioner may accept an examination or investigation report of a department or agency of this state or of another state or of the federal government or a report prepared by a certified public accountant instead of conducting an examination or investigation.

(3) A joint examination or investigation or an acceptance of an examination or investigation report under this section does not preclude the commissioner from conducting his or her own examination or investigation.

(4) The report of a joint investigation or an examination report accepted by the commissioner under this section is an official report of the commissioner for all purposes.

487.1023 Changed information; filing; events requiring filing of report.

Sec. 23. (1) If there is a change in any information provided in a licensee's initial or renewal application, the licensee shall file the changed information with the commissioner before the change occurs, unless the commissioner prescribes a different deadline for filing the changed information that is not later than 5 business days after the change occurs. The commissioner shall consider whether it is feasible for the licensee to file the changed information before the change occurs in prescribing a different deadline.

(2) A licensee that submits a renewal application to the commissioner shall include with the application a current list of the names and street addresses of each authorized delegate and location in this state where the licensee or authorized delegates of the licensee provide money transmission services.

(3) A licensee shall file a report with the agency within 3 business days after the licensee has reason to know of the occurrence of any of the following events:

(a) The filing of a petition by or against the licensee under the bankruptcy code, 11 USC 101 to 1330, for bankruptcy or reorganization.

(b) The filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for the licensee's dissolution or reorganization, or the making of a general assignment for the benefit of its creditors.

(c) The commencement of a proceeding to revoke or suspend a license of the licensee in this state, another state, or a country in which the licensee engages in business or is licensed.

(d) A charge or conviction of the licensee or of an executive officer, manager, director, or control person of the licensee for a felony.

(e) A charge or conviction of an authorized delegate for a felony.

487.1024 Proposed change of control of licensee; request for approval; additional information; approval by commissioner; determination.

Sec. 24. (1) If there is a proposed change of control of a licensee, the licensee shall do all of the following:

(a) Give the commissioner written notice of a proposed change of control 30 days or more before the proposed change of control.

(b) Request approval of the proposed change of control.

(c) Pay a nonrefundable fee with the notice, in an amount prescribed by the commissioner.

(2) After review of a request for approval under subsection (1), the commissioner may require the licensee to provide additional information concerning each proposed control person of the licensee. However, the commissioner shall only require that the licensee provide additional information of the same type required of the licensee or any control person of the licensee as part of the licensee's original license or renewal application.

(3) The commissioner shall approve a request for change of control under subsection (1) if, after investigation, the commissioner determines that the person or group of persons requesting approval has the experience, character, and general fitness to operate the licensee in a lawful and proper manner.

(4) Subsection (1) does not apply to a public offering of securities.

487.1025 Records.

Sec. 25. (1) A licensee or any person subject to this act shall maintain all of the following records for at least 3 years:

(a) A record of each payment instrument from the date it was created.

(b) A general ledger posted at least monthly containing all asset, liability, capital, income, and expense accounts.

(c) Bank statements and bank reconciliation records.

(d) Records of outstanding payment instruments.

(e) Records of each payment instrument paid within the 3-year period.

(f) A list of the last known names and addresses of all of the licensee's authorized delegates.

(g) Any other records the commissioner reasonably requires.

(2) The records described in subsection (1) may be stored on any tangible medium or in any electronic or other medium that is immediately retrievable in perceivable form.

(3) A licensee or other person may maintain the records described in subsection (1) outside of this state if they are made accessible to the commissioner.

487.1026 Disclosure of information.

Sec. 26. (1) The commissioner, each former commissioner, and each current and former deputy, agent, and employee of the agency shall keep secret all facts and information obtained in the course of their duties, unless that person is required under law to report on, take official action concerning, or testify in any proceedings regarding a licensee or the activities of a licensee.

(2) This section does not apply to, and does not prohibit the furnishing of information or documents to, any federal, foreign, or out-of-state regulatory agency with jurisdiction over a licensee and is not applicable to any disclosure made in the public interest by the commissioner, at his or her discretion.

487.1031 Permissible investments.

Sec. 31. (1) A licensee shall maintain at all times permissible investments that have a market value computed in accordance with generally accepted accounting principles of not less than the aggregate amount of all of its outstanding payment instruments issued or sold and money transmitted by the licensee.

(2) The commissioner may limit the extent to which a type of investment within a class of permissible investments is considered a permissible investment by any licensee, except for money and certificates of deposit issued by a depository financial institution. The com-

missioner by order or declaratory ruling may allow other types of investments that the commissioner determines to have a safety substantially equivalent to other permissible investments.

(3) Even if commingled with other assets of a licensee, permissible investments are held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments in the event of bankruptcy or receivership of the licensee.

(4) As used in this section, "permissible investments" means the investments described in section 32 or allowed by the commissioner under subsection (2).

487.1032 Investments permitted under MCL 487.1031; limitation.

Sec. 32. (1) Except to the extent otherwise limited by the commissioner under section 31(2), each of the following investments is permissible under section 31:

(a) Cash, a certificate of deposit, or a senior debt obligation of a federally insured depository financial institution.

(b) A banker's acceptance or bill of exchange that is eligible for purchase upon endorsement by a member bank of the federal reserve system and is eligible for purchase by a federal reserve bank.

(c) An investment bearing a rating of 1 of the 3 highest grades as defined by a nationally recognized organization that rates securities.

(d) An investment security that is an obligation of the United States or a department, agency, or instrumentality of the United States; an investment in an obligation that is guaranteed fully as to principal and interest by the United States; or an investment in an obligation of a state or a governmental subdivision, agency, or instrumentality of a state.

(e) A receivable that is payable to a licensee from its authorized delegate, in the ordinary course of business, pursuant to contracts that are not past due or doubtful of collection, if the aggregate amount of receivables under this subdivision does not exceed 20% of the total permissible investments of a licensee and the licensee does not hold at 1 time receivables under this subdivision in any 1 person aggregating more than 10% of the licensee's total permissible investments.

(f) A share or a certificate issued by an open-end management investment company that is registered with the United States securities and exchange commission under the investment company act of 1940, 15 USC 80a-1 to 80a-64, and whose portfolio is restricted by the management company's investment policy to investments specified in subdivisions (a) to (d).

(2) Subject to subsection (3), the following investments are permissible under section 31, but only to the extent specified:

(a) An interest-bearing bill, note, bond, or debenture of a person whose equity shares are traded on a national securities exchange or on a national over-the-counter market, if the aggregate of investments under this subdivision does not exceed 20% of the total permissible investments of a licensee and the licensee does not at 1 time hold investments under this subdivision in any 1 person aggregating more than 10% of the licensee's total permissible investments.

(b) A share of a person traded on a national securities exchange or a national over-the-counter market or a share or a certificate issued by an open-end management investment company that is registered with the United States securities and exchange commission under the investment company act of 1940, 15 USC 80a-1 to 80a-64, and whose portfolio is restricted by the management company's investment policy to shares of a person traded on a national securities exchange or a national over-the-counter market, if the aggregate

of investments under this subdivision does not exceed 20% of the total permissible investments of a licensee and the licensee does not at 1 time hold investments in any 1 person aggregating more than 10% of the licensee's total permissible investments.

(c) A demand-borrowing agreement made to a corporation or a subsidiary of a corporation whose securities are traded on a national securities exchange, if the aggregate of the amount of principal and interest outstanding under demand-borrowing agreements under this subdivision does not exceed 20% of the total permissible investments of a licensee and the licensee does not at 1 time hold principal and interest outstanding under demand-borrowing agreements under this subdivision with any 1 person aggregating more than 10% of the licensee's total permissible investments.

(d) Any other investment the commissioner designates by order or declaratory ruling, to the extent specified by the commissioner.

(3) The aggregate of investments under subsection (2) may not exceed 50% of the total permissible investments of a licensee calculated under section 31.

487.1033 Agreement between licensee and authorized delegate.

Sec. 33. (1) An agreement between a licensee and an authorized delegate shall be in writing and require the authorized delegate to operate in compliance with this act and other applicable law. The licensee shall furnish in writing to each authorized delegate policies and procedures sufficient for compliance with this act and other applicable law.

(2) An authorized delegate shall remit all money owing to the licensee in accordance with the terms of the agreement between the licensee and the authorized delegate.

(3) If a license is suspended or revoked, the commissioner shall notify the licensee and order the licensee to send a notice to its authorized delegates directing them to cease providing money transmission services on behalf of the licensee, and the authorized delegate shall immediately cease providing money transmission services as an authorized delegate of the licensee.

(4) An authorized delegate shall not provide money transmission services outside the scope of activity permissible under the agreement between the authorized delegate and the licensee, except activity in which the authorized delegate is otherwise authorized to engage. An authorized delegate of a licensee holds all money received from providing money transmission services, reduced by any fees owed to the authorized delegate by the licensee, in escrow for the benefit of the licensee.

(5) As used in this section, "remit" means to make direct payments of money to a licensee or its representative authorized to receive money or to deposit money in a depository financial institution in an account specified by the licensee.

487.1034 Authorized delegate; prohibited conduct; duties.

Sec. 34. (1) An authorized delegate shall not make any fraudulent or false statement or misrepresentation to a customer or licensee or to the commissioner.

(2) An authorized delegate shall perform money transmission services lawfully and in accordance with the licensee's operating policies and procedures provided to the authorized delegate.

(3) All funds received by an authorized delegate from the sale of a payment instrument, less fees, shall be held in trust for the licensee from the time the funds are received by the authorized delegate until the time the funds are remitted to the licensee.

(4) If an authorized delegate commingles any of the funds received with any other funds or property owned or controlled by the authorized delegate, all commingled funds

and other property are impressed with a trust for the licensee in an amount equal to the amount of the funds due the licensee.

(5) An authorized delegate shall report to the licensee the theft or loss of a payment instrument within 24 hours after the theft or loss.

487.1041 Denying, suspending, not renewing, or revoking license; placing license in receivership; revoking designation of authorized delegate; conditions.

Sec. 41. (1) The commissioner may deny, suspend, not renew, or revoke a license, place a licensee in receivership, or order a licensee to revoke the designation of an authorized delegate if any of the following occur:

(a) The licensee violates this act, a rule promulgated under this act, an order or declaratory ruling issued under this act, or any applicable state or federal law.

(b) The licensee does not grant access to its books and records during the course of an examination or investigation by the commissioner.

(c) The licensee engages in fraud, intentional misrepresentation, or gross negligence.

(d) An authorized delegate of the licensee is convicted of a violation of a state or federal anti-money-laundering statute or violates a rule promulgated or an order or ruling issued under this act, as a result of the licensee's knowing or willful misconduct.

(e) The experience, character, or general fitness of the licensee, authorized delegate, or control person indicates that it is not in the public interest to permit the person to provide money transmission services.

(f) Subject to subsection (2), the licensee engages in an unsafe or unsound practice.

(g) The licensee fails to maintain the minimum net worth required under section 13(1) or is insolvent, suspends payment of its obligations, or makes a general assignment for the benefit of its creditors.

(h) The licensee does not remove an authorized delegate after the commissioner issues and serves upon the licensee an order that includes a finding that the authorized delegate has violated this act.

(2) In determining whether a licensee is engaging in an unsafe or unsound practice, the commissioner may consider the size and condition of the licensee's money transmission services business, the magnitude of the loss, the gravity of the violation of this act, the previous conduct of the person involved, and other factors the commissioner considers relevant.

487.1042 Violations; penalties; restitution.

Sec. 42. (1) A person that intentionally makes a false statement, misrepresentation, or false certification in any record or document filed or required to be maintained under this act or that intentionally makes a false entry or omits a material entry in a record is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $100,000.00, or both.

(2) A person that engages in criminal fraud in the conduct of its money transmission services business is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $100,000.00, or both.

(3) A person that knowingly engages in an activity for which a license is required under this act and is not licensed under this act is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $100,000.00, or both. A court shall order a person convicted of violating subsection (1) or (2) to pay restitution as provided in section 1a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1a, and the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

487.1043 Summary suspension order.

Sec. 43. (1) After conducting an investigation or examination, the commissioner may issue an order summarily suspending a license under section 92 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.292, based on an affidavit by a person familiar with the facts set forth in the affidavit stating that, on information and belief, an imminent threat of financial loss or imminent threat to the public welfare exists.

(2) If the commissioner issues a summary suspension order under section 92 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.292, an administrative law hearings examiner shall grant a request to dissolve a summary suspension order unless the examiner finds that an imminent threat of financial loss or imminent threat to the public welfare exists that requires an emergency action and continuation of the summary suspension order.

(3) The record created at a hearing on a summary suspension is part of the record of the complaint at any subsequent hearing in a contested case.

