public lands posted or reasonably identifiable as an area of forest reproduction, and when growing stock may be damaged; in a dedicated natural area of the department; or in any area in such a manner as to create an erosive condition, or to injure, damage, or destroy trees or growing crops. However, the department may permit an owner and guests of the owner to use an ORV within the boundaries of a state forest in order to access the owner's property.

(f) On the frozen surface of public waters within 100 feet of a person not in or upon a vehicle, or within 100 feet of a fishing shanty or shelter or an area that is cleared of snow for skating purposes, except at the minimum speed required to maintain controlled forward movement of the vehicle, or as may be authorized by permit in special events.

(g) Unless the vehicle is equipped with a spark arrester type United States forest service approved muffler, in good working order and in constant operation. Exhaust noise emission shall not exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after January 1, 1986, when the vehicle is under full throttle, traveling in second gear, and measured 50 feet at right angles from the vehicle path with a sound level meter that meets the requirement of ANSI S1.4 1983, using procedure and ancillary equipment therein described; or 99 Db(A) or 94 Db(A) on a vehicle manufactured after January 1, 1986, or that level comparable to the current sound level as provided for by the United States environmental protection agency when tested according to the provisions of the current SAE J1287, June 86 test procedure for exhaust levels of stationary motorcycles, using sound level meters and ancillary equipment therein described. A vehicle subject to this part, manufactured or assembled after December 31, 1972 and used, sold, or offered for sale in this state, shall conform to the noise emission levels established by the United States environmental protection agency under the noise control act of 1972, 42 USC 4901 to 4918.

(h) Within 100 feet of a dwelling at a speed greater than the minimum required to maintain controlled forward movement of the vehicle, except on property owned or under the operator's control or on which the operator is an invited guest, or on a roadway, forest road, or forest trail maintained by or under the jurisdiction of the department, or on a road or street on which ORV use is authorized pursuant to section 81131(2), (3), or (5).

(i) In or upon the lands of another without the written consent of the owner, the owner's agent, or a lessee, when required by part 731. The operator of the vehicle is liable for damage to private property, including, but not limited to, damage to trees, shrubs, or growing crops, injury to other living creatures, or damage caused through vehicle operation in a manner so as to create erosive or other ecological damage. The owner of the private property may recover from the person responsible nominal damages of not less than the amount of damage or injury. Failure to post private property or fence or otherwise enclose in a manner to exclude intruders or of the private property owner or other authorized person to personally communicate against trespass does not imply consent to ORV use.

(j) In an area on which public hunting is permitted during the regular November firearm deer season from 7 a.m. to 11 a.m. and from 2 p.m. to 5 p.m., except during an emergency or for law enforcement purposes, to go to and from a permanent residence or a hunting camp otherwise inaccessible by a conventional wheeled vehicle, to remove from public land a deer, elk, or bear that has been taken under a valid license; except for the conduct of necessary work functions involving land and timber survey, communication and transmission line patrol, and timber harvest operations; or except on property owned or under control of the operator or on which the operator is an invited guest. A hunter removing game under this subdivision may leave the designated trail or forest road only to retrieve the game and shall not exceed 5 miles per hour. A vehicle registered under the code is exempt from this subdivision while operating on a public highway or public or private road capable of sustaining automobile traffic. A person holding a valid permit to hunt from a standing vehicle issued under part 401, or a person with disabilities using an ORV to access public lands for purposes of hunting or fishing through use of a designated trail or forest road, is exempt from this

subdivision. A person holding a valid permit to hunt from a standing vehicle issued under part 401, or a person with disabilities using an ORV to access public lands for purposes of hunting or fishing, may display a flag, the color of which the department shall determine, to identify himself or herself as a person with disabilities or a person holding a permit to hunt from a standing vehicle under part 401.

(k) While transporting on the vehicle a bow unless unstrung or encased, or a firearm unless unloaded and securely encased, or equipped with and made inoperative by a manufactured keylocked trigger housing mechanism.

(*l*) On or across a cemetery or burial ground, or land used as an airport.

(m) Within 100 feet of a slide, ski, or skating area, unless the vehicle is being used for the purpose of servicing the area or is being operated pursuant to section 81131(2), (3), or (5).

(n) On an operating or nonabandoned railroad or railroad right-of-way, or public utility right-of-way, other than for the purpose of crossing at a clearly established site intended for vehicular traffic, except railroad, public utility, or law enforcement personnel while in performance of their duties, and except if the right-of-way is designated as provided for in section 81127.

(o) In or upon the waters of any stream, river, bog, wetland, swamp, marsh, or quagmire except over a bridge, culvert, or similar structure.

(p) To hunt, pursue, worry, kill, or attempt to hunt, pursue, worry, or kill an animal, whether wild or domesticated.

(q) In a manner so as to leave behind litter or other debris.

(r) In a manner contrary to operating regulations on public lands.

(s) While transporting or possessing, in or on the vehicle, alcoholic liquor in a container that is open or uncapped or upon which the seal is broken, except under either of the following circumstances:

(*i*) The container is in a trunk or compartment separate from the passenger compartment of the vehicle.

(*ii*) If the vehicle does not have a trunk or compartment separate from the passenger compartment, the container is encased or enclosed.

(t) While transporting any passenger in or upon an ORV unless the manufacturing standards for the vehicle make provisions for transporting passengers.

(u) On adjacent private land, in an area zoned residential, within 300 feet of a dwelling at a speed greater than the minimum required to maintain controlled forward movement of the vehicle except on a roadway, forest road, or forest trail maintained by or under the jurisdiction of the department, or on a road or street on which ORV use is authorized pursuant to section 81131(2), (3), or (5).

This act is ordered to take immediate effect.
Approved December 23, 2008.
Filed with Secretary of State December 23, 2008.

[No. 366]

(SB 1640)

AN ACT to amend 1986 PA 182, entitled "An act to provide for the Michigan department of state police retirement system; to create certain reserves and certain funds for this

retirement system; to provide for the creation of a retirement board within the department of management and budget; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of the department of state police, the department of management and budget, and certain state officers; and to repeal certain acts and parts of acts," by amending sections 3 and 14a (MCL 38.1603 and 38.1614a), section 3 as amended by 2004 PA 83 and section 14a as amended by 2004 PA 50.

The People of the State of Michigan enact:

38.1603 Definitions; B to L.

Sec. 3. (1) "Banked leave time program" means the part B annual leave hours within the state's annual and sick leave program approved by a ruling of the internal revenue service on September 5, 2003, in which a pay reduction or other concessions are applied to a member in exchange for additional part B annual leave hours.

(2) "Credited service" means the sum of the prior service and membership service credited to a member's account.

(3) "Deferred member" means a member who separates from service with entitlement to a deferred retirement allowance as provided in section 30, but who is not a retirant.

(4) "Department" means the department of management and budget.

(5) "Direct rollover" means a payment by the retirement system to the eligible retirement plan specified by the distributee.

(6) "Distributee" includes a member or deferred member. Distributee also includes the member's or deferred member's surviving spouse or the member's or deferred member's spouse or former spouse under an eligible domestic relations order, with regard to the interest of the spouse or former spouse.

(7) "DROP participant" means an officer who participates in the deferred retirement option plan established in section 24a.

(8) Beginning January 1, 2002, except as otherwise provided in this subsection, "eligible retirement plan" means 1 or more of the following:

(a) An individual retirement account described in section 408(a) of the internal revenue code, 26 USC 408.

(b) An individual retirement annuity described in section 408(b) of the internal revenue code, 26 USC 408.

(c) An annuity plan described in section 403(a) of the internal revenue code, 26 USC 403.

(d) A qualified trust described in section 401(a) of the internal revenue code, 26 USC 401.

(e) An annuity contract described in section 403(b) of the internal revenue code, 26 USC 403.

(f) An eligible plan under section 457(b) of the internal revenue code, 26 USC 457, which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into the eligible plan under section 457(b) of the internal revenue code, 26 USC 457, from this retirement system, that accepts the distributee's eligible rollover distribution.

(g) Beginning January 1, 2008, a Roth individual retirement account as described in section 408A of the internal revenue code, 26 USC 408A, subject to the rules that apply to rollovers from a traditional individual retirement account to a Roth individual retirement account.

(9) Beginning January 1, 2007, "eligible rollover distribution" means a distribution of all or any portion of the balance to the credit of the distributee. Eligible rollover distribution does not include any of the following:

(a) A distribution made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary.

(b) A distribution for a specified period of 10 years or more.

(c) A distribution to the extent that the distribution is required under section 401(a)(9) of the internal revenue code, 26 USC 401.

(d) The portion of any distribution that is not includable in federal gross income, except to the extent such portion of the distribution is paid to either of the following:

(*i*) An individual retirement account or annuity described in section 408(a) or 408(b) of the internal revenue code, 26 USC 408.

(*ii*) A qualified plan described in section 401(a) of the internal revenue code, 26 USC 401, or an annuity contract described in section 403(b) of the internal revenue code, 26 USC 403, and the plan providers agree to separately account for the amounts paid, including any portion of the distribution that is includable in federal gross income, and the portion of the distribution which is not so includable.

(10) "Final average compensation" means the average annual salary for the last 2 years of service with the department of state police for which the member was compensated as defined in subsection (13). In the case of a nonclassified member of the department holding the rank of colonel, final average compensation means the same average annual salary as that computed for the highest salaried classified member of the department, or at the average annual salary for the last 2 years of service with the department of state police for which the member was compensated, whichever is greater. Average annual salary includes only the following compensation items:

(a) Regular salary paid for the last 2 years of service, including, but not limited to, that salary that is deferred pursuant to a state deferred compensation program.

(b) Overtime, shift differential, and shift differential overtime paid for the last 2 years of service.

(c) Gross pay adjustments paid affecting the last 2 years of service, including compensatory time and emergency response compensation.

(d) Up to a maximum of 240 hours of accumulated annual leave, paid at the time of retirement separation excluding part B annual leave hours paid at the time of retirement separation.

(e) Deferred hours under Plan B of the fiscal years ending September 30, 1981, and September 30, 1982, that are paid at the time of retirement separation.

(f) Longevity pay equal to 2 full years.

(g) Bomb squad pay paid for the last 2 years of service.

(h) Post 29 freeway premium paid for the last 2 years of service.

(i) On-call pay paid for the last 2 years of service.

(j) Beginning October 1, 2003, the value of any unpaid furlough hours or the value of any unpaid hours exchanged for part B annual leave hours, calculated at the member's then-current hourly rate or rates of pay, for a period during which a member is participating in the banked leave time program.

(11) "Furlough hours" means unworked hours incurred in conjunction with the banked leave time program.

(12) "Internal revenue code" means the United States internal revenue code of 1986.

(13) "Last 2 years of service" means the 2-year period immediately preceding the member's last day of service or that period of 2 consecutive years of service with the department of state police immediately preceding the date the duty disability occurred according to the medical examinations conducted pursuant to section 29 or, if the officer participated in the deferred retirement option plan, the 2-year period immediately preceding participation in the deferred retirement option plan.