487.1044 Cease and desist order.

Sec. 44. (1) If in the opinion of the commissioner a licensee is, has, or is about to engage in a practice that poses a threat of financial loss or threat to the public welfare or is, has, or is about to violate a law, rule, or order, the commissioner may issue and serve on the licensee a cease and desist order under this section.

(2) A cease and desist order issued under this section shall contain a statement of the facts constituting the alleged practice or violation and shall fix a time and place for a hearing to determine if the commissioner should issue an order to cease and desist against the licensee.

(3) A licensee may consent to issuance of a cease and desist order under this section. A licensee also consents to the issuance of the cease and desist order if the licensee or a duly authorized representative of the licensee fails to appear at a hearing described in subsection (2).

(4) If a licensee consents under subsection (3), or if the commissioner finds based on the record made at the hearing that the practice or violation specified in the order is established, the cease and desist order becomes final. The order may require the licensee and its officers, directors, members, partners, trustees, employees, agents, or control persons to cease and desist from the practice or violation and to take affirmative action to correct the conditions resulting from the practice or violation.

(5) Except as provided in subsection (6) or to the extent it is stayed, modified, terminated, or set aside by the commissioner or a court, a cease and desist order is effective on the date of service.

(6) A cease and desist order issued with a licensee's consent is effective at the time specified in the order and remains effective and enforceable as provided in the order.

487.1045 Rules.

Sec. 45. The commissioner may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that he or she considers necessary to implement and enforce this act.

487.1046 Civil fine.

Sec. 46. The commissioner may assess a civil fine against a person that violates this act, a rule promulgated or an order or ruling issued by the commissioner under this act, or any other applicable state or federal law in an amount that does not exceed $10,000.00

per day for each day the violation continues, plus this state's costs and expenses for the investigation and prosecution of the matter, including reasonable attorney fees.

487.1047 Order suspending or prohibiting person from being licensee and from being employed by, agent of, or control person of licensee.

Sec. 47. (1) If in the opinion of the commissioner a person has engaged in fraud or has been convicted of a criminal violation involving money laundering, the commissioner may serve upon that person a written notice of intention to prohibit that person from being employed by, an agent of, or a control person of a licensee under this act, or a licensee or registrant under a financial licensing act. As used in this subsection, "fraud" includes actionable fraud, actual or constructive fraud, criminal fraud, extrinsic or intrinsic fraud, fraud in the execution, in the inducement, in fact, or in law, or any other form of fraud.

(2) A notice issued under subsection (1) shall contain a statement of the facts supporting the prohibition and, except as provided under subsection (7), set a time and date for a hearing, within 60 days after the date of the notice. If the person does not appear at the hearing, he or she consents to the issuance of an order in accordance with the notice.

(3) If, after a hearing held under subsection (2), the commissioner finds that any of the grounds specified in the notice have been established, the commissioner may issue an order of suspension or prohibition from being a licensee or registrant or from being employed by, an agent of, or a control person of any licensee under this act or a licensee or registrant under any financial licensing act.

(4) An order issued under subsection (2) or (3) is effective when served on the person subject to the order. The commissioner shall also serve a copy of the order upon the licensee of which the person is an employee, agent, or control person. The order remains in effect until it is stayed, modified, terminated, or set aside by the commissioner or a reviewing court.

(5) After 5 years from the date of an order issued under subsection (2) or (3), the person subject to the order may apply to the commissioner to terminate the order.

(6) If the commissioner considers that a person served a notice under subsection (1) poses an imminent threat of financial loss to purchasers of payment instruments from a licensee, the commissioner may serve upon the person an order of suspension from being employed by, an agent of, or a control person of any licensee. The suspension is effective on the date the order is issued and, unless stayed by a court, remains in effect pending the completion of a review as provided under this section and until the commissioner has dismissed the charges specified in the order.

(7) Unless otherwise agreed to by the commissioner and the person served with an order issued under subsection (6), the commissioner shall hold the hearing required under subsection (2) to review a suspension not earlier than 5 days or later than 20 days after the date of the notice.

(8) If a person is convicted of a felony involving fraud, dishonesty, breach of trust, or money laundering, the commissioner may issue an order suspending or prohibiting that person from being a licensee and from being employed by, an agent of, or a control person of any licensee under this act or a licensee or registrant under a financial licensing act. After 5 years from the date of the order, the person subject to the order may apply to the commissioner to terminate the order.

(9) The commissioner shall mail a copy of any notice or order issued under this section to the licensee of which the person subject to the notice or order is an employee, agent, or control person.

Repeal of MCL 487.901 to 487.916.

Enacting section 1. The sale of checks act, 1960 PA 136, MCL 487.901 to 487.916, is repealed.

This act is ordered to take immediate effect.
Approved June 30, 2006.
Filed with Secretary of State July 3, 2006.

[No. 251]

(HB 5329)

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 14p of chapter XVII (MCL 777.14p), as added by 2002 PA 29.

The People of the State of Michigan enact:

CHAPTER XVII

777.14p Applicability of chapter to certain felonies; MCL 482.44 to 493.77(2).

Sec. 14p. This chapter applies to the following felonies enumerated in chapters 482 to 499 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
482.44	Property	H	Bills of lading — issuance for goods not received	5
482.46	Property	H	Bills of lading — issuance of duplicate negotiable bill with intent to defraud	5

482.48	Property	H	Bills of lading — negotiation when goods not in carriers' possession	5
482.49	Property	H	Bills of lading — inducing carrier to issue when goods have not been received	5
482.50	Property	H	Bills of lading — issuance of non-negotiable bill not so marked	5
487.1042(1)	Pub trst	E	Money transmission services act — intentionally making a false statement, misrepresentation, or certification in a record or document	5
487.1042(2)	Pub trst	E	Criminal fraud in the conduct of money transmission services business	5
487.1042(3)	Pub trst	E	Money transmission services act license violation	5
487.1505(6)	Pub trst	E	BIDCO act — knowingly receiving money or property at an interest rate exceeding 25%	5
492.137(a)	Pub trst	H	Installment sales of motor vehicles	3
493.56a(13)	Pub trst	C	False statement in reports — secondary mortgage	15
493.77(2)	Pub trst	H	Second mortgage loan act licensing violation	3

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5328 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved June 30, 2006.
Filed with Secretary of State July 3, 2006.

Compiler's note: House Bill No. 5328, referred to in enacting section 1, was filed with the Secretary of State July 3, 2006, and became 2006 PA 250, Imd. Eff. July 3, 2006.

[No. 252]

(HB 5324)

AN ACT to amend 1988 PA 161, entitled "An act to regulate the providing of certain consumer financial services; to provide for licensing of certain financial institutions; to prescribe powers and duties of certain state departments and agencies; to prohibit certain activities; and to provide for remedies and penalties," by amending sections 2, 5, 6, and 10g (MCL 487.2052, 487.2055, 487.2056, and 487.2060g), section 2 as amended and section 10g as added by 2002 PA 390 and sections 5 and 6 as amended by 1999 PA 275.

The People of the State of Michigan enact:

487.2052 Definitions.

Sec. 2. As used in this act:

(a) "Applicant" means a person that has applied to the commissioner to be licensed under this act.

(b) "Bureau" means the office of financial and insurance services of the department of labor and economic growth.

(c) "Business activity" means any activity regulated by any of the financial licensing acts.

(d) "Class I license" means a license issued under this act that authorizes the licensee to engage in all of the activities permitted under any of the financial licensing acts.

(e) "Class II license" means a license issued under this act that authorizes all of the activities permitted under a class I license except for activities permitted under the sale of checks act, 1960 PA 136, MCL 487.901 to 487.916, loan servicing activities under the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, or the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

(f) "Commissioner" means the commissioner of the office of financial and insurance services or an authorized representative of the commissioner.

(g) "Control person" means a director or executive officer of a licensee or a person who has the authority to participate in the direction, directly or indirectly through 1 or more other persons, of the management or policies of a licensee.

(h) "Depository financial institution" means a bank, savings and loan association, savings bank, or credit union organized under the laws of this state, another state, the District of Columbia, the United States, or a territory or protectorate of the United States, whose deposits are insured by an agency of the federal government.

(i) "Executive officer" means an officer, member, or partner of a licensee, including chief executive officer, president, vice president, chief financial officer, controller, compliance officer, or any other similar position.

(j) "Financial licensing acts" means this act; the regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24; the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81; the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.101 to 492.141; 1984 PA 379, MCL 493.101 to 493.114; the sale of checks act, 1960 PA 136, MCL 487.901 to 487.916; the money transmission services act, MCL 487.1001 to 487.1048; and the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

(k) "Licensee" means a person that is licensed under this act.

(*l*) "Loan servicing activities" means the collection or remittance for a lender, noteowner, noteholder, or the licensee's own account of 4 or more installment payments of the principal, interest, or an amount placed in escrow under a mortgage servicing agreement or a mortgage loan subject to the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, or a mortgage servicing agreement or secondary mortgage loan subject to the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, or an agreement with the mortgagor.

(m) "Person" means an individual, corporation, partnership, association, limited liability company, or any other legal entity.

487.2055 License fee; investigation fee; financial statements; net worth requirements.

Sec. 5. (1) An application for a license shall be accompanied by all of the following:

(a) An annual operating fee as established by the commissioner under section 11.

(b) An application fee as provided in section 11. The application fee is not refundable.

(c) Financial statements, reasonably satisfactory to the commissioner, showing that the applicant's net worth exceeds $100,000.00 for an applicant for a class I license; $50,000.00 for an applicant for a class II license; $1,000,000.00 for an applicant that intends to engage in business activity governed by 1984 PA 379, MCL 493.101 to 493.114; or $100,000.00 plus an additional $25,000.00 for each location or authorized delegate, as applicable, or $1,000,000.00, whichever is less, for an applicant that intends to provide money transmission services as defined in section 2 of the money transmission services act. A licensee shall have and continue to maintain the required net worth while engaging in the business activities authorized for licensing under this act. The commissioner may by order establish a higher net worth requirement for new class I licensees to assure safe and sound operation of the activities.

(2) Net worth under subsection (1)(c) shall be determined at the conclusion of the fiscal year of the licensee immediately preceding the date an application for a license is submitted to the commissioner or, for corporations not in existence as of the previous year end, the immediately preceding month end. Net worth shall be disclosed on a form prescribed by the commissioner or on a form prepared or reviewed by a certified public accountant and shall be computed in accordance with generally accepted accounting principles. The following assets shall be excluded in the computation of net worth:

(a) That portion of an applicant's assets pledged to secure obligations of any person other than the applicant.

(b) Receivables from officers or, in the case of a corporate applicant other than a publicly traded company, stockholders of the applicant or persons in which the applicant's officers or stockholders have an interest, except that construction loan receivables secured by mortgages from related companies are not so excluded.

(c) An amount in excess of the lower of the cost or market value of mortgage loans in foreclosure or real property acquired through foreclosure.

(d) An investment shown on the balance sheet in joint ventures, subsidiaries, or affiliates that is greater than the market value of the investment.

(e) Goodwill or value placed on insurance renewals or property management contract renewals or other similar intangible value.

(f) Organization costs.

487.2056 Surety bond or letter of credit.

Sec. 6. (1) An applicant for a license shall furnish a surety bond or letter of credit to secure its obligations under this act to the commissioner. Except as provided in this subsection, the principal amount of a surety bond or letter of credit shall be at least $500,000.00. If the applicant intends to provide money transmission services as defined in section 2 of the money transmission services act, the applicant shall file a surety bond that is in a principal amount as determined under section 13(5)(b) of the money transmission services act for a licensee under that act.

(2) A surety bond described in subsection (1) shall be payable to the commissioner for the benefit of the people of the state of Michigan for the use of, and may be sued on by, the state. A surety bond or letter of credit shall remain for the duration of the licensure period.

(3) A surety bond or letter of credit required under subsection (1) shall be in a form satisfactory to the commissioner and payable upon demand by the commissioner if he or she determines that the licensee is not conducting its activities as required by this act and all of the rules promulgated under this act, and has failed to pay all money that becomes due to a person who is an installment buyer under the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.101 to 492.141, Michigan residents who purchase checks under the sale of checks act, 1960 PA 136, MCL 487.901 to 487.916, Michigan residents who purchase money transmission services as defined in section 2 of the money transmission services act, loan applicants, loan servicing customers, and borrowers under the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, or the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, and the commissioner.

(4) The commissioner shall prioritize and pay claims against a bond or letter of credit filed with the commissioner under this section in a manner that, in the commissioner's discretion, best protects the public interest.

(5) Claims described in subsection (4) may only be filed against a licensee's bond or letter of credit by the commissioner on behalf of the bureau and of individuals having claims and who are, as applicable, the licensee's loan applicants, loan servicing customers, and borrowers under the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, or the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, Michigan residents who purchase checks under the sale of checks act, 1960 PA 136, MCL 487.901 to 487.916, Michigan residents who purchase money transmission services as defined in section 2 of the money transmission services act, or persons who are installment buyers under the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.101 to 492.141.