38.1614a Intent; retirement system as qualified pension plan and trust as exempt organization; administration; employer-financed benefit limitation; use and investment of assets; return of post-tax member contributions; beginning date of distributions; termination of retirement system; election to rollover to retirement plan; qualified military service.

Sec. 14a. (1) This section is enacted pursuant to section 401(a) of the internal revenue code that imposes certain administrative requirements and benefit limitations for qualified governmental plans. This state intends that the retirement system be a qualified pension plan created in trust under section 401 of the internal revenue code and that the trust be an exempt organization under section 501 of the internal revenue code. The department shall administer the retirement system to fulfill this intent.

(2) The retirement system shall be administered in compliance with section 415 of the internal revenue code, 26 USC 415, and regulations under that section that are applicable to governmental plans and, beginning January 1, 2010, applicable provisions of the final regulations issued by the internal revenue service on April 5, 2007. Employer-financed benefits provided by the retirement system under this act shall not exceed the applicable limitations set forth in section 415 of the internal revenue code, 26 USC 415, as adjusted by the commissioner of internal revenue under section 415(d) of the internal revenue code, 26 USC 415, to reflect cost of living increases, and the retirement system shall adjust the benefits, including benefits payable to retirants and retirement allowance beneficiaries, subject to the limitation each calendar year to conform with the adjusted limitation. For purposes of section 415(b) of the internal revenue code, 26 USC 415, the applicable limitation shall apply to aggregated benefits received from all qualified pension plans for which the office of retirement services coordinates administration of that limitation. If there is a conflict between this section and another section of this act, this section prevails.

(3) The assets of the retirement system shall be held in trust and invested for the sole purpose of meeting the legitimate obligations of the retirement system and shall not be used for any other purpose. The assets shall not be used for or diverted to a purpose other than for the exclusive benefit of the members, deferred members, retirants, and beneficiaries before satisfaction of all retirement system liabilities.

(4) The retirement system shall return post-tax member contributions made by a member and received by the retirement system to a member upon retirement, pursuant to internal revenue service regulations and approved internal revenue service exclusion ratio tables.

(5) The required beginning date for retirement allowances and other distributions shall not be later than April 1 of the calendar year following the calendar year in which the employee attains age 70-1/2 or April 1 of the calendar year following the calendar year in which the employee retires. The required minimum distribution requirements imposed by section 401(a)(9) of the internal revenue code, 26 USC 401, shall apply to this act and be administered in accordance with a reasonable and good faith interpretation of the required minimum distribution requirements for all years to which the required minimum distribution requirements apply to this act.

(6) If the retirement system is terminated, the interest of the members, deferred members, retirants, and beneficiaries in the retirement system is nonforfeitable to the extent funded as described in section 411(d)(3) of the internal revenue code, 26 USC 411, and related internal revenue service regulations applicable to governmental plans.

(7) Notwithstanding any other provision of this act to the contrary that would limit a distributee's election under this act, a distributee may elect, at the time and in the manner prescribed by the retirement board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. This subsection applies to distributions made on or after January 1, 1993.

(8) Notwithstanding any other provision of this act, the compensation of a member of the retirement system shall be taken into account for any year under the retirement system only to the extent that it does not exceed the compensation limit established in section 401(a)(17) of the internal revenue code, 26 USC 401, as adjusted by the commissioner of internal revenue. This subsection applies to any person who first becomes a member of the retirement system on or after October 1, 1996.

(9) Notwithstanding any other provision of this act, contributions, benefits, and service credit with respect to qualified military service will be provided under the retirement system in accordance with section 414(u) of the internal revenue code, 26 USC 414. This subsection applies to all qualified military service on or after December 12, 1994. Effective January 1, 2007, in accordance with section 401(a)(37) of the internal revenue code, 26 USC 401, if a member dies while performing qualified military service for purposes of determining any death benefits payable under this act, the member shall be treated as having resumed and then terminated employment on account of death.

This act is ordered to take immediate effect.
Approved December 23, 2008.
Filed with Secretary of State December 23, 2008.

[No. 367]

(SB 1195)

AN ACT to amend 1984 PA 270, entitled "An act relating to the economic development of this state; to create the Michigan strategic fund and to prescribe its powers and duties; to transfer and provide for the acquisition and succession to the rights, properties, obligations, and duties of the job development authority and the Michigan economic development authority to the Michigan strategic fund; to provide for the expenditure of proceeds in certain funds to which the Michigan strategic fund succeeds in ownership; to provide for the issuance of, and terms and conditions for, certain notes and bonds of the Michigan strategic fund; to create certain boards and funds; to create certain permanent funds; to exempt the property, income, and operation of the fund and its bonds and notes, and the interest thereon, from certain taxes; to provide for the creation of certain centers within and for the purposes of the Michigan strategic fund; to provide for the creation and funding of certain accounts for certain purposes; to impose certain powers and duties upon certain officials, departments, and authorities of this state; to make certain loans, grants, and investments; to provide penalties; to make an appropriation; and to repeal acts and parts of acts," by amending section 88o (MCL 125.2088o), as added by 2005 PA 215.

The People of the State of Michigan enact:

125.2088o Technology transfer acceleration program.

Sec. 88o. The fund shall create and operate a program to accelerate technology transfer from Michigan's institutions of higher education to the private sector for commercialization of competitive edge technologies and bioeconomy technologies. The technology transfer acceleration program shall include all of the following:

(a) Encourage and work with the state's public universities to identify the commercial potential in advanced technologies from individual institutions of higher education.

(b) Facilitate the bundling of inventions from individual institutions of higher education into packages that could be of interest to private sector firms looking for commercialization opportunities.

(c) Encourage business formation efforts in institution of higher education technology transfer offices to increase the number of institution of higher education related start-up companies.

(d) Work with institutions of higher education in encouraging the institutions to provide their faculty with incentives for participating in technology transfer and commercialization activities.

(e) Facilitate the use of the applied research expertise within institutions of higher education by qualified businesses.

This act is ordered to take immediate effect.
Approved December 23, 2008.
Filed with Secretary of State December 23, 2008.

[No. 368]

(HB 4146)

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 part 134; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

PART 134.

TANNING FACILITIES

333.13401 Definitions.

Sec. 13401. As used in this part:

(a) "Eye protection" or "protective eyewear" means protective eyewear that protects the eyes from ultraviolet radiation, allows adequate vision to maintain balance, and meets the requirements of 21 CFR 1040.20.

(b) "Tanning device" means equipment that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers and is used for tanning of the skin. Tanning device includes, but is not limited to, a sunlamp, tanning booth, or tanning bed and accompanying equipment, including, but not limited to, protective eyewear, timers, and handrails.

(c) "Tanning facility" means a location that provides individuals with access to a tanning device. Tanning facility does not include a private residence with a tanning device if the tanning device is used only by an owner or occupant of the private residence.

333.13403 Statement; contents; display of poster; claim or distribution of promotional materials; prohibition.

Sec. 13403. (1) Before allowing an individual to use a tanning device in any tanning facility, the owner, operator, or an employee of the tanning facility shall provide the individual with a written statement that contains all of the following information:

(a) Not wearing either his or her own eye protection or eye protection made available to the individual by the tanning facility while using a tanning device may cause damage to the eyes.

(b) Overexposure to the ultraviolet radiation produced by the tanning devices used in the tanning facility causes burns.

(c) Repeated exposure to the ultraviolet radiation produced by the tanning devices used in the tanning facility may cause premature aging of the skin or skin cancer, or both.

(d) Abnormal skin sensitivity to ultraviolet radiation or burning may be caused by certain foods, cosmetics, and medication. The medication includes, but is not limited to, all of the following:

(*i*) Tranquilizers.

(*ii*) Diuretics.

(*iii*) Antibiotics.

(*iv*) High blood pressure medication.

(*v*) Birth control medication.

(e) An individual who is taking a prescription drug or over-the-counter drug should consult a physician before using a tanning device.

(f) An individual that suffers an injury while using a tanning device at a tanning facility must report the injury to the owner or operator of the tanning facility.

(g) That any skin-related treatment involving microdermabrasion, including, but not limited to, facials, waxing, or skin peels, may cause abnormal sensitivity to ultraviolet radiation.

(2) The owner or operator of a tanning facility shall conspicuously display a poster in an area frequented by customers. The poster shall be printed in at least 32-point boldfaced type and in substantially the following form:

"DANGER: ULTRAVIOLET RADIATION

1. Follow instructions.

2. Avoid too frequent or too lengthy exposure. As with natural sunlight, exposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause chronic sun damage, characterized by wrinkling, dryness, fragility, and bruising of the skin, and skin cancer.

3. Wear protective eyewear.

FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS AND LONG-TERM INJURY TO THE EYES

4. Ultraviolet radiation from sunlamps will intensify the effects of the sun. Therefore, do not sunbathe before or after exposure to ultraviolet radiation.

5. Some oral or skin medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult your physician before using a tanning device if you are using medications, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women on birth control pills who use this tanning device may develop discolored skin.

6. If you do not tan in the sun, you are unlikely to tan from use of this tanning device.

7. If you suffered an injury while using a tanning device at this tanning facility, you must report the injury to the owner or operator.

8. Any skin-related treatment involving microdermabrasion, including, but not limited to, facials, waxing, or skin peels, may cause abnormal sensitivity to ultraviolet radiation.".

(3) The owner or operator or an employee of a tanning facility shall not claim or distribute printed promotional materials that claim or otherwise advertise that using a tanning device is safe, nonburning, or free from risk.

333.13405 Acknowledgment that customer has read statement required under MCL 333.13403; signing of statement and agreement to use protective eyewear; duties of owner or operator of tanning facility; signing of statement by parent or legal guardian of customer under 18 years of age.

Sec. 13405. (1) Before allowing a customer to use a tanning device, the owner or operator of any tanning facility shall require the customer to sign a written statement acknowledging that the customer has read and understood the written statement required under section 13403(1) and agrees to use protective eyewear. The owner or operator of the tanning facility shall do all of the following:

(a) Require a customer to sign the statement at least once in a 1-year period.

(b) Retain the written statement for not less than 1 year.

(c) Make the written statement available for inspection upon request of a law enforcement officer.

(2) In the case of a customer under 18 years of age, the written statement described in subsection (1) shall also be signed by the customer's parent or legal guardian while the parent or legal guardian is physically present at the tanning facility and shall be signed in the presence of the owner or operator.

333.13407a Action by individual suffering injury.

Sec. 13407a. If an individual suffers an injury while using a tanning device at a tanning facility and if that tanning facility has failed to comply with the disclosure and consent requirements of this part, the individual may bring an action in a court of competent jurisdiction for actual damages plus an amount of not more than $1,000.00, as well as actual and reasonable attorney fees.

333.13409 Remedies.

Sec. 13409. The remedies under this part are independent and cumulative. The use of 1 remedy by a person does not bar the use of other lawful remedies by that person or the use of a lawful remedy by another person.

Repeal of MCL 333.13407.

Enacting section 1. Section 13407 of the public health code, 1978 PA 368, MCL 333.13407, is repealed.

This act is ordered to take immediate effect.
Approved December 23, 2008.
Filed with Secretary of State December 23, 2008.