(6) Claims filed with the commissioner against a bond or letter of credit by a loan applicant, loan servicing customer, or borrower under the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, or the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, shall involve, as applicable, only a mortgage loan, mortgage loan application, secondary mortgage loan, or secondary mortgage loan application secured or to be secured by real property used as a dwelling located in this state. The amount of the claim shall not exceed actual fees paid by the claimant to the licensee in connection with a loan application, overcharges of principal and interest, and excess escrow collections by the licensee.

(7) Before payment of any claim filed under this section, unless the commissioner waives, in whole or in part, the right to priority of payment, the commissioner shall be paid in full for fines and fees due to the bureau and for expenses incurred in investigating the licensee and in distributing the proceeds of the bond or letter of credit. In the event that valid claims exceed the amount of the bond or letter of credit, each claimant except the commissioner is entitled only to a pro rata amount of his or her valid claim.

487.2060g Fraud or money laundering; definitions.

Sec. 10g. (1) If in the opinion of the commissioner a person has engaged in fraud or money laundering, the commissioner may serve upon that person a written notice of intention to prohibit that person from being employed by, an agent of, or control person of a licensee under this act or a licensee or registrant under a financial licensing act.

(2) A notice issued under subsection (1) shall contain a statement of the facts supporting the prohibition and, except as provided under subsection (7), set a hearing to be held not more than 60 days after the date of the notice. If the person does not appear at the hearing, he or she is considered to have consented to the issuance of an order in accordance with the notice.

(3) If after a hearing held under subsection (2) the commissioner finds that any of the grounds specified in the notice have been established, the commissioner may issue an order of suspension or prohibition from being a licensee or registrant or from being employed by, an agent of, or control person of any licensee under this act or a licensee or registrant under a financial licensing act.

(4) An order issued under subsection (2) or (3) is effective upon service upon the person. The commissioner shall also serve a copy of the order upon the licensee of which the person is an employee, agent, or control person. The order remains in effect until it is stayed, modified, terminated, or set aside by the commissioner or a reviewing court.

(5) After 5 years from the date of an order issued under subsection (2) or (3), the person subject to the order may apply to the commissioner to terminate the order.

(6) If the commissioner considers that a person served a notice under subsection (1) poses an imminent threat of financial loss to applicants for loans, mortgage loans, secondary mortgage loans, credit card arrangements, or installment sales credit, borrowers on loans, obligors on installment sale contracts, loan servicing customers, purchasers of mortgage loans or interests in mortgage loans, or purchasers of money transmission services as defined in section 2 of the money transmission services act, the commissioner may serve upon the person an order of suspension from being employed by, an agent of, or control person of any licensee. The suspension is effective on the date the order is issued and, unless stayed by a court, remains in effect pending the completion of a review as provided under this section and the commissioner has dismissed the charges specified in the order.

(7) Unless otherwise agreed to by the commissioner and the person served with an order issued under subsection (6), the hearing required under subsection (2) to review the suspension shall be held not earlier than 5 days or later than 20 days after the date of the notice.

(8) If a person is convicted of a crime involving fraud, dishonesty, money laundering, or breach of trust, the commissioner may issue an order suspending or prohibiting that person from being a licensee and from being employed by, an agent of, or control person of any licensee under this act or a licensee or registrant under a financial licensing act. After 5 years from the date of the order, the person subject to the order may apply to the commissioner to terminate the order.

(9) The commissioner shall mail a copy of any notice or order issued under this section to the licensee of which the person subject to the notice or order is an employee, agent, or control person.

(10) As used in this section:

(a) "Fraud" includes actionable fraud, actual or constructive fraud, criminal fraud, extrinsic or intrinsic fraud, fraud in the execution, in the inducement, in fact, or in law, or any other form of fraud.

(b) "Money laundering" means conduct by 1 or more persons that conceals the existence, illegal source, or illegal application of income and then disguises that income to make it appear legitimate. Money laundering includes, but is not limited to, conduct that violates any state or federal law that imposes a criminal penalty for money laundering.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5328 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved June 30, 2006.

Filed with Secretary of State July 3, 2006.

Compiler's note: House Bill No. 5328, referred to in enacting section 1, was filed with the Secretary of State July 3, 2006, and became 2006 PA 250, Imd. Eff. July 3, 2006.

[No. 253]

(HB 5562)

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 541 (MCL 436.1541).

The People of the State of Michigan enact:

436.1541 Motor vehicle fuel pumps.

Sec. 541. (1) The commission shall not prohibit an applicant for or the holder of a specially designated distributor license or specially designated merchant license from owning or operating motor vehicle fuel pumps on or adjacent to the licensed premises, if both of the following conditions are met:

(a) One or both of the following conditions exist:

(*i*) The applicant or licensee is located in a neighborhood shopping center composed of 1 or more commercial establishments organized or operated as a unit which is related in location, size, and type of shop to the trade area that the unit serves, which provides not less than 50,000 square feet of gross leasable retail space, and which provides 5 private off-street parking spaces for each 1,000 square feet of gross leasable retail space.

(*ii*) The applicant or licensee maintains a minimum inventory on the premises, excluding alcoholic liquor and motor vehicle fuel, of not less than $250,000.00, at cost, of those goods and services customarily marketed by approved types of businesses.

(b) The site of payment and selection of alcoholic liquor is not less than 50 feet from that point where motor vehicle fuel is dispensed.

(2) The commission shall not prohibit an applicant for or the holder of a specially designated distributor license or specially designated merchant license from owning or operating motor vehicle fuel pumps on or adjacent to the licensed premises, if all of the following conditions are met:

(a) The applicant is located in a township with a population of 7,000 or less, which township is not contiguous with any other township. For purposes of this subdivision, a township is not considered contiguous by water.

(b) The applicant or licensee maintains a minimum inventory on the premises, excluding alcoholic liquor and motor vehicle fuel, of not less than $12,500.00 at cost, of those goods and services customarily marketed by approved types of businesses.

(c) The applicant has the approval of the township, as evidenced by a resolution duly adopted by the township and submitted with the application to the commission.

(3) The commission shall not prohibit an applicant for or the holder of a specially designated merchant license from owning or operating motor vehicle fuel pumps on or adjacent to the licensed premises if both of the following conditions are met:

(a) The applicant or licensee is located in either of the following:

(*i*) A city, incorporated village, or township with a population of 3,500 or less and a county with a population of 31,000 or more.

(*ii*) A city, incorporated village, or township with a population of 4,000 or less and a county with a population of less than 31,000.

(b) The applicant or licensee maintains a minimum inventory on the premises, excluding alcoholic liquor and motor vehicle fuel, of not less than $10,000.00, at cost, of those goods and services customarily marketed by approved types of businesses.

(4) The commission shall not prohibit an applicant for or the holder of a specially designated distributor license from owning or operating motor vehicle fuel pumps on or adjacent to the licensed premises if both of the following conditions are met:

(a) The applicant or licensee is located in either of the following:

(*i*) A city, incorporated village, or township with a population of 3,000 or less and a county with a population of 31,000 or more.

(*ii*) A city, incorporated village, or township with a population of 3,500 or less and a county with a population of less than 31,000.

(b) The applicant or licensee maintains a minimum inventory on the premises, excluding alcoholic liquor and motor vehicle fuel, of not less than $12,500.00, at cost, of those goods and services customarily marketed by approved types of businesses.

(5) A person who was issued a specially designated merchant license or specially designated distributor license at a location at which another person owned, operated or maintained motor vehicle fuel pumps at the same location may have or acquire an interest in the ownership, operation or maintenance of those motor vehicle fuel pumps.

(6) The commission may transfer ownership of a specially designated merchant license or specially designated distributor license to a person who owns or is acquiring an interest in motor vehicle fuel pumps already in operation at the same location at which the license is issued.

This act is ordered to take immediate effect.
Approved June 28, 2006.
Filed with Secretary of State July 3, 2006.

[No. 254]

(SB 538)

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 sections 14501 and 14513 (MCL 324.14501 and 324.14513), section 14501 as amended by 2004 PA 333 and section 14513 as amended by 2004 PA 334.

The People of the State of Michigan enact:

324.14501 Definitions.

Sec. 14501. As used in this part:

(a) "Agricultural biomass" means residue and waste generated on a farm or by farm co-operative members from the production and processing of agricultural products, animal wastes, food processing wastes, or other materials as approved by the director.

(b) "Department" means the department of environmental quality.

(c) "Director" means the director of the department of environmental quality.

(d) "Eligible farmer or agricultural processor" means a person who processes agricultural products or a person who is engaged as an owner-operator of a farm in the production of agricultural goods as defined by section 35(1)(h) of the single business tax act, 1975 PA 228, MCL 208.35.

(e) "Environmental wastes" means all environmental pollutants, wastes, discharges, and emissions, regardless of how they are regulated and regardless of whether they are released to the general environment or the workplace environment.

(f) "Pollution prevention" means all of the following:

(*i*) "Source reduction" as defined in 42 USC 13102.

(*ii*) "Pollution prevention" as described in the United States environmental protection agency's pollution prevention statement dated June 15, 1993.

(*iii*) Environmentally sound on-site or off-site reuse or recycling including, but not limited to, the use of agricultural biomass by qualified agricultural energy production systems.

(g) "Qualified agricultural energy production system" means the structures, equipment, and apparatus to be used to produce a gaseous fuel from the noncombustive decomposition of agricultural biomass and the apparatus and equipment used to generate electricity or heat from the gaseous fuel or store the gaseous fuel for future generation of electricity or heat. Qualified agricultural energy production system may include, but is not limited to, a methane digester, biomass gasification technology, or thermal depolymerization technology.

(h) "RETAP" means the retired engineers technical assistance program created in section 14511.

(i) "Retap fund" means the retired engineers technical assistance program fund created in section 14512.

(j) "Small business" means a business that is not dominant in its field as described in 13 CFR part 121 and meets both of the following requirements:

(*i*) Is independently owned or operated, by a person that employs 500 or fewer individuals.

(*ii*) Is a small business concern as defined in 15 USC 632.

324.14513 Small business pollution prevention assistance revolving loan fund; creation; disposition; lapse; expenditure; loan eligibility requirements; loan limitations; "fund" defined.

Sec. 14513. (1) The small business pollution prevention assistance revolving loan fund is created within the state treasury.

(2) 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.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall expend money from the fund, upon appropriation, to provide loans to small businesses to implement pollution prevention projects. For each loan issued under this section, the money shall be disbursed by the department to a lending institution that has entered into a loan participation agreement with the department.

(5) To be eligible for a loan from the fund for a qualified agricultural energy production system, an applicant shall meet all of the following requirements:

(a) The applicant shall be an eligible farmer or agricultural processor, or a for-profit farmer cooperative corporation organized under and operated in accordance with sections 98 to 109 of 1931 PA 327, MCL 450.98 to 450.109.

(b) The applicant shall be verified under the appropriate system of the Michigan agriculture environmental assurance program administered by the department of agriculture.

(c) Within a 3-year period immediately preceding the date the application was submitted, the applicant shall not have been found guilty of a criminal violation under this act.

(d) Within a 1-year period immediately preceding the date the application was submitted, the applicant shall not have been found responsible for a civil violation under this act that resulted in a civil fine of $10,000.00 or more.

(6) The amount of a loan from the fund shall not exceed $200,000.00. A small business shall not receive more than 1 loan in any 3-year period. Interest rates paid by the small business shall be set by the director, but shall not exceed 5%.

(7) As used in this section, "fund" means the small business pollution prevention assistance revolving loan fund created in subsection (1).

This act is ordered to take immediate effect.
Approved June 30, 2006.
Filed with Secretary of State July 5, 2006.

[No. 255]

(SB 1115)

AN ACT to prescribe certain powers and duties of the department of community health and the department of state police with respect to certain illegal drug manufacturing laboratories.

The People of the State of Michigan enact:

333.26371 Definitions.

Sec. 1. As used in this act:

(a) "Methamphetamine" means that substance as described in section 7214(c)(*ii*) of the public health code, 1978 PA 368, MCL 333.7214.

(b) "Methamphetamine laboratory" means the site where the illegal manufacture of methamphetamine has taken place, and includes all equipment and supplies used at that site for that purpose.

333.26372 Information obtained under methamphetamine reporting act; transmission; posting on internet website.

Sec. 2. The department of state police shall transmit to the department of community health information obtained under the methamphetamine reporting act regarding the discovery of any methamphetamine laboratory in this state. The department of community health, upon receiving that information, shall post on its internet website the location of the methamphetamine laboratory and the name of the law enforcement agency or other agency that reported the existence of the methamphetamine laboratory.