[No. 369]

(HB 4599)

AN ACT to amend 2001 PA 142, entitled “An act to consolidate prior acts naming certain Michigan highways; to provide for the naming of certain highways; to prescribe certain duties of the state transportation department; and to repeal acts and parts of acts and certain resolutions,” (MCL 250.1001 to 250.2080) by adding section 1060.

The People of the State of Michigan enact:

250.2060 “Harry Gast Parkway”.

Sec. 1060. The portion of highway M-63 in Berrien county beginning at the intersection of M-63 and the Blossomland bridge and continuing north until the intersection of M-63 and Klock road shall be known as the “Harry Gast Parkway”.

This act is ordered to take immediate effect.
Approved December 23, 2008.
Filed with Secretary of State December 23, 2008.

[No. 370]

(HB 4843)

AN ACT to amend 2002 PA 733, entitled “An act to regulate the installation, alteration, maintenance, improvement, and inspection of plumbing; to provide certain powers and duties for certain state agencies and departments; to create a plumbing board; to define plumbing, plumbing contractors, and the classification of plumbers and to set standards for those classifications; to provide for the licensing and regulation of classes of plumbers and

plumbing contractors; to prescribe fees and the disposition of money derived from those fees; to provide for the promulgation of rules; to prescribe remedies and penalties; and to repeal acts and parts of acts," by amending sections 31 and 35 (MCL 338.3541 and 338.3545), section 31 as amended by 2004 PA 268.

The People of the State of Michigan enact:

338.3541 License or registration renewal; fees; receipt of completed application; time period for issuance; report; "completed application" defined.

Sec. 31. (1) A license or apprentice registration issued under this act must be renewed not more than 60 days after the renewal date. It is the responsibility of a licensee or registrant to renew a license or registration. The department shall send a renewal application to the last known address of a licensee or registrant on file with the department. Every holder of a license or registration issued under this act shall promptly notify the department of a change in his or her business or residence address. The failure of a licensee or registrant to notify the department of a change of address does not extend the expiration date of a license or registration. The department may issue licenses for up to 3 years in duration.

(2) The annual fees for initial licensure, apprentice plumber registration, or renewal of a license and registration issued under this act are as follows:

(a) If paid after September 30, 2012:

(*i*) Journey plumber .... $20.00.

(*ii*) Apprentice plumber.......... $ 5.00.

(b) If paid on or before September 30, 2012:

(*i*) Journey plumber .... $40.00.

(*ii*) Apprentice plumber.......... $15.00.

(3) All licenses and apprentice registrations not renewed within 60 days of expiration may be reinstated only upon application to the board for reinstatement and the payment of the annual renewal fee and the following reinstatement fee:

(a) If paid after September 30, 2012:

(*i*) Journey plumber .... $25.00.

(*ii*) Apprentice plumber.......... $10.00.

(b) If paid on or before September 30, 2012:

(*i*) Journey plumber .... $50.00.

(*ii*) Apprentice plumber.......... $20.00.

(4) A person requesting renewal of a license within 3 years after the license is expired under subsection (3) is not subject to reexamination for the license but is required to pay the reinstatement fee and the annual renewal fee for each year not renewed. A person who fails to renew a license for more than 3 consecutive years is required to meet the experience and other requirements and take an examination for the class of license requested.

(5) Examination fees are as follows:

(a) If paid after September 30, 2012:

(*i*) Plumbing contractor .... $50.00.

(*ii*) Master plumber.......... $50.00.

(*iii*) Journey plumber.......... $50.00.

(b) If paid on or before September 30, 2012:

(*i*) Plumbing contractor .... $100.00.

(*ii*) Master plumber .... $100.00.

(*iii*) Journey plumber .... $100.00.

(6) The department shall issue an initial master plumber and plumbing contractor license for a period of up to 3 years. The master plumber and plumbing contractor licenses are renewable for periods of 3 years. For a person applying for initial or reinstatement license at a time other than between April 30 and June 30 of the year in which the department issues renewal licenses, the department shall compute and charge the license fee on a yearly prorated basis beginning the year of application until the last year of the 3-year license period.

(7) The initial and renewal fee for a master plumber and plumbing contractor license issued under this act are as follows:

(a) If paid after September 30, 2012:

(*i*) Plumbing contractor .... $200.00.

(*ii*) Master plumber .... $200.00.

(b) If paid on or before September 30, 2012:

(*i*) Plumbing contractor .... $300.00.

(*ii*) Master plumber .... $300.00.

(8) All plumbing contractor and master plumber licenses not renewed within 60 days of expiration may be reinstated only upon application submitted to the board and payment of the renewal fee and, if paid after September 30, 2012, an $85.00 reinstatement fee, and $100.00 if paid on or before September 30, 2012.

(9) Beginning July 23, 2004, the department shall issue an initial or renewal license for a master plumber or a plumbing contractor not later than 90 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of the state of Michigan. If the application is considered incomplete by the department, the department shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 90-day period is tolled upon notification by the department of a deficiency until the date the requested information is received by the department. 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 fails to issue or deny a license within the time required by this section, 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 section 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 the application based upon the fact that the license fee was refunded or discounted under this subsection.

(11) Beginning October 1, 2005, the director 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 occupational 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 90-day time period described in subsection (9).

(b) The number of applications denied.

(c) The number of applicants not issued a license within the 90-day time period and the amount of money returned to licensees under subsection (10).

(12) 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.

338.3545 Lost or destroyed license or registration.

Sec. 35. If a license or registration is lost or destroyed, a new license or registration shall be issued without examination, upon payment of a $20.00 fee if paid after September 30, 2012, and $30.00 if paid on or before September 30, 2012. An application for a new license or registration shall be accompanied by a written statement made by the licensee or registrant that the license or registration has been lost or destroyed.

This act is ordered to take immediate effect.
Approved December 23, 2008.
Filed with Secretary of State December 23, 2008.

[No. 371]

(HB 4844)

AN ACT to amend 1956 PA 217, entitled “An act to safeguard persons and property; to provide for licensing and regulation of electricians and electrical contractors concerning the construction, alteration, installation of electrical wiring and equipment and for the inspection of electrical wiring; to create an electrical administrative board; to create certain committees for certain purposes; to provide certain powers and duties for certain departments; to provide for the assessment of certain fees and for the promulgation of rules; and to prescribe penalties for violations of this act,” by amending sections 1 and 3 (MCL 338.881 and 338.883), section 1 as amended by 1992 PA 130 and section 3 as amended by 2004 PA 275.

The People of the State of Michigan enact:

338.881 Definitions.

Sec. 1. (1) For purposes of this act, the words defined in this section, section 1a, and section 1b have the meanings ascribed to them in those sections.

(2) “Electrical wiring” means all wiring, generating equipment, fixtures, appliances, and appurtenances in connection with the generation, distribution, and utilization of electrical energy, within or on a building, residence, structure, or properties, and including service entrance wiring as defined by the code.

(3) “Electrical contractor” means a person, firm, or corporation engaged in the business of erecting, installing, altering, repairing, servicing, or maintaining electrical wiring, devices, appliances, or equipment.

(4) “Master electrician” means a person having the necessary qualifications, training, experience, and technical knowledge to supervise the installation of electrical wiring and equipment in accordance with the standard rules and regulations governing that work.

(5) “Electrical journeyman” means a person other than an electrical contractor who, as his or her principal occupation, is engaged in the practical installation or alteration of electric wiring. An electrical contractor or master electrician may also be an electrical journeyman.

(6) “Apprentice electrician” means an individual other than an electrical contractor, master electrician, or electrical journeyman, who is engaged in learning about and assisting in the installation or alteration of electrical wiring and equipment under the direct personal supervision of an electrical journeyman or master electrician.

(7) “Jobsite” means the immediate work area within the property lines of a single construction project, alteration project, or maintenance project where electrical construction or alteration of electrical wiring is in progress.

(8) “Municipality” means a city, village, or township.

(9) “Minor repair work” means electrical wiring not in excess of a valuation of $100.00.

(10) “Stille-DeRossett-Hale single state construction code act” means 1972 PA 230, MCL 125.1501 to 125.1531.

(11) “Code” means the state construction code provided for in section 4 of the Stille-DeRossett-Hale single state construction code act, or a part of that code which is of limited application, and includes a modification of or amendment to the code, or a nationally recognized model electrical code adopted by a governmental subdivision pursuant to section 8a of that act.

(12) “Enforcing agency” means the enforcing agency responsible for the administration and enforcement of the electrical code pursuant to section 8a of the Stille-DeRossett-Hale single state construction code act.

(13) “Board” means the electrical administrative board created pursuant to section 2.

338.883 Licenses and certificates; orders and rules; fees; expiration and renewal of license; reinstatement of void license; receipt of completed application; issuance of license within certain period of time; report; examinations for licensure and specialty licensure; annual report; “completed application” defined.

Sec. 3. (1) The department of energy, labor, and economic growth shall grant licenses and certificates to qualified applicants, issue orders and promulgate rules necessary for the enforcement and administration of this act, and enforce and administer this act. The rules shall be promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) The examination fee for licensure of the following is $25.00 if paid after September 30, 2012 and $100.00 if paid on or before September 30, 2012:

(a) Master electrician.

(b) Electrical contractor.

(c) Electrical journeyman.

(d) Fire alarm contractor.

(e) Fire alarm specialty technician.

(f) Sign specialty contractor.

(g) Sign specialist.

(3) The fee for initial licensure, apprentice electrician registration, or renewal of a license relating to electricians is as follows:

(a) If paid after September 30, 2012:

(*i*) Master electrician.. $25.00

(*ii*) Electrical journeyman 20.00

(*iii*) Apprentice electrician 5.00

(b) If paid on or before September 30, 2012:

(*i*) Master electrician $50.00

(*ii*) Electrical journeyman 40.00

(*iii*) Apprentice electrician 15.00

(4) The fee for initial fire alarm specialty technician licensure, fire alarm specialty apprentice technician registration, or renewal of a license or registration is as follows:

(a) If paid after September 30, 2012:

(*i*) Fire alarm specialty technician $25.00

(*ii*) Fire alarm specialty apprentice technician 5.00

(b) If paid on or before September 30, 2012:

(*i*) Fire alarm specialty technician $50.00

(*ii*) Fire alarm specialty apprentice technician 15.00

(5) The fee for initial sign specialist licensure or renewal of a sign specialist license is $20.00 if paid after September 30, 2012 and $40.00 if paid on or before September 30, 2012.

(6) An apprentice electrician or specialty apprentice technician registration expires on August 31 of each year and is renewable within 30 days after that date upon payment of a renewal fee of $10.00 if paid after September 30, 2012 and a $15.00 renewal fee if paid on or before September 30, 2012. An applicant shall submit proof of a sponsoring employer for initial or renewal registration.

(7) Except as otherwise provided in subsection (8), a license issued under this act expires on December 31 of each year and is renewable not more than 60 days after that date upon application and payment of the appropriate fee. After March 1 of each year or after March 1 of the renewal year in the case of electrical contractors, fire alarm contractors, and sign specialty contractors, a license not renewed is void and may be reinstated only upon application for reinstatement and payment of the appropriate license fee for the appropriate class.