333.26373 Posted information to be current; statement relating to remediation.

Sec. 3. The department of community health shall keep the information posted under section 2 current and shall include in that information a statement as to whether or not the remediation of each laboratory site has been completed according to standards established by the department of community health.

Effective date.

Enacting section 1. This act takes effect January 1, 2007.

Conditional effective date.

Enacting section 2. This act does not take effect unless House Bill No. 5841 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved June 30, 2006.
Filed with Secretary of State July 6, 2006.

Compiler's note: House Bill No. 5841, referred to in enacting section 2, was filed with the Secretary of State July 6, 2006, and became 2006 PA 262, Eff. Oct. 1, 2006.

[No. 256]

(SB 1116)

AN ACT to amend 1975 PA 238, entitled "An act to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts," by amending sections 8 and 17 (MCL 722.628 and 722.637), section 8 as amended by 2004 PA 195 and section 17 as added by 1997 PA 168.

The People of the State of Michigan enact:

722.628 Referring report or commencing investigation; informing parent or legal guardian of investigation; duties of department; assistance of and cooperation with law enforcement officials; procedures; proceedings by prosecuting attorney; cooperation of school or other institution; information as to disposition of report; exception to reporting requirement; surrender of newborn; training of employees in rights of children and families.

Sec. 8. (1) Within 24 hours after receiving a report made under this act, the department shall refer the report to the prosecuting attorney if the report meets the requirements of section 3(6) or (9) or shall commence an investigation of the child suspected of being abused or neglected. Within 24 hours after receiving a report whether from the reporting person or from the department under section 3(6) or (9), the local law enforcement agency shall refer the report to the department if the report meets the requirements of section 3(7) or shall commence an investigation of the child suspected of being abused or neglected or exposed to or who has had contact with methamphetamine production. If the child suspected of being abused or exposed to or who has had contact with methamphetamine production is not in the physical custody of the parent or legal guardian and informing the parent or legal guardian would not endanger the child's health or welfare, the agency or the department shall inform the child's parent or legal guardian of the investigation as soon as the agency or the department discovers the identity of the child's parent or legal guardian.

(2) In the course of its investigation, the department shall determine if the child is abused or neglected. The department shall cooperate with law enforcement officials, courts of competent jurisdiction, and appropriate state agencies providing human services in relation to preventing, identifying, and treating child abuse and neglect; shall provide, enlist, and coordinate the necessary services, directly or through the purchase of services from other agencies and professions; and shall take necessary action to prevent further abuses, to safeguard and enhance the child's welfare, and to preserve family life where possible. In the course of an investigation, at the time that a department investigator contacts an individual about whom a report has been made under this act or contacts an individual responsible for the health or welfare of a child about whom a report has been made under this act, the department investigator shall advise that individual of the department investigator's name, whom the department investigator represents, and the specific complaints or allegations made against the individual. The department shall ensure that its policies, procedures, and administrative rules ensure compliance with the provisions of this act.

(3) In conducting its investigation, the department shall seek the assistance of and cooperate with law enforcement officials within 24 hours after becoming aware that 1 or more of the following conditions exist:

(a) Abuse or neglect is the suspected cause of a child's death.

(b) The child is the victim of suspected sexual abuse or sexual exploitation.

(c) Abuse or neglect resulting in severe physical injury to the child requires medical treatment or hospitalization. For purposes of this subdivision and section 17, "severe physical injury" means brain damage, skull or bone fracture, subdural hemorrhage or hematoma, dislocation, sprains, internal injuries, poisoning, burns, scalds, severe cuts, or any other physical injury that seriously impairs the health or physical well-being of a child.

(d) Law enforcement intervention is necessary for the protection of the child, a department employee, or another person involved in the investigation.

(e) The alleged perpetrator of the child's injury is not a person responsible for the child's health or welfare.

(f) The child has been exposed to or had contact with methamphetamine production.

(4) Law enforcement officials shall cooperate with the department in conducting investigations under subsections (1) and (3) and shall comply with sections 5 and 7. The department and law enforcement officials shall conduct investigations in compliance with the protocols adopted and implemented as required by subsection (6).

(5) Involvement of law enforcement officials under this section does not relieve or prevent the department from proceeding with its investigation or treatment if there is reasonable cause to suspect that the child abuse or neglect was committed by a person responsible for the child's health or welfare.

(6) In each county, the prosecuting attorney and the department shall develop and establish procedures for involving law enforcement officials as provided in this section. In each county, the prosecuting attorney and the department shall adopt and implement standard child abuse and neglect investigation and interview protocols using as a model the protocols developed by the governor's task force on children's justice as published in FIA Publication 794 (revised 8-98) and FIA Publication 779 (8-98), or an updated version of those publications.

(7) If there is reasonable cause to suspect that a child in the care of or under the control of a public or private agency, institution, or facility is an abused or neglected child, the agency, institution, or facility shall be investigated by an agency administratively independent of the agency, institution, or facility being investigated. If the investigation produces evidence of a violation of section 145c or sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.145c and 750.520b to 750.520g, the investigating agency shall transmit a copy of the results of the investigation to the prosecuting attorney of the county in which the agency, institution, or facility is located.

(8) A school or other institution shall cooperate with the department during an investigation of a report of child abuse or neglect. Cooperation includes allowing access to the child without parental consent if access is determined by the department to be necessary to complete the investigation or to prevent abuse or neglect of the child. However, the department shall notify the person responsible for the child's health or welfare about the department's contact with the child at the time or as soon afterward as the person can be reached. The department may delay the notice if the notice would compromise the safety of the child or child's siblings or the integrity of the investigation, but only for the time 1 of those conditions exists.

(9) If the department has contact with a child in a school, all of the following apply:

(a) Before contact with the child, the department investigator shall review with the designated school staff person the department's responsibilities under this act and the investigation procedure.

(b) After contact with the child, the department investigator shall meet with the designated school staff person and the child about the response the department will take as a result of contact with the child. The department may also meet with the designated school staff person without the child present and share additional information the investigator determines may be shared subject to the confidentiality provisions of this act.

(c) Lack of cooperation by the school does not relieve or prevent the department from proceeding with its responsibilities under this act.

(10) A child shall not be subjected to a search at a school that requires the child to remove his or her clothing to expose his buttocks or genitalia or her breasts, buttocks, or genitalia

unless the department has obtained an order from a court of competent jurisdiction permitting such a search. If the access occurs within a hospital, the investigation shall be conducted so as not to interfere with the medical treatment of the child or other patients.

(11) The department shall enter each report made under this act that is the subject of a field investigation into the CPSI system. The department shall maintain a report entered on the CPSI system as required by this subsection until the child about whom the investigation is made is 18 years old or until 10 years after the investigation is commenced, whichever is later, or, if the case is classified as a central registry case, until the department receives reliable information that the perpetrator of the abuse or neglect is dead. Unless made public as specified information released under section 7d, a report that is maintained on the CPSI system is confidential and is not subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(12) After completing a field investigation and based on its results, the department shall determine in which single category, prescribed by section 8d, to classify the allegation of child abuse or neglect.

(13) Except as provided in subsection (14), upon completion of the investigation by the local law enforcement agency or the department, the law enforcement agency or department may inform the person who made the report as to the disposition of the report.

(14) If the person who made the report is mandated to report under section 3, upon completion of the investigation by the department, the department shall inform the person in writing as to the disposition of the case and shall include in the information at least all of the following:

(a) What determination the department made under subsection (12) and the rationale for that decision.

(b) Whether legal action was commenced and, if so, the nature of that action.

(c) Notification that the information being conveyed is confidential.

(15) Information sent under subsection (14) shall not include personally identifying information for a person named in a report or record made under this act.

(16) Unless section 5 of chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.5, requires a physician to report to the department, the surrender of a newborn in compliance with chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, is not reasonable cause to suspect child abuse or neglect and is not subject to the section 3 reporting requirement. This subsection does not apply to circumstances that arise on or after the date that chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, is repealed. This subsection applies to a newborn whose birth is described in the born alive infant protection act and who is considered to be a newborn surrendered under the safe delivery of newborns law as provided in section 3 of chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.3.

(17) All department employees involved in investigating child abuse or child neglect cases shall be trained in the legal duties to protect the state and federal constitutional and statutory rights of children and families from the initial contact of an investigation through the time services are provided.

722.637 Submission of petition for authorization under MCL 712A.2.

Sec. 17. Within 24 hours after the department determines that a child was severely physically injured as defined in section 8, sexually abused, or allowed to be exposed to or have contact with methamphetamine production, the department shall submit a petition

for authorization by the court under section 2(b) of chapter XIIA of 1939 PA 288, MCL 712A.2.

This act is ordered to take immediate effect.
Approved June 30, 2006.
Filed with Secretary of State July 6, 2006.

[No. 257]

(SB 1119)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," (MCL 600.101 to 600.9947) by adding section 2975.

The People of the State of Michigan enact:

600.2975 Publishing instructions for manufacture or creation of methamphetamine; commencement of action; court order; relief; exception; definitions.

Sec. 2975. (1) The attorney general may commence an action against a person who develops or maintains a website or page on a website for the purpose of publishing instructions for the manufacture or creation of methamphetamine or information on how to obtain substances that may be used in the manufacture or creation of methamphetamine.

(2) The court in an action brought under subsection (1) may order 1 or more of the following forms of relief:

(a) Injunctive or other equitable relief, as appropriate.

(b) Actual damages sustained by this state or the residents of this state that are caused by the publication.

(c) Punitive damages that the court determines are just and equitable.

(d) Actual attorney fees and costs.

(3) This section does not apply if the published information is only on how to obtain substances that may be lawfully possessed in this state and the purpose of the website is to provide information on obtaining the substances only for lawful purposes and in a lawful manner.

(4) As used in this section:

(a) "Internet" means that term as defined in 47 USC 230.

(b) "Methamphetamine" means the substance described in section 7214(c)(*ii*) of the public health code, 1978 PA 368, MCL 333.7214.

(c) "Website" means a collection of pages of the world wide web or internet, usually in HTML format.

Effective date.
Enacting section 1. This amendatory act takes effect October 1, 2006.

This act is ordered to take immediate effect.
Approved June 30, 2006.
Filed with Secretary of State July 6, 2006.

[No. 258]

(SB 1112)

AN ACT to amend 1917 PA 167, entitled "An act to promote the health, safety and welfare of the people by regulating the maintenance, alteration, health, safety, and improvement of dwellings; to define the classes of dwellings affected by the act, and to establish administrative requirements; to prescribe procedures for the maintenance, improvement, or demolition of certain commercial buildings; to establish remedies; to provide for enforcement; to provide for the demolition of certain dwellings; and to fix penalties for the violation of this act," by amending section 85a (MCL 125.485a), as added by 2003 PA 307.

The People of the State of Michigan enact:

125.485a Site of illegal drug manufacturing; notification of potential contamination; determination of contamination; rules; order by local health department.

Sec. 85a. (1) Within 48 hours of discovering an illegal drug manufacturing site, a state or local law enforcement agency shall notify the enforcing agency, the local health department if the enforcing agency is not the local health department, and the department of community health regarding the potential contamination of any property or dwelling that is or has been the site of illegal drug manufacturing. The state or local law enforcement agency shall post a written warning on the premises stating that potential contamination exists and may constitute a hazard to the health or safety of those who may occupy the premises.

(2) Within 14 days after receipt of the notification under subsection (1) or as soon thereafter as practically possible, the department of community health, in cooperation with the enforcing agency, shall review the information received from the state or local law enforcement agency, emergency first responders, or hazardous materials team that was called to the site and make a determination regarding whether the premises are likely to be contaminated and whether that contamination may constitute a hazard to the health or safety of those who may occupy the premises. The fact that property or a dwelling has been used as a site for illegal drug manufacturing shall be treated by the department of community health as prima facie evidence of likely contamination that may constitute a hazard to the health or safety of those who may occupy those premises.

(3) If the property or dwelling, or both, is determined likely to be contaminated under subsection (2), the enforcing agency shall issue an order requiring the property or dwelling to be vacated until the property owner establishes that the property is decontaminated or the risk of likely contamination ceases to exist. The property owner may establish that the

property is decontaminated by submitting a written assessment of the property before decontamination and a written assessment of the property after decontamination, enumerating the steps taken to render the property decontaminated, and a certification that the property has been decontaminated and that the risk of likely contamination no longer exists to the enforcing agency. The property or dwelling shall remain vacated until the enforcing agency has reviewed and concurred in the certification.

(4) The department of community health shall promulgate rules and procedures necessary to implement this section.

(5) Nothing in this section precludes a local health department from exercising its powers or duties under this act or the public health code, 1978 PA 368, MCL 333.1101 to 333.25211. However, if there is a determination under subsection (2) that is contrary to an order made by a local health department, then the determination made under subsection (2) takes precedence.