(8) The license for an electrical contractor, fire alarm contractor, and sign specialty contractor expires December 31 of every third year. The license for an electrical contractor, fire alarm contractor, and sign specialty contractor is renewable not later than on March 1 every third year upon application and payment of $200.00 if paid after September 30, 2012 and $300.00 if paid on or before September 30, 2012 by electrical contractors and fire alarm contractors and application and payment of $120.00 if paid after September 30, 2012 and $200.00 if paid on or before September 30, 2012 by sign specialty contractors. In the case of a person applying for an initial or reinstatement contractor's license at a time other than between December 31 and March 1 of the year in which the department issues renewal licenses, the department shall compute and charge the 3-year license fee described in this subsection on a yearly pro rata basis beginning in the year of the application until the last year of the 3-year license cycle.

(9) Beginning July 23, 2004, the department of energy, labor, and economic growth shall issue an initial or renewal license for electrical contractors, fire alarm contractors, and sign specialty contractors not later than 90 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of the state of Michigan. If the application is considered incomplete by the department of energy, labor, and economic growth, the department of energy, labor, and economic growth shall notify the applicant in writing, or make the information electronically

available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 90-day period is tolled upon notification by the department of energy, labor, and economic growth of a deficiency until the date the requested information is received by the department of energy, labor, and economic growth. 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 of energy, labor, and economic growth fails to issue or deny a license within the time required by this section, the department of energy, labor, and economic growth 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 section does not allow the department of energy, labor, and economic growth 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 of energy, labor, and economic growth shall not discriminate against an applicant in the processing of the application based upon the fact that the license fee was refunded or discounted under this subsection.

(11) Beginning October 1, 2005, the director of the department of energy, labor, and economic growth 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 occupational 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 90-day time period described in subsection (9).

(b) The number of applications denied.

(c) The number of applicants not issued a license within the 90-day time period and the amount of money returned to licensees under subsection (10).

(12) The board shall provide for an examination to be given to an applicant seeking licensure under this act for a specific class of license. The board and department of energy, labor, and economic growth, acting jointly, may develop an examination or contract for the use of an examination developed by another governmental subdivision or any other entity including, but not limited to, the national assessment institute, which the department of energy, labor, and economic growth and the board, acting jointly, review and determine is designed to test the qualifications and competency of applicants seeking licensure under this act.

(13) The examination for electrical journeymen and master electricians shall include, but not be limited to, questions designed to test an individual's knowledge of this act, any rules promulgated under this act, the Stille-DeRossett-Hale single state construction code act, and any code adopted pursuant to section 4 of that act and any code adopted pursuant to section 8a of that act as well as the theory relative to those codes. In the case of the examination for an electrical contractor's license, the examination shall include, but not be limited to, questions designed to test an individual's knowledge of this act, any rules promulgated under this act, the Stille-DeRossett-Hale single state construction code act, and the administration and enforcement procedures of any code adopted pursuant to section 8a of that act.

(14) The board shall provide for an examination to be given to an applicant seeking fire alarm specialty licensure under this act. The examinations for fire alarm specialty licensure shall include questions designed to test an individual's knowledge of this act, any rules promulgated under this act, and the Stille-DeRossett-Hale single state construction code act,

as relating to fire alarm systems. The board and department of energy, labor, and economic growth, acting jointly, may require, as a condition for licensure, certification of the applicant in the field of fire alarm systems technology by the national institution for certification in engineering technology or equivalent as determined by the board.

(15) The board shall provide for an examination to be given to an applicant seeking sign specialty licensure under this act. The examinations for sign specialty licensure shall include, but not be limited to, questions designed to test an individual's knowledge of this act and any rules promulgated under this act relating to electric signs and applicable sections of the code.

(16) Examinations shall be offered at locations throughout the state as determined by the board. The department of energy, labor, and economic growth in consultation with the board may designate a person to give the examination at any location. Copies of examinations developed by a governmental subdivision shall be presented for board approval and shall remain the property of the governmental subdivision and shall be returned to that governmental subdivision without having been copied or reproduced in any manner.

(17) The department of energy, labor, and economic growth shall annually submit to the members of the legislature a comprehensive report detailing the expenditure of the additional money resulting from the 1989 amendatory act that increased the fees contained in this section.

(18) 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.

This act is ordered to take immediate effect.
Approved December 23, 2008.
Filed with Secretary of State December 23, 2008.

[No. 372]

(HB 4846)

AN ACT to amend 1984 PA 192, entitled "An act to regulate the use, installation, alteration, and servicing of specified heating, cooling, ventilating, and refrigerating equipment and systems; to create a board of mechanical rules; to provide for the licensing of installing contractors and of servicing contractors of heating, cooling, ventilating, and refrigerating equipment and systems; to prescribe fees; to provide for the promulgation of rules; and to prescribe penalties," by amending section 10 (MCL 338.980), as amended by 2004 PA 271.

The People of the State of Michigan enact:

338.980 Contractor's license; examination fee; initial and per-year fee for issuance; expiration and renewal; reinstatement; receipt of completed application; issuance of license within certain time period; disposition of fees, money, and other income; report; "completed application" defined.

Sec. 10. (1) Subject to subsection (8), the examination fee for a contractor's license is $25.00 if paid after September 30, 2012 and $100.00 if paid on or before September 30, 2012.

Except as otherwise provided in subsections (2) and (4), the initial and per-year fee for the issuance of a contractor's license is $75.00 if paid after September 30, 2012 and $100.00 if paid on or before September 30, 2012.

(2) An initial or renewal contractor's license issued under this act expires on August 31 every third year and is renewable not later than October 31 upon application and payment of the license fee. For a person applying for an initial or reinstatement contractor's license at a time other than between August 31 and October 31 of the year in which the department issues renewal licenses, the department shall compute and charge the license fee on a yearly pro rata basis beginning in the year of the application until the last year of the 3-year license cycle. All licenses not renewed are void and may be reinstated only upon application for reinstatement and the payment of the license fee. A person who renews his or her license within 3 years after the license is voided pursuant to this section is not subject to reexamination for the license.

(3) Beginning July 23, 2004, the department shall issue an initial or renewal license not later than 90 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of the state of Michigan. If the application is considered incomplete by the department, the department shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 90-day period is tolled upon notification by the department of a deficiency until the date the requested information is received by the department. 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.

(4) If the department fails to issue or deny a license within the time required by this section, 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 section 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 the application based upon the fact that the license fee was refunded or discounted under this subsection.

(5) 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 occupational 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 90-day time period described in subsection (3).

(b) The number of applications denied.

(c) The number of applicants not issued a license within the 90-day time period and the amount of money returned to licensees under subsection (4).

(6) All fees and money received by the department for the licensing of persons under this act, and any other income received under this act, shall be paid into the state construction code fund created by section 22 of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1522.

(7) The department shall annually submit to the members of the legislature a comprehensive report detailing the expenditure of additional money resulting from the 1989 amendatory act that increased the fees contained in this section.

(8) 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.

This act is ordered to take immediate effect.
Approved December 23, 2008.
Filed with Secretary of State December 23, 2008.

[No. 373]

(HB 4848)

AN ACT to amend 1986 PA 54, entitled "An act to regulate and register building officials, plan reviewers, building inspectors, electrical inspectors, mechanical inspectors, and plumbing inspectors; to prescribe the powers and duties of the state construction code commission; to create a building officials advisory board; to require the approval of educational and training programs for building officials, plan reviewers, and inspectors; to provide for the establishment and disposition of fees; to provide for the promulgation of rules; and to prescribe penalties," by amending section 13 (MCL 338.2313).

The People of the State of Michigan enact:

338.2313 Registration fees.

Sec. 13. (1) The commission shall charge fees for registration of building officials, inspectors, and plan reviewers and for the examination and evaluation of training and educational programs and courses. An applicant for registration shall pay the following applicable registration fee to the commission for each year the registration covers:

(a) If paid after September 30, 2012, $10.00.

(b) If paid on or before September 30, 2012, $25.00.

(2) Fees established by the commission shall bear a reasonable relation to the cost for conducting training and educational programs and courses.

(3) Fees received by the commission pursuant to this act shall be deposited in the state construction code fund created by section 22 of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1522.

This act is ordered to take immediate effect.
Approved December 23, 2008.
Filed with Secretary of State December 23, 2008.

[No. 374]

(HB 5910)

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 7j (MCL 722.627j), as amended by 2004 PA 563.

The People of the State of Michigan enact:

722.627j Individual not named in central registry case as perpetrator of child abuse or neglect; documentation; receipt of central registry clearance information; request; automated systems.

Sec. 7j. (1) Upon written request, the department may provide to an individual, or whoever is appropriate, documentation stating that the individual is not named in a central registry case as the perpetrator of child abuse or child neglect.

(2) An individual or the department may share the document provided in subsection (1) with whoever is appropriate for the purpose of seeking employment or serving as a volunteer.

(3) An employer, a person or agency to whom an individual is applying for employment, or a volunteer agency, with appropriate authorization and identification from the individual, may request and receive central registry clearance information.

(4) The department may develop an automated system that will allow an individual applying for child-related employment or seeking to volunteer in a capacity that would allow unsupervised access to a child for whom the individual is not a person responsible for that child's health or welfare to be listed in that system if a screening of the individual finds that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect. The automated system developed under this section shall provide for public access to the list of individuals who have been screened for the purposes of complying with this section. An automated system developed under this section shall have appropriate safeguards and procedures to ensure that information that is confidential under this act, state law, or federal law is not accessible or disclosed through that system.

This act is ordered to take immediate effect.
Approved December 23, 2008.
Filed with Secretary of State December 23, 2008.

[No. 375]

(HB 5992)

AN ACT to amend 2000 PA 92, entitled "An act to codify the licensure and regulation of certain persons engaged in processing, manufacturing, production, packing, preparing, repacking, canning, preserving, freezing, fabricating, storing, selling, serving, or offering for sale food or drink for human consumption; to prescribe powers and duties of the department of agriculture; to provide for delegation of certain powers and duties to certain local units of government; to provide exemptions; to regulate the labeling, manufacture, distribution, and sale of food for protection of the consuming public and to prevent fraud and deception

by prohibiting the misbranding, adulteration, manufacture, distribution, and sale of foods in violation of this act; to provide standards for food products and food establishments; to provide for enforcement of the act; to provide penalties and remedies for violation of the act; to provide for fees; to provide for promulgation of rules; and to repeal acts and parts of acts," by amending section 3119 (MCL 289.3119), as amended by 2007 PA 113.

The People of the State of Michigan enact:

289.3119 Additional license fees; collection; exemptions; adjustments; forwarding applications.

Sec. 3119. (1) Except as otherwise provided for in subsection (2), upon submission of an application, an applicant for a food service establishment license shall pay to the local health department having jurisdiction the required fees authorized by section 2444 of the public health code, MCL 333.2444, and an additional state license fee as follows:

(a) Vending machine location fee	$ 3.00.
(b) Temporary food service establishment	$ 3.00.
(c) Food service establishment	$ 22.00.
(d) Mobile food establishment commissary	$ 22.00.
(e) Special transitory food unit	$ 35.00.

(2) When licensing a special transitory food unit, a local health department shall impose a fee of $135.00, which includes the additional state license fee imposed under subsection (1) unless exempted under subsection (4) or (5).

(3) The state license fee required under subsection (1) shall be collected by the local health department at the time the license application is submitted. The state license fee is due and payable by the local health department to the state within 60 days after the fee is collected.

(4) A charitable, religious, fraternal, service, civic, or other nonprofit organization that has tax-exempt status under section 501(c)(3) of the internal revenue code, 26 USC 501, is exempt from paying additional state license fees imposed under this section except for the vending machine location license fee. This subsection does not restrict the ability of the governing board of a local health department or authority to fix, revoke, or amend fees as further authorized and described under section 2444 of the public health code, MCL 333.2444. An organization seeking an exemption under this subsection shall furnish to the department or a local health department evidence of its tax-exempt status.

(5) A veteran who has a waiver of a license fee under the circumstances described in 1921 PA 359, MCL 35.441 to 35.443, is exempt from paying the fees prescribed in this section.

(6) The department shall adjust on an annual basis the fees prescribed by subsections (1) and (2) by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit consumer price index but not to exceed 5%. As used in this subsection, "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor or its successor. The adjustment shall be rounded to the nearest dollar to set each year's fee under this subsection, but the absolute value shall be carried over and used to calculate the next annual adjustment.

(7) The local health department shall forward the license applications to the department with appropriate recommendations.

This act is ordered to take immediate effect.
Approved December 23, 2008.
Filed with Secretary of State December 23, 2008.

[No. 376]

(HB 4730)

AN ACT to amend 1972 PA 230, entitled "An act to create a construction code commission and prescribe its functions; to authorize the director to promulgate rules with recommendations from each affected board relating to the construction, alteration, demolition, occupancy, and use of buildings and structures; to prescribe energy conservation standards for the construction of certain buildings; to provide for statewide approval of premanufactured units; to provide for the testing of new devices, materials, and techniques for the construction of buildings and structures; to define the classes of buildings and structures affected by the act; to provide for administration and enforcement of the act; to create a state construction code fund; to prohibit certain conduct; to establish penalties, remedies, and sanctions for violations of the act; to repeal acts and parts of acts; and to provide an appropriation," (MCL 125.1501 to 125.1531) by adding section 4d.

The People of the State of Michigan enact:

125.1504d Residential occupancies; installation of operational carbon monoxide device; requirements; liability; definitions.

Sec. 4d. (1) Beginning December 1, 2009 and involving only buildings and structures newly constructed on or after that date, the owner, operator, or builder of residential occupancies where the occupants are primarily transient in nature, including, but not limited to, boarding houses, hotels, and motels, shall install 1 operational carbon monoxide device at each source point.

(2) The carbon monoxide device described in subsection (1) may be battery-powered, plug-in with or without battery backup, wired into the dwelling's AC power line with secondary battery backup, or connected to a system by means of a control panel. The carbon monoxide device required under subsection (1) shall have an alarm that is audible. If the international building code contains a requirement for a carbon monoxide device and that requirement is adopted by the director as part of a code adopted after the effective date of the amendatory act that added this subsection, those requirements apply and shall be followed upon the effective date of the code.

(3) A person who installs, in accordance with the manufacturer's published instructions in existence at the time of installation, a carbon monoxide device shall have no liability, directly or indirectly, to any person with respect to the operation, maintenance, or effectiveness of the carbon monoxide device.

(4) The owner or operator of the residential occupancy described in subsection (1), who installs or arranges for the installation of and who maintains a carbon monoxide device in accordance with the manufacturer's published instructions in existence at the time of the installation, shall have no liability, directly or indirectly, to any person with respect to the operation or effectiveness of the carbon monoxide device.

(5) As used in this section:

(a) "Carbon monoxide device" means a device that detects carbon monoxide, alerts occupants via a distinct and audible signal that is either self-contained in the unit or activated via a system connection, and is certified by a nationally recognized testing laboratory to conform to the latest standards of the underwriters laboratories standards.

(b) "Operational" means working and in service.

(c) "Source point" means an area where a mechanism is present that provides a common source of heat from a fossil-fuel-burning furnace, boiler, or water heater, but does not include

only the presence of a wood or fossil-fuel-burning fireplace or a wood or fossil-fuel-burning space heater.

This act is ordered to take immediate effect.
Approved December 23, 2008.
Filed with Secretary of State December 23, 2008.

[No. 377]

(HB 5341)

AN ACT to amend 1972 PA 230, entitled "An act to create a construction code commission and prescribe its functions; to authorize the director to promulgate rules with recommendations from each affected board relating to the construction, alteration, demolition, occupancy, and use of buildings and structures; to prescribe energy conservation standards for the construction of certain buildings; to provide for statewide approval of premanufactured units; to provide for the testing of new devices, materials, and techniques for the construction of buildings and structures; to define the classes of buildings and structures affected by the act; to provide for administration and enforcement of the act; to create a state construction code fund; to prohibit certain conduct; to establish penalties, remedies, and sanctions for violations of the act; to repeal acts and parts of acts; and to provide an appropriation," (MCL 125.1501 to 125.1531) by adding section 4f.

The People of the State of Michigan enact:

125.1504f Single-family or multifamily dwelling; installation of operational and approved carbon monoxide device; requirements; failure to comply; penalty; liability; definitions; name of section.

Sec. 4f. (1) The director may provide for, at the time of initial construction of a single-family dwelling or a multifamily dwelling, or at the time of renovation of any existing single-family dwelling in which a permit is required, or upon the addition or creation of a bedroom, the installation of at least 1 operational and approved carbon monoxide device within the single-family dwelling or within each unit of the multifamily dwelling. A carbon monoxide device shall be located in the vicinity of the bedrooms, which may include 1 device capable of detecting carbon monoxide near all adjacent bedrooms; in areas within the dwelling adjacent to an attached garage; and in areas adjacent to any fuel-burning appliances.

(2) The carbon monoxide device described in subsection (1) may be battery-powered, plug-in with or without battery backup, wired into the dwelling's AC power line with secondary battery backup, or connected to a system by means of a control panel. If the international residential code is adopted by the director as part of a code adopted after the effective date of the amendatory act that added this section, those requirements apply and shall be followed upon the effective date of the code.

(3) An enforcing agency shall not impose a penalty for the failure of a person to comply with subsection (1) until the effective date of the code that may be adopted after the effective date of the amendatory act that added this section that incorporates that requirement.

(4) A person licensed under article 24 of the occupational code, 1980 PA 299, MCL 339.2401 to 339.2412, who is in compliance with this section or rules promulgated under the code and installs, in accordance with manufacturer's published instructions at the time of installation, a carbon monoxide device shall have no liability, directly or indirectly, to any

person with respect to the operation, maintenance, or effectiveness of the carbon monoxide device.

(5) As used in this section:

(a) "Approved" means a carbon monoxide device that is listed as complying with either ANSI/UL 2034 or ANSI/UL 2075 and that is installed in accordance with the manufacturer's instructions.

(b) "Carbon monoxide device" means a device that detects carbon monoxide and alerts occupants via a distinct and audible signal that is either self-contained in the unit or activated via a system connection.

(c) "Operational" means working and in service.

(6) This section shall be known and may be cited as the "Overbeck law".

Effective date.

Enacting section 1. This amendatory act takes effect 90 days after it is enacted into law.

This act is ordered to take immediate effect.
Approved December 23, 2008.
Filed with Secretary of State December 23, 2008.

[No. 378]

(HB 5534)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending sections 248 and 249 (MCL 750.248 and 750.249), section 248 as amended by 1991 PA 145.

The People of the State of Michigan enact:

750.248 Alteration, forgery, or counterfeit of public record; intent; felony; penalty; exception; venue; court order.

Sec. 248. (1) A person who falsely makes, alters, forges, or counterfeits a public record, or a certificate, return, or attestation of a clerk of a court, register of deeds, notary public, township clerk, or any other public officer, in relation to a matter in which the certificate, return, or attestation may be received as legal proof, or a charter, deed, will, testament, bond, writing obligatory, letter of attorney, policy of insurance, bill of lading, bill of exchange, promissory note, or an order, acquittance of discharge for money or other property, or a waiver, release, claim or demand, or an acceptance of a bill of exchange, or indorsement, or assignment of a bill of exchange or promissory note for the payment of money, or an accountable receipt for money, goods, or other property with intent to injure or defraud another person is guilty of a felony punishable by imprisonment for not more than 14 years.

(2) This section does not apply to a scrivener's error.

(3) The venue in a prosecution under this section may be in the county in which the forgery was performed; in a county in which a false, forged, altered, or counterfeit record, deed, instrument, or other writing is uttered and published with intent to injure or defraud; or in the county in which the rightful property owner resides.

(4) If in the proceedings resulting in a conviction under this section, or for any lesser included offense, the circuit court finds that the person made, altered, forged, or counterfeited a deed, discharge of mortgage, or other real estate document, the circuit court shall enter an order indicating that the document is invalid and requiring a copy of the invalid document and a certified copy of the order to be recorded in the office of the register of deeds of any county where the subject property is located, as provided in section 2935 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2935. If the invalid document has previously been recorded, the prosecutor shall provide the circuit court with the liber and page number or unique identifying reference number of the invalid document, which shall be included in the order. The register of deeds shall make reference to the liber and page number or unique identifying reference number of the invalid document in the index of the recorded documents. Any recording fees incurred under this subsection shall be paid as ordered by the court.

750.249 Forgery of records and other instruments; uttering and publishing; exception; court order.

Sec. 249. (1) A person who utters and publishes as true a false, forged, altered, or counterfeit record, deed, instrument, or other writing listed in section 248 knowing it to be false, altered, forged, or counterfeit with intent to injure or defraud is guilty of a felony punishable by imprisonment for not more than 14 years.

(2) This section does not apply to a scrivener's error.

(3) If in the proceedings resulting in a conviction under this section, or for any lesser included offense, the circuit court finds that the person uttered and published as true a false, forged, altered, or counterfeit deed, discharge of mortgage, or other real estate document, the circuit court shall enter an order indicating that the document is invalid and requiring a copy of the invalid document and a certified copy of the order to be recorded in the office of the register of deeds of any county where the subject property is located, as provided in section 2935 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2935. If the invalid document has previously been recorded, the prosecutor shall provide the circuit court with the liber and page number or unique identifying reference number of the invalid document, which shall be included in the order. The register of deeds shall make reference to the liber and page number or unique identifying reference number of the invalid document in the index of the recorded documents. Any recording fees incurred under this subsection shall be paid as ordered by the court.

This act is ordered to take immediate effect.
Approved December 23, 2008.
Filed with Secretary of State December 23, 2008.