This act is ordered to take immediate effect.
Approved June 30, 2006.
Filed with Secretary of State July 6, 2006.

[No. 259]

(SB 1282)

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 13m of chapter XVII (MCL 777.13m), as amended by 2003 PA 311.

The People of the State of Michigan enact:

CHAPTER XVII

777.13m Applicability of chapter to certain felonies; MCL 333.7340 to 333.7410a.

Sec. 13m. This chapter applies to the following felonies enumerated in chapter 333 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
333.7340	CS	F	Sale, distribution, or delivery of product containing ephedrine or pseudoephedrine by mail, internet, or telephone	4
333.7341(8)	CS	G	Delivery or manufacture of imitation controlled substance	2
333.7401(2)(a)(*i*)	CS	A	Delivery or manufacture of 1,000 or more grams of certain schedule 1 or 2 controlled substances	Life
333.7401(2)(a)(*ii*)	CS	A	Delivery or manufacture of 450 or more but less than 1,000 grams of certain schedule 1 or 2 controlled substances	30
333.7401(2)(a)(*iii*)	CS	B	Delivery or manufacture of 50 or more but less than 450 grams of certain schedule 1 or 2 controlled substances	20
333.7401(2)(a)(*iv*)	CS	D	Delivery or manufacture of less than 50 grams of certain schedule 1 or 2 controlled substances	20
333.7401(2)(b)(*i*)	CS	B	Delivery or manufacture of methamphetamine or 3, 4-methylenedioxymethamphetamine	20
333.7401(2)(b)(*ii*)	CS	E	Delivery or manufacture of certain schedule 1, 2, or 3 controlled substances	7
333.7401(2)(c)	CS	F	Delivery or manufacture of schedule 4 controlled substance	4
333.7401(2)(d)(*i*)	CS	C	Delivery or manufacture of 45 or more kilograms of marijuana	15
333.7401(2)(d)(*ii*)	CS	D	Delivery or manufacture of 5 or more but less than 45 kilograms of marijuana	7
333.7401(2)(d)(*iii*)	CS	F	Delivery or manufacture of less than 5 kilograms or 20 plants of marijuana	4
333.7401(2)(e)	CS	G	Delivery or manufacture of schedule 5 controlled substance	2
333.7401(2)(f)	CS	D	Delivery or manufacture of an official or counterfeit prescription form	20

333.7401(2)(g)	CS	D	Delivery or manufacture of prescription or counterfeit form (other than official)	7
333.7401a	Person	B	Delivering a controlled substance or GBL with intent to commit criminal sexual conduct	20
333.7401b(3)(a)	CS	E	Delivery or manufacture of GBL	7
333.7401b(3)(b)	CS	G	Possession of GBL	2
333.7401c(2)(a)	CS	D	Operating or maintaining controlled substance laboratory	10
333.7401c(2)(b)	CS	B	Operating or maintaining controlled substance laboratory in presence of minor	20
333.7401c(2)(c)	CS	B	Operating or maintaining controlled substance laboratory involving hazardous waste	20
333.7401c(2)(d)	CS	B	Operating or maintaining controlled substance laboratory near certain places	20
333.7401c(2)(e)	CS	A	Operating or maintaining controlled substance laboratory involving firearm or other harmful device	25
333.7401c(2)(f)	CS	B	Operating or maintaining controlled substance laboratory involving methamphetamine	20
333.7402(2)(a)	CS	D	Delivery or manufacture of certain imitation controlled substances	10
333.7402(2)(b)	CS	E	Delivery or manufacture of schedule 1, 2, or 3 imitation controlled substance	5
333.7402(2)(c)	CS	F	Delivery or manufacture of imitation schedule 4 controlled substance	4
333.7402(2)(d)	CS	G	Delivery or manufacture of imitation schedule 5 controlled substance	2
333.7402(2)(e)	CS	C	Delivery or manufacture of controlled substance analogue	15
333.7403(2)(a)(*i*)	CS	A	Possession of 1,000 or more grams of certain schedule 1 or 2 controlled substances	Life
333.7403(2)(a)(*ii*)	CS	A	Possession of 450 or more but less than 1,000 grams of certain schedule 1 or 2 controlled substances	30
333.7403(2)(a)(*iii*)	CS	B	Possession of 50 or more but less than 450 grams of certain schedule 1 or 2 controlled substances	20
333.7403(2)(a)(*iv*)	CS	G	Possession of 25 or more but less than 50 grams of certain schedule 1 or 2 controlled substances	4

333.7403(2)(a)(*v*)	CS	G	Possession of less than 25 grams of certain schedule 1 or 2 controlled substances	4
333.7403(2)(b)(*i*)	CS	D	Possession of methamphetamine or 3, 4-methylenedioxymethamphetamine	10
333.7403(2)(b)(*ii*)	CS	G	Possession of certain schedule 1, 2, 3, or 4 controlled substances or controlled substances analogue	2
333.7405(a)	CS	G	Controlled substance violations by licensee	2
333.7405(b)	CS	G	Manufacturing or distribution violations by licensee	2
333.7405(c)	CS	G	Refusing lawful inspection	2
333.7405(d)	CS	G	Maintaining drug house	2
333.7407(1)(a)	CS	G	Controlled substance violations by licensee	4
333.7407(1)(b)	CS	G	Use of fictitious, revoked, or suspended license number	4
333.7407(1)(c)	CS	G	Obtaining controlled substance by fraud	4
333.7407(1)(d)	CS	G	False reports under controlled substance article	4
333.7407(1)(e)	CS	G	Possession of counterfeiting implements	4
333.7407(1)(f)	CS	F	Disclosing or obtaining prescription information	4
333.7407(1)(g)	CS	F	Possession of counterfeit prescription form	4
333.7407(2)	CS	G	Refusing to furnish records under controlled substance article	4
333.7410a	CS	G	Controlled substance offense or offense involving GBL in or near a park	2

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2006.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5822 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved June 30, 2006.

Filed with Secretary of State July 6, 2006.

Compiler's note: House Bill No. 5822, referred to in enacting section 2, was filed with the Secretary of State July 6, 2006, and became 2006 PA 261, Eff. Oct. 1, 2006.

[No. 260]

(HB 5798)

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," by amending section 12103 (MCL 333.12103), as amended by 1985 PA 17.

The People of the State of Michigan enact:

333.12103 Department as environmental health agency; purpose; duties; contamination of property or dwelling that is site of illegal drug manufacturing; requirements; "dwelling" defined.

Sec. 12103. (1) The department of environmental quality shall serve as the environmental health agency for this state to facilitate a uniform approach to environmental health by the various public and private entities involved in that field and shall:

(a) Advise the governor, boards, commissions, and state agencies on matters of the environment as those matters affect the health of the people of this state.

(b) Cooperate with and provide environmental health resource support to state and local health planning agencies and other state, district, and local agencies mandated by law or otherwise designated to develop, maintain, or administer state and local health programs and plans, and other public and private entities involved in environmental health activities.

(c) Develop and maintain the capability to monitor and evaluate conditions which represent potential and actual environmental health hazards, reporting its findings to appropriate state departments and local jurisdictions, and to the public as necessary.

(d) Provide an environmental health policy for the state and an environmental health services plan to include environmental health activities of local health jurisdictions.

(e) Serve as the central repository and clearinghouse for the collection, evaluation, and dissemination of data and information on environmental health hazards, programs, and practices.

(2) Within 6 months after the effective date of the amendatory act that added this subsection, the department of community health, in consultation with the department of environmental quality, shall develop a cleanup of clandestine drug labs guidance document

that includes, but is not limited to, detailed protocols for the preliminary site assessment, remediation, and post-cleanup assessment of indoor environments and structures and cleanup criteria based on human health risk that is similar to the cleanup criteria derived under section 20120a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20120a, and shall promulgate rules and procedures necessary to implement subsection (3). The department of community health shall make the guidance document available to the public on its website and, upon request from a local health department, shall provide that local health department with a physical copy of the guidance document.

(3) Within 48 hours of discovering an illegal drug manufacturing site, a state or local law enforcement agency shall notify the local health department and the department of community health regarding the potential contamination of any property or dwelling that is or has been the site of illegal drug manufacturing. The state or local law enforcement agency shall post a written warning on the premises stating that potential contamination exists and may constitute a hazard to the health or safety of those who may occupy the premises. Within 14 days after receipt of the notification under this subsection or as soon thereafter as practically possible, the department of community health, in cooperation with the local health department, shall review the information received from the state or local law enforcement agency, emergency first responders, or hazardous materials team that was called to the site and make a determination regarding whether the premises are likely to be contaminated and whether that contamination may constitute a hazard to the health or safety of those who may occupy the premises. The fact that property or a dwelling has been used as a site for illegal drug manufacturing shall be treated by the department of community health as prima facie evidence of likely contamination that may constitute a hazard to the health or safety of those who may occupy those premises. If the property or dwelling, or both, is determined likely to be contaminated under this subsection, the local health department or the department of community health shall issue an order requiring the property or dwelling to be vacated until the property owner establishes that the property is decontaminated or the risk of likely contamination ceases to exist. The property owner may establish that the property is decontaminated by submitting a written assessment of the property before decontamination and a written assessment of the property after decontamination, enumerating the steps taken to render the property decontaminated, and a certification that the property has been decontaminated and that the risk of likely contamination no longer exists to the enforcing agency. The property or dwelling shall remain vacated until the enforcing agency has reviewed and concurred in the certification. As used in this subsection, "dwelling" means any house, building, structure, tent, shelter, trailer or vehicle, or portion thereof, except railroad cars on tracks or rights-of-way, which is occupied in whole or in part as the home, residence, living, or sleeping place of 1 or more human beings, either permanently or transiently.

This act is ordered to take immediate effect.
Approved June 30, 2006.
Filed with Secretary of State July 6, 2006.

[No. 261]

(HB 5822)

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 7340.

The People of the State of Michigan enact:

333.7340 Selling, distributing, delivering, or furnishing product containing ephedrine or pseudoephedrine; prohibition; exceptions; violation as felony; penalty.

Sec. 7340. (1) A person shall not sell, distribute, deliver, or otherwise furnish a product that contains any compound, mixture, or preparation containing any detectable quantity of ephedrine or pseudoephedrine, a salt or optical isomer of ephedrine or pseudoephedrine, or a salt of an optical isomer of ephedrine or pseudoephedrine to an individual if the sale is transacted through use of the mail, internet, telephone, or other electronic means.

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

(a) A pediatric product primarily intended for administration to children under 12 years of age according to label instructions.

(b) A product containing pseudoephedrine that is in a liquid form if pseudoephedrine is not the only active ingredient.

(c) A product that the state board of pharmacy, upon application of the manufacturer or certification by the United States drug enforcement administration as inconvertible, exempts from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine.

(d) A person who dispenses a product described in subsection (1) pursuant to a prescription.

(e) A person who, in the course of his or her business, sells or distributes products described in subsection (1) to either of the following:

(*i*) A person licensed by this state to manufacture, deliver, dispense, or possess with intent to manufacture or deliver a controlled substance, prescription drug, or other drug.

(*ii*) A person who orders those products described in subsection (1) for retail sale pursuant to a license issued under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78.

(f) A manufacturer or distributor who donates product samples to a nonprofit charitable organization that has tax-exempt status pursuant to section 501(c)(3) of the internal revenue code of 1986, a licensed practitioner, or a governmental entity.

(3) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2006.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 1282 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved June 30, 2006.

Filed with Secretary of State July 6, 2006.

Compiler's note: Senate Bill No. 1282, referred to in enacting section 2, was filed with the Secretary of State July 6, 2006, and became 2006 PA 259, Eff. Oct. 1, 2006.

[No. 262]

(HB 5841)

AN ACT to create the methamphetamine reporting act; to prescribe the powers and duties of certain state and local departments and agencies; to require certain reports by certain persons; and to prohibit the disclosure of certain information under certain circumstances.

The People of the State of Michigan enact:

28.191 Short title.

Sec. 1. This act shall be known and may be cited as the "methamphetamine reporting act".

28.192 Methamphetamine; manufacture, use, possession, and distribution; compilation of information; entities providing information; procedures to prevent duplication; manner of reporting; disclosure; confidentiality.

Sec. 2. (1) The department shall compile information regarding methamphetamine manufacture, use, possession, and distribution in this state, as provided under this act.

(2) The department shall obtain information for purposes of subsection (1) from all of the following:

(a) The department.

(b) The departments of community health, human services, natural resources, environmental quality, and corrections.

(c) Each local police agency in this state. As used in this subdivision, "local police agency" means all of the following:

(*i*) The police department of a city, village, or township.

(*ii*) The county sheriff.

(*iii*) The police department or public safety department of a hospital, community college, college, or university.