[No. 379]

(HB 6070)

AN ACT to amend 1986 PA 32, entitled "An act to provide for the establishment of emergency 9-1-1 districts; to provide for the installation, operation, modification, and maintenance of universal emergency 9-1-1 service systems; to provide for the imposition and collection of certain charges; to provide the powers and duties of certain state agencies, local units of government, public officers, service suppliers, and others; to create an emergency 9-1-1 service committee; to provide remedies and penalties; and to repeal acts and parts of acts," by amending sections 401a, 401b, 413, and 717 (MCL 484.1401a, 484.1401b, 484.1413,

and 484.1717), sections 401a and 401b as added by 2007 PA 164 and sections 413 and 717 as amended by 2007 PA 165, and by adding section 412a.

The People of the State of Michigan enact:

484.1401a Billing and collection of state 9-1-1 charge; amount; limitation; listing on bill or payment receipt; review and adjustment of charge; separate charges imposed on access points or lines; effective date of section.

Sec. 401a. (1) Except as otherwise provided under section 401c, each service supplier within a 9-1-1 service district shall bill and collect a state 9-1-1 charge from all service users of the service supplier within the geographical boundaries of the 9-1-1 service district or as otherwise provided by this section. The billing and collection of the state 9-1-1 charge shall begin July 1, 2008. The state 9-1-1 charge shall be uniform per each service user within the 9-1-1 service district.

(2) The amount of the state 9-1-1 charge payable monthly by a service user shall be established as provided under subsection (4). The amount of the state 9-1-1 charge shall not be more than 25 cents or less than 15 cents. The charge may be adjusted annually as provided under subsection (4).

(3) The state 9-1-1 charge shall be collected in accordance with the regular billings of the service supplier. Except as otherwise provided under this act, the amount collected for the state 9-1-1 charge shall be remitted quarterly by the service supplier to the state treasurer and deposited in the emergency 9-1-1 fund created under section 407. The charge allowed under this section shall be listed separately on the customer's bill or payment receipt.

(4) The initial state 9-1-1 charge shall be 19 cents and shall be effective July 1, 2008. The state 9-1-1 charge shall reflect the actual costs of operating, maintaining, upgrading, and other reasonable and necessary expenditures for the 9-1-1 system in this state. The state 9-1-1 charge may be reviewed and adjusted as provided under subsection (5).

(5) The commission in consultation with the committee shall review and may adjust the state 9-1-1 charge under this section and the distribution percentages under section 408 to be effective on July 1, 2009 and July 1, 2010. Any adjustment to the charge by the commission shall be made no later than May 1 of the preceding year and shall be based on the committee's recommendations under section 412. Any adjustments to the state 9-1-1 charge or distribution percentages after December 31, 2010 shall be made by the legislature.

(6) If a service user has multiple access points or access lines, the state 9-1-1 charge will be imposed separately on each of the first 10 access points or access lines and then 1 charge for each 10 access points or access lines per billed account.

(7) This section takes effect July 1, 2008.

484.1401b Additional charge assessed by county board of commissioners; method; limitation; approval of charge by voters; statement on service provider's bill; annual accounting; payment and distribution; methods; adjustment; county having multiple emergency response districts; distribution to secondary PSAPs; retention of percentage to cover supplier's costs; listing as separate charge on customer's bill; exemption from disclosure; separate charges imposed on access points or lines; use of charge assessed; levy after repeal date.

Sec. 401b. (1) In addition to the charge allowed under section 401a, after June 30, 2008 a county board of commissioners may assess a county 9-1-1 charge to service users located within that county by 1 of the following methods:

(a) Up to $0.42 per month by resolution.

(b) Up to $3.00 per month with the approval of the voters in the county.

(c) Any combination of subdivisions (a) and (b) with a maximum county 9-1-1 charge of $3.00 per month.

(2) A county assessing a county 9-1-1 charge amount approved in the commission's order in case number U-15489 that exceeds the amounts established in subsection (1) may continue to assess the amount approved by the commission. Any proposed increase to the amount approved in the commission order is subject to subsection (1).

(3) The charge assessed under this section and section 401e shall not exceed the amount necessary and reasonable to implement, maintain, and operate the 9-1-1 system in the county.

(4) If the voters approve the charge to be assessed on the service user's monthly bill on a ballot question under this section, the service provider's bill shall state the following:

"This amount is for your 9-1-1 service which has been approved by the voters on (DATE OF VOTER APPROVAL). This is not a charge assessed by your service supplier. If you have questions concerning your 9-1-1 service, you may call (INCLUDE APPROPRIATE TELEPHONE NUMBER).".

(5) Within 90 days after the first day of each fiscal or calendar year of a county, an annual accounting shall be made of the charge approved under this section.

(6) Except as otherwise provided in subsection (10), the county 9-1-1 charge collected under this section shall be paid quarterly directly to the county and distributed by the county to the primary PSAPs by 1 of the following methods:

(a) As provided in the final 9-1-1 service plan.

(b) If distribution is not provided for in the plan, then according to any agreement for distribution between the county and public agencies.

(c) If distribution is not provided in the plan or by agreement, then according to population within the emergency 9-1-1 district.

(7) Subject to subsection (1), the county may adjust the county 9-1-1 charge annually to be effective July 1. The county shall notify the committee no later than May 15 of each year of any change in the county 9-1-1 charge under this section.

(8) If a county has multiple emergency response districts, the county 9-1-1 charge collected under this section shall be distributed under subsection (6) in proportion to the population within the emergency 9-1-1 district.

(9) This section shall not preclude the distribution of funding to secondary PSAPs if the distribution is determined by the primary PSAPs within the emergency 9-1-1 district to be the most effective method for dispatching of fire or emergency medical services and the distribution is approved within the final 9-1-1 service plan.

(10) The service supplier may retain 2% of the approved county 9-1-1 charge to cover the supplier's costs for billings and collections under this section.

(11) The charge allowed under this section shall be listed separately on the customer's bill and shall state by which means the charge was approved under subsection (1).

(12) Information submitted by a service supplier to a county under this section is exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be released by the county without the consent of the service supplier. Unless required or permitted by statute, court rule, subpoena, or court order, or except as necessary for a county, the commission, committee, or public agency to pursue or defend the public's interest in any public contract or litigation, a county treasurer, the commission, committee, agency, or any employee or representative of a PSAP, database administrator, or public agency shall not

divulge any information acquired with respect to customers, revenues or expenses, trade secrets, access line counts, commercial information, or any other proprietary information with respect to a service supplier while acting or claiming to act as an employee, agent, or representative. An aggregation of information that does not identify or effectively identify the number of customers, revenues or expenses, trade secrets, access lines, commercial information, and other proprietary information attributable to a specific service supplier may be made public.

(13) If a service user has multiple access points or access lines, the county 9-1-1 charge will be imposed separately on each of the first 10 access points or access lines and then 1 charge for each 10 access points or access lines per billed account.

(14) A county 9-1-1 charge assessed under subsection (1) shall be used only to fund costs approved as allowable in a published report by the committee prior to December 1, 2008. The committee shall notify the standing committees of the senate and house of representatives having jurisdiction over issues pertaining to communication technology at least 90 days prior to modifying what constitutes an allowable cost under this subsection.

(15) Notwithstanding any other provision of this act, the county 9-1-1 charge levied under this section shall not be levied after the repeal date provided in section 717. If all or a portion of the county 9-1-1 charge levied under this section has been pledged as security for the payment of qualified obligations, the county 9-1-1 charge shall be levied and collected only to the extent required to pay the qualified obligations or satisfy the pledge.

484.1412a Annual accounting of total emergency telephone charges; adjustment of amount collected; additional charge.

Sec. 412a. (1) Within 90 days after the first day of the calendar year following the year in which a service supplier commenced collection of the emergency telephone technical charge under section 401d, and within 90 days after the first day of each calendar year thereafter, a service supplier collecting the emergency telephone technical charge for the purpose of providing 9-1-1 service pursuant to this act shall make an annual accounting to the 9-1-1 service district of the total emergency telephone charges collected during the immediately preceding calendar year.

(2) If an annual accounting made pursuant to subsection (1) discloses that the total emergency telephone technical charges collected during the immediately preceding calendar year exceeded the total cost of installing and providing 9-1-1 service within the 9-1-1 service district for the immediately preceding calendar year according to the rates and charges of the service supplier, the service supplier shall adjust the emergency telephone technical charge collected from service users in the 9-1-1 service district in an amount computed pursuant to this section. The amount of the adjustment shall be computed by dividing the excess by the number of exchange access facilities within the 9-1-1 service district as the district existed for the billing period immediately following the annual accounting. Costs of the service supplier associated with making the adjustment under this subsection as part of the billing and collection service shall be deducted from the amount to be adjusted.

(3) If the annual accounting discloses that the total emergency telephone technical charges collected during the calendar year are less than the total cost of installing and providing 9-1-1 service within the 9-1-1 service district for the immediately preceding calendar year according to the costs and rates of the service supplier, the service supplier shall collect an additional charge from service users in the 9-1-1 service district in an amount computed pursuant to this section. Subject to the limitations provided by section 401d, the amount of the additional charge shall be computed by dividing the amount by which the total cost exceeded the total emergency telephone technical charges collected during the immediately preceding calendar year by the number of exchange access facilities within the 9-1-1 service district as the district existed for the billing period immediately following the annual accounting.

484.1413 Rules.

Sec. 413. (1) The commission may promulgate rules to establish 1 or more of the following:

(a) Uniform procedures, policies, and protocols governing 9-1-1 services in counties and PSAPs in this state.

(b) Standards for the training of PSAP personnel.

(c) Uniform procedures, policies, and standards for the receipt and expenditure of 9-1-1 funds under sections 401a, 401b, 401c, 401d, 401e, 406, and 408.

(d) The requirements for multiline telephone systems under section 405.

(e) The penalties and remedies for violations of this act and the rules promulgated under this act.

(2) The commission shall consult with and consider the recommendations of the committee in the promulgation of rules under this section.

(3) The commission's rule-making authority is limited to that expressly granted under this section.

(4) The rules promulgated under this section do not apply to service suppliers.

484.1717 Repeal of act.

Sec. 717. This act is repealed effective December 31, 2014.

This act is ordered to take immediate effect.
Approved December 23, 2008.
Filed with Secretary of State December 23, 2008.

[No. 380]

(HB 4092)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 520m (MCL 750.520m), as amended by 2003 PA 100.

The People of the State of Michigan enact:

750.520m DNA identification profiling; chemical testing; manner of collecting and transmitting samples; existing DNA identification profile; disclosure; assessment; report; definitions.

Sec. 520m. (1) A person shall provide samples for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and shall provide samples for chemical testing if any of the following apply:

(a) The individual is arrested for a violent felony as that term is defined in section 36 of the corrections code of 1953, 1953 PA 232, MCL 791.236.

(b) The person is found responsible for a violation of section 83, 91, 316, 317, or 321, a violation or attempted violation of section 349, 520b, 520c, 520d, 520e, or 520g, or a violation of section 167(1)(c) or (f) or 335a, or a local ordinance substantially corresponding to section 167(1)(c) or (f) or 335a.

(c) The person is convicted of a felony or attempted felony, or any of the following misdemeanors, or local ordinances that are substantially corresponding to the following misdemeanors:

(*i*) A violation of section 145a, enticing a child for immoral purposes.

(*ii*) A violation of section 167(1)(c), (f), or (i), disorderly person by window peeping, engaging in indecent or obscene conduct in public, or loitering in a house of ill fame or prostitution.