(3) The department shall provide, and shall require each entity described in subsection (2) to provide to the department, information regarding all of the following, as applicable:

(a) The name and address of the reporting entity.

(b) Whether the incident involved primarily the manufacture, possession, use, or distribution of methamphetamine.

(c) The city, village, or township and the county in which the incident occurred.

(d) Whether an individual less than 18 years of age was present at the scene when the incident took place.

(4) The department shall implement procedures to ensure that information provided by the entities described in subsection (2) is coordinated to prevent duplicative information from being obtained.

(5) Each agency described in subsection (2) shall report the information required under subsection (3) to the department in the manner required by the department.

(6) This section does not require or authorize the disclosure of information that is privileged or otherwise restricted by law.

(7) Except as provided in section 4, information submitted to the department under this act by a state or local department or agency is confidential and is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

28.193 Report to legislature; availability to public.

Sec. 3. (1) The department shall file a written report not later than April 1 of each year with the secretary of the senate and the clerk of the house of representatives using the information obtained under section 2 identifying trends in methamphetamine manufacture, use, and distribution in this state and making recommendations to the legislature regarding possible solutions to those problems.

(2) The department shall make a copy of the report filed under subsection (1) available to the public on the department's website.

28.194 Information to be provided to federal department.

Sec. 4. The department shall provide information obtained under this act to the United States department of justice or an entity designated by the United States department of justice for receiving that information, in the manner required by the United States department of justice or that entity, for the purpose of obtaining federal funds.

28.195 Rules.

Sec. 5. The department may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this act.

28.196 "Department" defined.

Sec. 6. As used in this act, "department" means the department of state police.

Effective date.

Enacting section 1. This act takes effect October 1, 2006.

This act is ordered to take immediate effect.
Approved June 30, 2006.
Filed with Secretary of State July 6, 2006.

[No. 263]

(HB 5843)

AN ACT to amend 1975 PA 238, entitled "An act to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts," by amending section 8b (MCL 722.628b), as amended by 1998 PA 484.

The People of the State of Michigan enact:

722.628b Referral of case to prosecuting attorney; review.

Sec. 8b. (1) If a central registry case involves a child's death, serious physical injury of a child, or sexual abuse or exploitation of a child, the department shall refer the case to the prosecuting attorney for the county in which the child is located. The prosecuting attorney shall review the investigation of the case to determine if the investigation complied with the protocol adopted as required by section 8.

(2) If a central registry case involves a child's exposure to or contact with methamphetamine production, the department shall refer the case to the prosecuting attorney for the county in which the child is located. The prosecuting attorney shall review the investigation of the case to determine whether the investigation complied with the protocol adopted as required by section 8.

This act is ordered to take immediate effect.
Approved June 30, 2006.
Filed with Secretary of State July 6, 2006.

[No. 264]

(HB 5844)

AN ACT to amend 1975 PA 238, entitled "An act to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of

certain records; to prescribe penalties; and to repeal certain acts and parts of acts," by amending section 3 (MCL 722.623), as amended by 2002 PA 693.

The People of the State of Michigan enact:

722.623 Individual required to report child abuse or neglect; written report; transmitting report to county department; copies to prosecuting attorney and probate court; conditions requiring transmission of report to law enforcement agency; exposure to or contact with methamphetamine production; pregnancy of or venereal disease in child less than 12 years of age.

Sec. 3. (1) An individual is required to report under this act as follows:

(a) A physician, dentist, physician's assistant, registered dental hygienist, medical examiner, nurse, person licensed to provide emergency medical care, audiologist, psychologist, marriage and family therapist, licensed professional counselor, social worker, licensed master's social worker, licensed bachelor's social worker, registered social service technician, social service technician, school administrator, school counselor or teacher, law enforcement officer, member of the clergy, or regulated child care provider who has reasonable cause to suspect child abuse or neglect shall make immediately, by telephone or otherwise, an oral report, or cause an oral report to be made, of the suspected child abuse or neglect to the department. Within 72 hours after making the oral report, the reporting person shall file a written report as required in this act. If the reporting person is a member of the staff of a hospital, agency, or school, the reporting person shall notify the person in charge of the hospital, agency, or school of his or her finding and that the report has been made, and shall make a copy of the written report available to the person in charge. A notification to the person in charge of a hospital, agency, or school does not relieve the member of the staff of the hospital, agency, or school of the obligation of reporting to the department as required by this section. One report from a hospital, agency, or school is adequate to meet the reporting requirement. A member of the staff of a hospital, agency, or school shall not be dismissed or otherwise penalized for making a report required by this act or for cooperating in an investigation.

(b) A department employee who is 1 of the following and has reasonable cause to suspect child abuse or neglect shall make a report of suspected child abuse or neglect to the department:

(*i*) Eligibility specialist.

(*ii*) Family independence manager.

(*iii*) Family independence specialist.

(*iv*) Social services specialist.

(*v*) Social work specialist.

(*vi*) Social work specialist manager.

(*vii*) Welfare services specialist.

(2) The written report shall contain the name of the child and a description of the abuse or neglect. If possible, the report shall contain the names and addresses of the child's parents, the child's guardian, the persons with whom the child resides, and the child's age. The report shall contain other information available to the reporting person that might establish the cause of the abuse or neglect, and the manner in which the abuse or neglect occurred.

(3) The department shall inform the reporting person of the required contents of the written report at the time the oral report is made by the reporting person.

(4) The written report required in this section shall be mailed or otherwise transmitted to the county department of the county in which the child suspected of being abused or neglected is found.

(5) Upon receipt of a written report of suspected child abuse or neglect, the department may provide copies to the prosecuting attorney and the probate court of the counties in which the child suspected of being abused or neglected resides and is found.

(6) If an allegation, written report, or subsequent investigation of suspected child abuse or child neglect indicates a violation of sections 136b and 145c, sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, and 750.520b to 750.520g, or section 7401c of the public health code, 1978 PA 368, MCL 333.7401c, involving methamphetamine has occurred, or if the allegation, written report, or subsequent investigation indicates that the suspected child abuse or child neglect was committed by an individual who is not a person responsible for the child's health or welfare, including, but not limited to, a member of the clergy, a teacher, or a teacher's aide, the department shall transmit a copy of the allegation or written report and the results of any investigation to a law enforcement agency in the county in which the incident occurred. If an allegation, written report, or subsequent investigation indicates that the individual who committed the suspected abuse or neglect is a child care provider and the department believes that the report has basis in fact, the department shall transmit a copy of the written report or the results of the investigation to the child care regulatory agency with authority over the child care provider's child care organization or adult foster care location authorized to care for a child.

(7) If a local law enforcement agency receives an allegation or written report of suspected child abuse or child neglect or discovers evidence of or receives a report of an individual allowing a child to be exposed to or to have contact with methamphetamine production, and the allegation, written report, or subsequent investigation indicates that the child abuse or child neglect or allowing a child to be exposed to or to have contact with methamphetamine production, was committed by a person responsible for the child's health or welfare, the local law enforcement agency shall refer the allegation or provide a copy of the written report and the results of any investigation to the county department of the county in which the abused or neglected child is found, as required by subsection (1)(a). If an allegation, written report, or subsequent investigation indicates that the individual who committed the suspected abuse or neglect or allowed a child to be exposed to or to have contact with methamphetamine production, is a child care provider and the local law enforcement agency believes that the report has basis in fact, the local law enforcement agency shall transmit a copy of the written report or the results of the investigation to the child care regulatory agency with authority over the child care provider's child care organization or adult foster care location authorized to care for a child. Nothing in this subsection or subsection (1) shall be construed to relieve the department of its responsibilities to investigate reports of suspected child abuse or child neglect under this act.

(8) For purposes of this act, the pregnancy of a child less than 12 years of age or the presence of a venereal disease in a child who is over 1 month of age but less than 12 years of age is reasonable cause to suspect child abuse and neglect have occurred.

(9) In conducting an investigation of child abuse or child neglect, if the department suspects that a child has been exposed to or has had contact with methamphetamine production, the department shall immediately contact the law enforcement agency in the county in which the incident occurred.

This act is ordered to take immediate effect.
Approved June 30, 2006.
Filed with Secretary of State July 6, 2006.

[No. 265]

(HB 5845)

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," (MCL 324.101 to 324.90106) by adding section 20112b.

The People of the State of Michigan enact:

324.20112b Releases associated with clandestine drug laboratories; report.

Sec. 20112b. Not more than 12 months after the effective date of the amendatory act that added this section and biennially after that, the department shall report to the standing committees of the legislature with jurisdiction over issues pertaining to natural resources and the environment on environmental contamination caused by releases that are associated with clandestine drug laboratories, that have been reported to the department, and that are subject to response activity under this part. The report shall include all of the following:

(a) The number of releases described in this section.

(b) The status of the responses to those releases.

(c) The identity of the entity or department that undertook the response activity.

This act is ordered to take immediate effect.
Approved June 30, 2006.
Filed with Secretary of State July 6, 2006.

[No. 266]

(HB 5930)

AN ACT to amend 1975 PA 238, entitled "An act to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts," by amending section 6 (MCL 722.626), as amended by 1984 PA 418.

The People of the State of Michigan enact:

722.626 Detention of child in temporary protective custody; preliminary hearing; examinations; report; medical evaluation.

Sec. 6. (1) If a child suspected of being abused or neglected is admitted to a hospital or brought to a hospital for outpatient services and the attending physician determines that the release of the child would endanger the child's health or welfare, the attending physician shall notify the person in charge and the department. The person in charge may detain the child in temporary protective custody until the next regular business day of the probate court, at which time the probate court shall order the child detained in the hospital or in some other suitable place pending a preliminary hearing as required by section 14 of chapter 12A of the probate code of 1939, 1939 PA 288, MCL 712A.14, or order the child released to the child's parent, guardian, or custodian.

(2) When a child suspected of being an abused or neglected child is seen by a physician, the physician shall make the necessary examinations, which may include physical examinations, x-rays, photographs, laboratory studies, and other pertinent studies. The physician's written report to the department shall contain summaries of the evaluation, including medical test results.

(3) If a report is made by a person other than a physician, or if the physician's report is not complete, the department may request a court order for a medical evaluation of the child. The department shall have a medical evaluation made without a court order if either of the following occurs:

(a) The child's health is seriously endangered and a court order cannot be obtained.

(b) The child is displaying symptoms suspected to be the result of exposure to or contact with methamphetamine production.

This act is ordered to take immediate effect.
Approved June 30, 2006.
Filed with Secretary of State July 6, 2006.

[No. 267]

(HB 5061)

AN ACT to amend 1976 PA 390, entitled "An act to provide for planning, mitigation, response, and recovery from natural and human-made disaster within this state; to create the Michigan emergency management advisory council and prescribe its powers and duties; to prescribe the powers and duties of certain state and local agencies and officials; to prescribe immunities and liabilities; to provide for the acceptance of gifts; to repeal certain acts and parts of acts; and to repeal certain parts of the act," (MCL 30.401 to 30.421) by amending the title, as amended by 1990 PA 50, and by adding section 11a.

The People of the State of Michigan enact:

TITLE

An act to provide for planning, mitigation, response, and recovery from natural and human-made disaster within and outside this state; to create the Michigan emergency management advisory council and prescribe its powers and duties; to prescribe the powers

and duties of certain state and local agencies and officials; to prescribe immunities and liabilities; to provide for the acceptance of gifts; and to repeal acts and parts of acts.

30.411a Disaster or emergency relief assistance provided by state employee; unpaid leave of absence; leave of absence with pay; conditions; limitation.

Sec. 11a. (1) A state employee who is not in the state classified civil service and who is skilled in emergency relief assistance and certified as a disaster services volunteer by the American Red Cross may be granted an unpaid leave of absence from his or her state employment to provide disaster or emergency relief assistance in this state.

(2) A state employee in the state classified civil service who is skilled in emergency relief assistance and certified as a disaster services volunteer by the American Red Cross may be granted a leave of absence from his or her classified employment to provide disaster or emergency relief assistance in this state as authorized by the civil service commission.

(3) In addition to unpaid leave under subsection (1) or (2), an employee of an agency in any branch of state government who is skilled in emergency relief assistance and certified as a disaster services volunteer by the American Red Cross may be granted leave from work with pay for not more than 10 days in any 12-month period to participate in specialized disaster relief services within or outside of this state if all of the following circumstances are present:

(a) The governor or the president of the United States has declared the disaster.

(b) The American Red Cross has requested the services of the employee.

(c) The employee's department head has approved the leave.

(d) If the services are rendered outside the state by an employee in the executive branch, the governor has approved the leave.

(e) If the employee is in the state classified civil service, the civil service commission has approved the leave.