(*iii*) A violation of section 335a, indecent exposure.

(*iv*) A violation of section 451, first and second prostitution violations.

(*v*) A violation of section 454, leasing a house for purposes of prostitution.

(*vi*) A violation of section 462, female under the age of 17 in a house of prostitution.

(2) Notwithstanding subsection (1), if at the time the person is arrested for, convicted of, or found responsible for the violation the investigating law enforcement agency or the department of state police already has a sample from the person that meets the requirements of the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176, the person is not required to provide another sample or pay the fee required under subsection (6).

(3) The county sheriff or the investigating law enforcement agency shall collect and transmit the samples in the manner required under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176. However, a sample taken under subsection (1)(a) may be transmitted to the department of state police upon collection.

(4) An investigating law enforcement agency, prosecuting agency, or court that has in its possession a DNA identification profile obtained from a sample of a person under subsection (1) shall forward the DNA identification profile to the department of state police at or before the time of the person's sentencing or disposition upon that conviction or finding of responsibility unless the department of state police already has a DNA identification profile of the person.

(5) The DNA profiles of DNA samples received under this section shall only be disclosed as follows:

(a) To a criminal justice agency for law enforcement identification purposes.

(b) In a judicial proceeding as authorized or required by a court.

(c) To a defendant in a criminal case if the DNA profile is used in conjunction with a charge against the defendant.

(d) For an academic, research, statistical analysis, or protocol developmental purpose only if personal identifications are removed.

(6) Until October 1, 2003, the court shall order each person found responsible for or convicted of 1 or more crimes listed in subsection (1) to pay an assessment of $60.00. The assessment required under this subsection is in addition to any fine, costs, or other assessments imposed by the court.

(7) An assessment required under subsection (6) shall be ordered upon the record, and shall be listed separately in the adjudication order, judgment of sentence, or order of probation.

(8) After reviewing a verified petition by a person against whom an assessment is imposed under subsection (6), the court may suspend payment of all or part of the assessment if it determines the person is unable to pay the assessment.

(9) The court that imposes the assessment prescribed under subsection (6) may retain 10% of all assessments or portions of assessments collected for costs incurred under this section and shall transmit that money to its funding unit. On the last day of each month, the clerk of the court shall transmit the assessments or portions of assessments collected under this section as follows:

(a) Twenty-five percent to the county sheriff or other investigating law enforcement agency that collected the DNA sample as designated by the court to defray the costs of collecting DNA samples.

(b) Until October 1, 2003, 65% to the department of treasury for the department of state police forensic science division to defray the costs associated with the requirements of DNA profiling and DNA retention prescribed under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176.

(c) Beginning October 1, 2003, 65% to the state treasurer for deposit in the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181.

(10) Beginning December 31, 2002, the director of the department of state police shall report by December 31 of each year concerning the rate of DNA sample collection, DNA identification profiling, retention and compilation of DNA identification profiles, and the collection of assessments required under subsection (6) to all of the following:

(a) The standing committees of the senate and house of representatives concerned with DNA sample collection and retention.

(b) The house of representatives appropriations subcommittee on state police and military affairs.

(c) The senate appropriations subcommittee on state police.

(11) As used in this section:

(a) “DNA identification profile” and “DNA identification profiling” mean those terms as defined in section 2 of the DNA identification profiling system act, 1990 PA 250, MCL 28.172.

(b) “Investigating law enforcement agency” means the law enforcement agency responsible for the investigation of the offense for which the person is convicted. Investigating law enforcement agency includes the county sheriff but does not include a probation officer employed by the department of corrections.

(c) “Felony” means a violation of a penal law of this state for which the offender may be punished by imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

(d) “Sample” means a portion of a person’s blood, saliva, or tissue collected from the person.

Effective date.

Enacting section 1. This amendatory act takes effect July 1, 2009.

This act is ordered to take immediate effect.
Approved December 23, 2008.
Filed with Secretary of State December 29, 2008.

[No. 381]

(HB 5934)

AN ACT to amend 1962 PA 174, entitled "An act to enact the uniform commercial code, relating to certain commercial transactions in or regarding personal property and contracts and other documents concerning them, including sales, commercial paper, bank deposits and collections, letters of credit, bulk transfers, warehouse receipts, bills of lading, other documents of title, investment securities, leases, and secured transactions, including certain sales of accounts, chattel paper and contract rights; to provide for public notice to third parties in certain circumstances; to regulate procedure, evidence and damages in certain court actions involving such transactions, contracts or documents; to make uniform the law with respect thereto; to make an appropriation; to provide penalties; and to repeal certain acts and parts of acts," (MCL 440.1101 to 440.11102) by adding section 9501a.

The People of the State of Michigan enact:

440.9501a Fraudulent financing statement; affidavit; form; notice; termination of financing statement; filing fee; notice of termination; action to reinstate financing statement; court order; payment of costs and expenses; violation as felony; penalty; "regulated financial institution" defined.

Sec. 9501a. (1) A person identified as a debtor in a financing statement filed with the secretary of state may file an affidavit with the secretary of state in the form prescribed under subsection (2) stating that the financing statement is fraudulent. A person shall not file an affidavit under this subsection with respect to a financing statement filed by a regulated financial institution or a representative of a regulated financial institution.

(2) The secretary of state shall adopt and make available a form affidavit to be used to give notice of a fraudulent financing statement under subsection (1).

(3) On receipt of an affidavit under subsection (1), the secretary of state shall terminate the financing statement effective on the date the affidavit is filed.

(4) The secretary of state shall not charge a fee to file an affidavit under this section. The secretary of state shall not return any filing fee paid for filing the financing statement, regardless of whether the financing statement is terminated under this section.

(5) The secretary of state shall send notice of the termination of a financing statement under subsection (3) to the filer of the financing statement advising the filer that the financing statement has been terminated. If the filer of the financing statement believes in good faith that the statement was legally filed and is not fraudulent, the filer may file an action to reinstate the financing statement.

(6) If the court in an action under this section or section 9520(7) determines that the financing statement should be reinstated or accepted, the court shall provide a copy of its order to the secretary of state. On receipt of an order reinstating a financing statement, the secretary of state shall file a record that identifies by its file number the initial financing statement to which the record relates and indicates that the financing statement has been reinstated.

(7) On the filing of a record reinstating a financing statement under subsection (6), the financing statement is effective as a filed record from the initial filing date. If a financing statement that is reinstated would have lapsed during the period of termination, the secured party may file a continuation statement within 30 days after the record reinstating the financing statement is filed. The continuation statement is effective as a filed record from the date

the financing statement would have lapsed. However, a financing or continuation statement is not retroactive as provided in this subsection as against a purchaser of the collateral that gives value in reasonable reliance on the absence of the record from the files.

(8) If the court in an action under this section determines that the financing statement is fraudulent, the filer of the financing statement shall pay the costs and expenses incurred by the person identified as a debtor in the financing statement in the action.

(9) An individual who files a materially false or fraudulent affidavit under subsection (1) is guilty of a felony punishable by imprisonment for not more than 5 years or a $2,500.00 fine, or both.

(10) As used in this section, "regulated financial institution" means a financial institution subject to regulatory oversight or examination by a state or federal agency. Regulated financial institution includes a bank, savings bank, savings association, building and loan association, credit union, consumer finance company, industrial bank, industrial loan company, insurance company, investment company, installment seller, mortgage servicer, sales finance company, or leasing company.

Effective date.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) Senate Bill No. 1236.

(b) House Bill No. 5935.

This act is ordered to take immediate effect.
Approved December 25, 2008.
Filed with Secretary of State December 29, 2008.

Compiler's note: Senate Bill No. 1236, referred to in enacting section 2, was filed with the Secretary of State December 29, 2008, and became 2008 PA 383, Eff. Mar. 29, 2009.

House Bill No. 5935, also referred to in enacting section 2, was filed with the Secretary of State December 29, 2008, and became 2008 PA 382, Imd. Eff. Dec. 29, 2008.

[No. 382]

(HB 5935)

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 14g of chapter XVII (MCL 777.14g), as amended by 2004 PA 304.

The People of the State of Michigan enact:

CHAPTER XVII

777.14g Applicability of chapter to certain felonies; MCL 438.41 to 444.107.

Sec. 14g. This chapter applies to the following felonies enumerated in chapters 437 to 444 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
438.41	Property	E	Criminal usury	5
440.9320(8)	Property	G	Farming — illegal sale of secured products	3
440.9501	Pub trst	E	Filing a false or fraudulent financing statement with the secretary of state	5
440.9501a	Pub trst	E	Filing false affidavit of fraudulent financing statement	5
442.219	Pub trst	E	False statement in application for license to conduct certain sales	5
443.50	Pub trst	E	Issuing warehouse receipt for goods not received	5
443.52	Pub trst	E	Issuing duplicate warehouse receipt not so marked	5
444.13	Pub trst	H	Warehousemen and warehouse receipts	2
444.107	Pub trst	E	Warehouse certificates — willfully alter or destroy	5

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5934 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 25, 2008.
Filed with Secretary of State December 29, 2008.

Compiler's note: House Bill No. 5934, referred to in enacting section 1, was filed with the Secretary of State December 29, 2008, and became 2008 PA 381, Eff. Mar. 29, 2009.

[No. 383]

(SB 1236)

AN ACT to amend 1962 PA 174, entitled "An act to enact the uniform commercial code, relating to certain commercial transactions in or regarding personal property and contracts and other documents concerning them, including sales, commercial paper, bank deposits and collections, letters of credit, bulk transfers, warehouse receipts, bills of lading, other documents of title, investment securities, leases, and secured transactions, including certain sales of accounts, chattel paper and contract rights; to provide for public notice to third parties in certain circumstances; to regulate procedure, evidence and damages in certain court actions involving such transactions, contracts or documents; to make uniform the law with respect thereto; to make an appropriation; to provide penalties; and to repeal certain acts and parts of acts," by amending sections 9515, 9516, 9520, and 9521 (MCL 440.9515, 440.9516, 440.9520, and 440.9521), as added by 2000 PA 348; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

440.9515 Duration and effectiveness of financing statement; effect of lapsed financing statement; continuation statement; termination.

Sec. 9515. (1) Except as otherwise provided in subsections (2), (5), (6), and (7), a filed financing statement is effective for a period of 5 years after the date of filing.

(2) Except as otherwise provided in subsections (5), (6), and (7), an initial financing statement filed in connection with a manufactured-home transaction is effective for a period of 30 years after the date of filing if it indicates that it is filed in connection with a manufactured-home transaction.

(3) The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless before the lapse a continuation statement is filed pursuant to subsection (4). Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(4) A continuation statement may be filed only within 6 months before the expiration of the 5-year period specified in subsection (1) or the 30-year period specified in subsection (2), whichever is applicable.