(4) Not more than 50 state employees shall be granted paid leave under subsection (3) during the fiscal year. The governor may increase the limit on the number of state employees who may be granted paid disaster leave during the fiscal year by executive order.

(5) This state shall not penalize or otherwise take adverse employment action against a state employee because the employee takes a leave of absence authorized under this section to provide disaster or emergency relief assistance. However, the state shall recover payment for paid disaster leave from an employee who is granted paid leave under subsection (3) if the employee does not use the leave time for the approved purpose.

This act is ordered to take immediate effect.
Approved June 30, 2006.
Filed with Secretary of State July 7, 2006.

[No. 268]

(SB 1074)

AN ACT to amend 2000 PA 403, entitled "An act to prescribe a tax on the sale and use of certain types of fuel in motor vehicles on the public roads or highways of this state and on certain other types of gas; to prescribe the manner and the time of collection and payment of this tax and the duties of officials and others pertaining to the payment and collection

of this tax; to provide for the licensing of persons involved in the sale, use, or transportation of motor fuel and the collection and payment of the tax imposed by this act; to prescribe fees; to prescribe certain other powers and duties of certain state agencies and other persons; to provide for exemptions and refunds and for the disposition of the proceeds of this tax; to provide for appropriations from the proceeds of this tax; to prescribe remedies and penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 8 (MCL 207.1008), as amended by 2002 PA 668.

The People of the State of Michigan enact:

207.1008 Tax on motor fuel; rates; collection or payment; exception; manner and time; imposition of rate on net gallons; legislative intent; bills of lading and invoices; identification of blended product and correct fuel product code; terminal operator license; requirements; refund request; annual appropriation; "biodiesel" and "ethanol" defined.

Sec. 8. (1) Subject to the exemptions provided for in this act, tax is imposed on motor fuel imported into or sold, delivered, or used in this state at the following rates:

(a) Except as otherwise provided in subdivision (c), 19 cents per gallon on gasoline.

(b) Except as otherwise provided in subdivision (d), 15 cents per gallon on diesel fuel.

(c) Subject to subsections (10) and (11), 12 cents per gallon on gasoline that is at least 70% ethanol. Under this subdivision, blenders of ethanol and gasoline outside of the bulk transfer terminal system shall obtain a blender's license and are subject to the blender reporting requirements under this act. A licensed supplier who blends ethanol and gasoline shall also obtain a blender's license.

(d) Subject to subsections (10) and (11), 12 cents per gallon on diesel fuel that contains at least 5% biodiesel. Under this subdivision, blenders of biodiesel and diesel fuel outside of the bulk transfer terminal system are required to obtain a blender's license and are subject to the blender reporting requirements under this act. A licensed supplier who blends biodiesel and diesel fuel shall also obtain a blender's license.

(2) Tax shall not be imposed under this section on motor fuel that is in the bulk transfer/terminal system.

(3) The collection, payment, and remittance of the tax imposed by this section shall be accomplished in the manner and at the time provided for in this act.

(4) Tax is also imposed at the rate described in subsection (1) on net gallons of motor fuel, including transmix, lost or unaccounted for, at each terminal in this state. The tax shall be measured annually and shall apply to the net gallons of motor fuel lost or unaccounted for that are in excess of 1/2 of 1% of all net gallons of fuel removed from the terminal across the rack or in bulk.

(5) It is the intent of this act:

(a) To require persons who operate a motor vehicle on the public roads or highways of this state to pay for the privilege of using those roads or highways.

(b) To impose on suppliers a requirement to collect and remit the tax imposed by this act at the time of removal of motor fuel unless otherwise specifically provided in this act.

(c) To allow persons who pay the tax imposed by this act and who use the fuel for a nontaxable purpose to seek a refund or claim a deduction as provided in this act.

(d) That the tax imposed by this act be collected and paid at those times, in the manner, and by those persons specified in this act.

(6) Bills of lading and invoices shall identify the blended product and the correct fuel product code. The motor fuel tax rate for each product shall be listed separately on each invoice. Licensees shall report the correct fuel product code for the blended product as required by the department. When fuel is blended below the terminal rack, new bills of lading and invoices shall be generated and submitted to the department upon request. All bills of lading and invoices shall meet the requirements provided under this act.

(7) Notwithstanding any other provision of this act, all facilities in this state that produce motor fuel and distribute the fuel from a rack for purposes of this act are a terminal and shall obtain a terminal operator license and shall comply with all terminal operator reporting requirements under this act. All position holders in these facilities shall be licensed as a supplier and shall comply with all supplier requirements under this act.

(8) If the tax on gasoline that contains at least 70% ethanol or diesel fuel that contains at least 5% biodiesel held in storage outside of the bulk transfer/terminal system on the effective date of the amendatory act that added this subsection has previously been paid at the rates imposed by subsection (1)(a) and (b), the person who paid the tax may claim a refund for the difference between the rates imposed by subsection (1)(a) and (b) and the rates imposed by subsection (1)(c) and (d). All of the following shall apply to a refund claimed under this subsection:

(a) The refund shall be claimed on a form prescribed by the department.

(b) The refund shall apply only to:

(*i*) Previously taxed gasoline containing at least 70% ethanol or diesel fuel containing at least 5% biodiesel in excess of 3,000 gallons held in storage by an end user.

(*ii*) Previously taxed gasoline containing at least 70% ethanol or diesel fuel containing at least 5% biodiesel held for sale that is in excess of dead storage.

(9) A refund request shall be filed within 60 days after the last day of the month in which the amendatory act that added this subsection took effect. A taxpayer shall provide documentation that the department requires in order to verify the request for refund. A person who may claim a refund under subsection (8) shall do all of the following to claim the refund:

(a) Not later than 12 a.m. on the effective date of the amendatory act that added this subsection, take an inventory of gasoline containing at least 70% ethanol or undyed diesel fuel containing at least 5% biodiesel.

(b) Deduct 3,000 gallons if the person claiming the refund is an end user.

(c) Deduct the number of gallons in dead storage if the gasoline containing at least 70% ethanol or the undyed diesel fuel containing at least 5% biodiesel is held for subsequent sale.

(10) Beginning on the effective date of the amendatory act that added this subsection, the state treasurer shall annually determine, for the 12-month period ending May 1 and for any additional times that the treasurer may determine, the difference between the amount of motor fuel tax collected and the amount of motor fuel tax that would have been collected but for the differential rates on gasoline pursuant to subsection (1)(c) and biodiesel pursuant to subsection (1)(d). Subsection (1)(c) and (d) is no longer effective the earlier of 10 years after the effective date of the amendatory act that added this subsection or the first day of the first month that is not less than 90 days after the state treasurer certifies that the total cumulative rate differential from the effective date of this amendatory act is greater than $2,500,000.00.

(11) The legislature shall annually appropriate to the Michigan transportation fund created in 1951 PA 51, MCL 247.651 to 247.675, the amount determined as the rate differential certified by the state treasurer for the 12-month period ending on May 1 of the calendar year

in which the fiscal year begins. Subsection (1)(c) and (d) shall not be effective beginning January of any fiscal year for which the appropriation required under this subsection has not been made by the first day of the fiscal year.

(12) As used in this section:

(a) "Biodiesel" means a fuel composed of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats and, in accordance with standards specified by the American society for testing and materials, designated B100 and meeting the requirements of D-6751, as approved by the department of agriculture.

(b) "Ethanol" means denatured fuel ethanol that is suitable for use in a spark-ignition engine when mixed with gasoline so long as the mixture meets the American society for testing and materials D-5798 specifications.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1079 of the 93rd Legislature is enacted into law.

Effective date.

Enacting section 2. This amendatory act takes effect on the first day of the month that begins not less than 45 days after the date it is signed into law and filed with the secretary of state.

This act is ordered to take immediate effect.
Approved July 7, 2006.
Filed with Secretary of State July 7, 2006.

Compiler's note: Senate Bill No. 1079, referred to in enacting section 1, was filed with the Secretary of State July 7, 2006, and became 2006 PA 271, Imd. Eff. July 7, 2006.

[No. 269]

(SB 1075)

AN ACT to amend 1984 PA 431, entitled "An act to prescribe the powers and duties of the department of management and budget; to define the authority and functions of its director and its organizational entities; to authorize the department to issue directives; to provide for the capital outlay program; to provide for the leasing, planning, constructing, maintaining, altering, renovating, demolishing, conveying of lands and facilities; to provide for centralized administrative services such as purchasing, payroll, record retention, data processing, and publishing and for access to certain services; to provide for a system of internal accounting and administrative control for certain principal departments; to provide for an internal auditor in certain principal departments; to provide for certain powers and duties of certain state officers and agencies; to codify, revise, consolidate, classify, and add to the powers, duties, and laws relative to budgeting, accounting, and the regulating of appropriations; to provide for the implementation of certain constitutional provisions; to create funds and accounts; to make appropriations; to prescribe remedies and penalties; to rescind certain executive reorganization orders; to prescribe penalties; and to repeal certain acts and parts of acts," by amending section 213 (MCL 18.1213).

The People of the State of Michigan enact:

18.1213 "Fund" and "motor vehicle" defined; directives relative to motor vehicles; motor vehicle repair centers and motor pools; creation of motor transport revolving fund; disposition of revenue; assets and liabilities; use of alternative fuels; "alternative fuel" defined.

Sec. 213. (1) As used in this section:

(a) "Fund" means the motor transport revolving fund created in subsection (4).

(b) "Motor vehicle" means a passenger vehicle, van, minibus, bus, truck, tractor, or other motorized vehicle.

(2) The department may issue directives relative to all the following for motor vehicles except for those motor vehicles under the jurisdiction of the state transportation department:

(a) The purchasing, leasing, maintaining, operating, replacing, and disposing of motor vehicles for all state agencies.

(b) The using of state owned motor vehicles for official business.

(c) The establishing of conditions for use of privately owned motor vehicles on official business.

(d) The acquiring of vehicle registration plates.

(e) The maintaining of motor vehicle titles and insurance inventories.

(f) The assigning of motor vehicles, permanently or temporarily, to state agencies and to institutions of higher education.

(g) The establishing of rates to be charged for use of a motor vehicle. The rates shall be reviewed periodically and shall be sufficient to cover the costs of administration and of the acquisition, operation, maintenance, repair, and replacement of motor vehicles.

(h) The displaying of distinctive vehicle registration plates and other external markings on the motor vehicles. The plates and markings shall clearly identify state ownership unless the motor vehicle is used by an elected official, or for an investigative use, or anonymity is essential to properly perform a necessary function of state government as determined by the director.

(3) The department shall establish motor vehicle repair centers and motor pools.

(4) The motor transport revolving fund is hereby created. The revenue received from rates charged pursuant to subsection (2)(g) and revenue which is received from any other source and designated to be credited to the motor transport revolving fund shall be credited to the motor transport revolving fund. The amounts in the fund are continuously appropriated only for administration and the acquisition, lease, operation, maintenance, repair, and replacement of state owned motor vehicles and related capital outlay and equipment.

(5) Assets and liabilities of the motor transport revolving fund shall be considered assets and liabilities of the motor transport revolving fund created by this section.

(6) Not later than January 1, 2007, the director shall install the necessary fueling infrastructure or contract with a supplier to supply alternative fuels at all state motor transport facilities so that all state owned vehicles capable of utilizing alternative fuels are able to use them. As used in this subsection, "alternative fuel" means E85 fuel and biodiesel fuel blends.

This act is ordered to take immediate effect.

Approved July 7, 2006.

Filed with Secretary of State July 7, 2006.

[No. 270]

(SB 1078)

AN ACT to amend 1996 PA 376, entitled "An act to create and expand certain renaissance zones; to foster economic opportunities in this state; to facilitate economic development; to stimulate industrial, commercial, and residential improvements; to prevent physical and infrastructure deterioration of geographic areas in this state; to authorize expenditures; to provide exemptions and credits from certain taxes; to create certain obligations of this state and local governmental units; to require disclosure of certain transactions and gifts; to provide for appropriations; and to prescribe the powers and duties of certain state and local departments, agencies, and officials," (MCL 125.2681 to 125.2696) by adding section 8e.

The People of the State of Michigan enact:

125.2688e Designation of additional renaissance zones for renewable energy facilities.

Sec. 8e. (1) The board, upon recommendation of the board of the Michigan strategic fund defined in section 4 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2004, may designate not more than 10 additional renaissance zones for renewable energy facilities within this state in 1 or more cities, villages, or townships if that city, village, or township or combination of cities, villages, or townships consents to the creation of a renaissance zone for a renewable energy facility within their boundaries.

(2) Each renaissance zone designated for a renewable energy facility under this section shall be 1 continuous distinct geographic area.

(3) The board may revoke the designation of all or a portion of a renaissance zone for a renewable energy facility if the board determines that the renewable energy facility does 1 or more of the following in a renaissance zone designated under this section:

(a) Fails to commence operation.

(b) Ceases operation.

(c) Fails to commence construction or renovation within 1 year from the date the renaissance zone for the renewable energy facility is designated.

(4) When designating a renaissance zone for a renewable energy facility, the board shall consider all of the following:

(a) The economic impact on local suppliers who supply raw materials, goods, and services to the renewable energy facility.

(b) The creation of jobs relative to the employment base of the community rather than the static number of jobs created.

(c) The viability of the project.

(d) The economic impact on the community in which the renewable energy facility is located.

(e) All other things being equal, giving preference to a business entity already located in this state.

(f) Whether the renewable energy facility can be located in an existing renaissance zone designated under section 8 or 8a.

(5) Beginning on the effective date of the amendatory act that added this subsection, the board shall require a development agreement between the Michigan strategic fund and the renewable energy facility.

(6) Until the maximum number of additional renaissance zones for renewable energy facilities described in subsection (1) is met, if the board designates a renaissance zone under this section, section 8c, or section 8f for a facility that is a forest products processing facility or an agricultural processing facility and that also meets the definition of a renewable energy facility, then the board shall only designate that renaissance zone as a renaissance zone for a renewable energy facility under this section.

(7) As used in this section, "development agreement" means a written agreement between the Michigan strategic fund and the renewable energy facility that includes, but is not limited to, all of the following:

(a) A requirement that the renewable energy facility comply with all state and local laws.

(b) A requirement that the renewable energy facility report annually to the Michigan strategic fund on all of the following:

(*i*) The amount of capital investment made at the facility.

(*ii*) The number of individuals employed at the facility at the beginning and end of the reporting period as well as the number of individuals transferred to the facility from another facility owned by the renewable energy facility.

(*iii*) The percentage of raw materials purchased in this state.

(c) Any other conditions or requirements reasonably required by the Michigan strategic fund.

This act is ordered to take immediate effect.
Approved July 7, 2006.
Filed with Secretary of State July 7, 2006.

[No. 271]

(SB 1079)

AN ACT to amend 1984 PA 44, entitled "An act to provide purity and quality standards for motor fuels; to regulate the transfer, sale, dispensing, or offering motor fuels for sale; to provide for an inspection and testing program; to provide for the powers and duties of certain state agencies; to prescribe certain powers of the governor; to provide for the licensing of certain persons engaged in the transfer, sale, dispensing, or offering of motor fuels for sale; to regulate stage I vapor-recovery systems at certain facilities; to provide for fees; to make appropriations; and to provide remedies and prescribe fines and penalties," by amending sections 2, 3, 4a, 5, 6, and 7 (MCL 290.642, 290.643, 290.644a, 290.645, 290.646, and 290.647), sections 2, 3, and 5 as amended by 2006 PA 104, section 4a as amended by 2002 PA 425, section 6 as amended by 2004 PA 278, and section 7 as amended by 1993 PA 236.

The People of the State of Michigan enact:

290.642 Definitions.

Sec. 2. As used in this act:

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

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

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

(d) "Biodiesel" means a fuel composed of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, and, in accordance with standards specified by the American society for testing and materials, designated B100, and meeting the requirements of D-6751, as approved by the department.

(e) "Biodiesel blend" means a fuel comprised of a blend of biodiesel fuel with petroleum-based diesel fuel, suitable for use as a fuel in a compression-ignition internal combustion diesel engine.

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

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

(h) "CARB" means the California air resources board.

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

(j) "Department" means the department of agriculture.

(k) "Diesel fuel" means any liquid other than gasoline that is suitable for use as a fuel or a component of a fuel in a compression-ignition internal combustion diesel engine.

(*l*) "Director" means the director of the department of agriculture or his or her authorized representative.

(m) "Dispensing facility" means a site used for gasoline refueling.

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

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

(p) "E.P.A." means the United States environmental protection agency.

(q) "Gasoline" means a volatile mixture of liquid hydrocarbons generally containing small amounts of additives suitable for use in spark-ignition internal combustion engines, and commonly or commercially known or sold as gasoline.

(r) "Hydrogen fuel" means a substance containing the chemical formula H_2 that exists as a colorless, odorless, and highly flammable gas except at low cryogenic temperatures or when highly compressed that is gaseous or liquefied and suitable for use in a fuel cell or hydrogen fuel vehicle.

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

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

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

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

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

(x) "Person" means an individual, sole proprietorship, partnership, corporation, association, or other legal entity.

(y) "Refiner" means a person who owns, leases, operates, controls, or supervises a refinery.

(z) "Refinery" means a plant at which gasoline is produced.

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

(bb) "Retail dealer" means a person who owns, leases, operates, controls, or supervises a retail outlet.

(cc) "Retail outlet" means an establishment at which motor fuel is sold or offered for sale to the public.

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

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

290.643 Establishment of standards by rules.

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

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

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

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

(5) In establishing additive and grading standards the director shall adopt the latest standards for gasoline established by the American society for testing and materials and shall adopt the latest standards for gasoline established by federal law or regulation. The standards established by the director shall not prohibit a gasoline blend that is permitted by a valid waiver granted by the United States environmental protection agency pursuant to the fuel or fuel additive waiver in section 211(f)(4) of part A of title II of the clean air

act, chapter 360, 81 Stat. 502, 42 USC 7545, and the ethanol waiver of 1.0 psi in section 211(h)(4) of part A of title II of the clean air act, chapter 360, 81 Stat. 502, 42 USC 7545, if the gasoline blend meets all of the conditions set forth in the waiver. Beginning June 1, 2003, the director shall not permit the use of the additive methyl tertiary butyl ether (MTBE) in this state.

(6) The director shall establish standards pursuant to this act to ensure the purity and quality of diesel fuel sold or offered for sale in this state.

(7) Any firm offering hydrogen fuel for sale in this state shall first register with and obtain approval from the department. Registration shall include a complete list of the fuel specifications the product is to meet and the sites where the product is offered for sale to the general public.

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

290.644a Testing storage tank at retail outlet to determine water or water-alcohol level; prohibited sales; testing supplies.

Sec. 4a. (1) A storage tank at a retail outlet shall be periodically tested by the retail dealer to insure that the tank does not have water or water-alcohol at the bottom of that tank in an amount greater than 2 inches. If there is more than 2 inches of water or water-alcohol at the bottom of the storage tank, gasoline, diesel fuel, biodiesel, or biodiesel blend shall not be sold to a consumer from that tank until the water or water-alcohol level is reduced to a level of less than 2 inches.

(2) Adequate testing supplies, as determined by the department, shall be maintained at the retail outlet and shall also be made available to the department to determine the water or water-alcohol level in the storage tank.

290.645 Prohibitions; contents of bill, invoice, or other instrument evidencing delivery of gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel; violation; disposition of civil fine.

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

(2) Except as provided by federal law or regulation, a distributor shall not sell or transfer to any distributor, retail dealer, or bulk purchaser-end user any gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel unless that gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel meets the requirements in sections 3 and 10d and is suitable for its intended purpose.

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

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

(5) A refiner or distributor shall not transfer, sell, dispense, or offer gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel for sale in this state to a distributor unless the

refiner or distributor indicates on each bill, invoice, or other instrument evidencing a delivery of gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel the name of the wholesale distributor who received delivery of the gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel.

(6) A distributor or refiner shall not transfer, sell, dispense, or offer gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel for sale in this state to a retail dealer unless the retail dealer has a valid retail gasoline outlet license pursuant to this act.

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

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

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

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

290.646 License required; coordination of licensing; expiration and renewal of license; license fee; disposition of fees; application for license; grounds for suspending, denying, or revoking license; applicability of section; conviction under weights and measures act; effect of suspension, revocation, or denial of license or other licenses; issuance of license within certain time period; report; registering blended products; "completed application" defined.

Sec. 6. (1) Before a distributor or retail dealer engages in transferring, selling, dispensing, or offering for sale gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel in this state, the distributor or retail dealer shall obtain a license from the department for each retail outlet operated by that person. In administering the licensing under this section, the department may attempt to coordinate the licensing with the licensing applicable to gasoline administered by the department of treasury pursuant to the motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1170, and the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78.

(2) A license expires annually on November 30 unless renewed before December 1 of each year or unless suspended, denied, or revoked by the department.

(3) The fee for a license is $15.00 for each year or portion of a year through July 31, 2002, $50.00 for each year or portion of a year through July 31, 2003, $75.00 for each year or portion of a year through July 31, 2004, and $100.00 beginning August 1, 2004 and each year or portion of a year thereafter. A license shall not be issued or renewed until the fee and any administrative fines issued under section 10a have been paid. A hearing is not required before the refusal to issue or renew a license under this subsection. Fees collected shall be deposited in the gasoline inspection and testing fund.

(4) An application for a license shall be made to the department upon a form furnished by the department. The completed form shall contain the information requested by the department and shall be accompanied by the fee specified in subsection (3).

(5) The director may suspend, deny, or revoke a license issued pursuant to this act for failure to comply with the requirements provided for in section 3, for failure to provide notice as provided in section 4, for violating section 31 of the weights and measures act of 1964, 1964 PA 283, MCL 290.631, if that violation occurs at any of the licensee's retail outlets and involves the transferring, selling, dispensing, or the offering for sale of gasoline in this state, or for otherwise failing to comply with this act or a rule promulgated under this act or an order issued under this act.

(6) This section does not apply until June 29, 1985.

(7) If a person licensed under this act is convicted of a willful violation under section 31 of the weights and measures act of 1964, 1964 PA 283, MCL 290.631, any license issued pursuant to this act shall be revoked for 2 years.

(8) A suspension, revocation, or denial of a license of a person who is an individual shall result in the suspension, revocation, or denial of any other license held or applied for by that individual under this act. The license of a corporation, partnership, or other association shall be suspended when a license or license application of a partner, trustee, director, or officer, member, or a person exercising control of the corporation, partnership, or other association is suspended, revoked, or denied. The suspension shall remain in force until the director determines that the disability created by the suspension, revocation, or denial has been removed.

(9) Except as otherwise provided in subsection (3), beginning on July 23, 2004, the department shall issue an initial or renewal license not later than 120 days after the applicant files a completed application. If the application is considered incomplete by the department, the department shall notify the applicant in writing or make notification electronically available within 40 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 120-day period is tolled upon notification by the department of a deficiency until the date all of the information requested during the 40-day period is received by the department. Requests for new or additional information by the department that fall outside the 40-day period do not toll the 120-day period. The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license.

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

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

(a) The number of initial and renewal applications the department received and completed within the 120-day time period described in subsection (9).

(b) The number of applications denied.

(c) The number of applications not issued within the 120-day period and the amount of money returned to licensees and registrants under subsection (10).

(12) Before a blender engages in the transferring, selling, dispensing, or offering for sale blended gasoline in this state, the blender shall register the finished product with the department and provide to the department test results as the department considers necessary. If the product does not comply with the requirements of section 3, the blender shall provide the department with a written list of the business names and addresses to whom the blended product is sold.

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

290.647 Inspection, investigation, and testing program; establishment; purpose; monitoring; payment of expenses; consumer hot line; violation; providing documents; authority of director; enforcement powers; transmitting information; rules; implementation of program.

Sec. 7. (1) The director shall establish a gasoline, diesel fuel, biodiesel, and biodiesel blend inspection, investigation, and testing program. The purpose of the inspection, investigation, and testing program is to determine whether gasoline, diesel fuel, biodiesel, and biodiesel blend transferred, sold, dispensed, or offered for sale in this state meet the requirements provided in this act, to sample, to investigate allegations of fraud, to inspect and investigate violations of the weights and measures act, 1964 PA 283, MCL 290.601 to 290.634, and whether notice required by section 4 is provided. The program shall provide for a regular system of monitoring gasoline, diesel fuel, biodiesel, and biodiesel blend sold or offered for sale in this state. The department shall implement the inspection, investigation, and testing program as provided in subsection (8). The expenses of operating the program shall be paid from money in the gasoline inspection and testing fund created in section 8.

(2) As part of the inspection and testing program the director shall maintain a 24-hour toll free consumer hot line to receive consumer complaints regarding vapor-recovery systems and the purity and quality of gasoline sold or offered for sale in this state.

(3) If the director has reason to believe a violation of section 5 or rules promulgated under section 5 has occurred, the director may require a refiner, distributor, storage facility, blender, bulk purchaser-end user, or retail dealer to provide to the department the original documents pertaining to the receipt, transfer, delivery, storage, or sale of gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel and to allow the original documents to remain in the possession of the department. If original documents remain in the possession of the department and the documents are necessary for conducting business, the department shall provide copies of the documents to the refiner, distributor, blender, bulk purchaser-end user, or retail dealer upon request. A refiner, distributor, bulk purchaser-end user,