(5) Except as otherwise provided in section 9510, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of 5 years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the 5-year period, the financing statement lapses in the same manner as provided in subsection (3), unless, before the lapse, another continuation statement is filed pursuant to subsection (4). Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(6) If a debtor is an organization identified as a transmitting utility and a filed initial financing statement so indicates, the financing statement is effective until a termination statement is filed. A financing statement that is filed before the effective date of the amendatory act that added this sentence is effective for a period of 5 years after the date of filing and shall not be continued under this section if the financing statement indicates either of the following:

(a) That the debtor is an individual purporting to be a transmitting utility.

(b) That the debtor is an individual showing his or her name as an organization and purporting to be a transmitting utility.

(7) A record of a mortgage that is effective as a financing statement filed as a fixture filing under section 9502(3) remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

440.9516 Filing; requirements; communication of record with tender of filing fee; effectiveness.

Sec. 9516. (1) Except as otherwise provided in subsection (2), communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(2) Filing does not occur with respect to a record that a filing office refuses to accept because of 1 or more of the following:

(a) The record is not communicated by a method or medium of communication authorized by the filing office.

(b) An amount equal to or greater than the applicable filing fee is not tendered.

(c) The filing office is unable to index the record because of 1 or more of the following:

(*i*) In the case of an initial financing statement, the record does not provide a name for the debtor.

(*ii*) In the case of an amendment or correction statement, the record does not identify the initial financing statement as required by section 9512 or 9518, as applicable, or identifies an initial financing statement whose effectiveness has lapsed under section 9515.

(*iii*) In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual that was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name.

(*iv*) In the case of a record filed or recorded in the filing office described in section 9501(1)(a), the record does not provide a sufficient description of the real property to which it relates.

(d) In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record.

(e) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not provide or indicate 1 or more of the following:

(*i*) Provide a mailing address for the debtor.

(*ii*) Indicate whether the debtor is an individual or an organization.

(*iii*) If the financing statement indicates that the debtor is an organization, provide 1 or more of the following:

(A) A type of organization for the debtor.

(B) A jurisdiction of organization for the debtor.

(C) An organizational identification number for the debtor or indicate that the debtor has none.

(f) In the case of an assignment reflected in an initial financing statement under section 9514(1) or an amendment filed under section 9514(2), the record does not provide a name and mailing address for the assignee.

(g) In the case of a continuation statement, the record is not filed within the 6-month period prescribed by section 9515(4).

(3) For purposes of subsection (2), both of the following apply:

(a) A record does not provide information if the filing office is unable to read or decipher the information.

(b) A record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by section 9512, 9514, or 9518, is an initial financing statement.

(4) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection (2) or section 9520(5), is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

440.9520 Acceptance and refusal to accept record; wrongful filing; action to require secretary of state to accept record; personal liability; filing by regulated financial institution.

Sec. 9520. (1) A filing office shall refuse to accept a record for filing for a reason set forth in section 9516(2) or, if the filing office is the secretary of state, subsection (5) and may refuse to accept a record for filing only for a reason set forth in section 9516(2) or, if the filing office is the secretary of state, subsection (5).

(2) If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the manner prescribed by filing-office rule but, in the case of a filing office described in section 9501(1)(b), in no event more than 2 business days after the filing office receives the record.

(3) A filed financing statement satisfying section 9502(1) and (2) is effective, even if the filing office is required to refuse to accept it for filing under subsection (1). However, section 9338 applies to a filed financing statement providing information described in section 9516(2)(e) that is incorrect at the time the financing statement is filed.

(4) If a record communicated to a filing office provides information that relates to more than 1 debtor, this part applies as to each debtor separately.

(5) Notwithstanding any other provision of this act, if a person presents a record to the secretary of state for filing or recording, the secretary of state may refuse to accept the record for filing or recording if 1 or more of the following circumstances exist:

(a) The record is not required or authorized to be filed or recorded with the secretary of state.

(b) The record is being filed or recorded for a purpose outside the scope of this article.

(c) The secretary of state has reasonable cause to believe the record is materially false or fraudulent.

(d) The record asserts a claim against a current or former employee or officer of a federal, state, county, or other local governmental unit that relates to the performance of the officer's or employee's public duties, and for which the filer does not hold a properly executed security agreement or judgment from a court of competent jurisdiction.

(e) The record indicates that the debtor and the secured party are substantially the same or that an individual debtor is a transmitting utility.

(6) If a correction statement filed with the secretary of state under section 9518 alleges that a previously filed record was wrongfully filed, the secretary of state shall, without undue delay, determine whether the contested record was wrongfully filed. To determine whether the record was wrongfully filed, the secretary of state may require the person who filed the correction statement or the secured party to provide any additional relevant information requested by the secretary of state, including an original or copy of a security agreement that is related to the record. If the secretary of state finds that the record was wrongfully filed, the secretary of state shall terminate the record and the record is void and ineffective. The secretary of state shall notify the secured party named in the contested record of the termination.

(7) If the secretary of state refuses to accept a record for filing or recording pursuant to subsection (5), the person who presented the record to the secretary of state may commence an action under section 9501a to require the secretary of state to accept the record for filing or recording. A record ordered by the court to be accepted is effective as a filed record from the initial filing date except as against a purchaser of the collateral which gives value in reasonable reliance on the absence of the record from the files.

(8) A filing officer who, acting in a manner that does not subject the filing officer to personal liability under the statutes of this state, improperly refuses to accept a record for filing or recording under subsection (5) is not personally liable for the improper refusal or determination.

(9) Subsection (5) does not apply to a financing statement filed by a regulated financial institution or a representative of a regulated financial institution. If a regulated financial institution that is attempting to file a financing statement is organized under the law of a governmental unit other than this state, the secretary of state may request the regulated financial institution or its representative to provide verification of regulation or licensure in the jurisdiction under whose law the institution is organized. As used in this subsection, "regulated financial institution" means that term as defined in section 9501a.

440.9521 Uniform form of written initial financing statement and amendment.

Sec. 9521. (1) A filing office that accepts written records for filing shall not refuse to accept a written initial financing statement that conforms to the current format prescribed by the national conference of commissioners on uniform state laws, except for a reason set forth in section 9516(2) or 9520(5).

(2) A filing office that accepts written records for filing shall not refuse to accept a written financing statement amendment on a form that conforms to the current format prescribed by the national conference of commissioners on uniform state laws, except for a reason set forth in section 9516(2) or 9520(5).

Repeal of MCL 440.9527.

Enacting section 1. Section 9527 of the uniform commercial code, 1962 PA 174, MCL 440.9527, is repealed.

Effective date.

Enacting section 2. This amendatory act takes effect 90 days after the date it is enacted into law.

Conditional effective date.

Enacting section 3. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) House Bill No. 5934.

(b) House Bill No. 5935.

This act is ordered to take immediate effect.
Approved December 25, 2008.
Filed with Secretary of State December 29, 2008.

Compiler's note: House Bill No. 5934, referred to in enacting section 3, was filed with the Secretary of State December 29, 2008, and became 2008 PA 381, Eff. Mar. 29, 2009.

House Bill No. 5935, also referred to in enacting section 3, was filed with the Secretary of State December 29, 2008, and became 2008 PA 382, Imd. Eff. Dec. 29, 2008.

[No. 384]

(HB 6441)

AN ACT to amend 1976 IL 1, entitled "A petition to initiate legislation to provide for the use of returnable containers for soft drinks, soda water, carbonated natural or mineral water, other nonalcoholic carbonated drink, and for beer, ale, or other malt drink of whatever alcoholic content, and for certain other beverage containers; to provide for the use of unredeemed bottle deposits; to prescribe the powers and duties of certain state agencies and officials; and to prescribe penalties and provide remedies," by amending section 4a (MCL 445.574a), as added by 1998 PA 473.

The People of the State of Michigan enact:

445.574a Prohibited return to dealer, distributor, or manufacturer; violation; penalty; exceptions; restitution; action brought by attorney general or county prosecutor.

Sec. 4a. (1) A person shall not return or attempt to return to a dealer for a refund 1 or more of the following:

(a) A beverage container that the person knows or should know was not purchased in this state as a filled returnable container.

(b) A beverage container that the person knows or should know did not have a deposit paid for it at the time of purchase.

(2) A person who violates subsection (1) is subject to 1 of the following:

(a) If the person returns 25 or more but not more than 100 nonreturnable containers, the person may be ordered to pay a civil fine of not more than $100.00.

(b) If the person returns more than 100 but fewer than 10,000 nonreturnable containers, or violates subdivision (a) for a second or subsequent time, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both.

(c) If the person returns more than 100 but fewer than 10,000 nonreturnable containers for a second or subsequent time, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(d) If the person returns 10,000 or more nonreturnable containers, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $5,000.00, or both.

(3) A dealer shall not knowingly accept from and pay a deposit to a person for a nonreturnable container or knowingly deliver a nonreturnable container to a distributor for a refund. A dealer that violates this subsection is subject to 1 of the following:

(a) If the dealer knowingly accepts from and pays a deposit on 25 or more but not more than 100 nonreturnable containers to a person, or knowingly delivers 25 or more but not more than 100 nonreturnable containers to a distributor for a refund, the dealer may be ordered to pay a civil fine of not more than $100.00.

(b) If the dealer knowingly accepts from and pays a deposit on more than 100 but fewer than 10,000 nonreturnable containers to a person, or knowingly delivers more than 100 but fewer than 10,000 nonreturnable containers to a distributor for a refund, the dealer is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both.

(c) If the dealer knowingly accepts from and pays a deposit on more than 100 but fewer than 10,000 nonreturnable containers to a person, or knowingly delivers more than 100 but fewer than 10,000 nonreturnable containers to a distributor for a refund, for a second or subsequent time, the dealer is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(d) If the dealer knowingly accepts from and pays a deposit on 10,000 or more nonreturnable containers to a person, or knowingly delivers 10,000 or more nonreturnable containers to a distributor for a refund, the dealer is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $5,000.00, or both.

(4) A distributor shall not knowingly accept from and pay a deposit to a dealer for a nonreturnable container or knowingly deliver a nonreturnable container to a manufacturer for a refund. A distributor that violates this subsection is subject to 1 of the following:

(a) If the distributor knowingly accepts from and pays a deposit on 25 or more but not more than 100 nonreturnable containers to a dealer, or knowingly delivers 25 or more but not more than 100 nonreturnable containers to a manufacturer for a refund, the distributor may be ordered to pay a civil fine of not more than $100.00.

(b) If the distributor knowingly accepts from and pays a deposit on more than 100 but fewer than 10,000 nonreturnable containers to a dealer, or knowingly delivers more than 100 but fewer than 10,000 nonreturnable containers to a manufacturer for a refund, the distributor is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both.

(c) If the distributor knowingly accepts from and pays a deposit on more than 100 but fewer than 10,000 nonreturnable containers to a dealer, or knowingly delivers more than 100 but fewer than 10,000 nonreturnable containers to a manufacturer for a refund, for a second or subsequent time, the distributor is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(d) If the distributor knowingly accepts from and pays a deposit on 10,000 or more nonreturnable containers to a dealer, or knowingly delivers 10,000 or more nonreturnable containers to a manufacturer for a refund, the distributor is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $5,000.00, or both.

(5) A dealer or distributor does not violate subsection (3) or (4) if all of the following conditions are met:

(a) An employee of the dealer or distributor commits an act that violates subsection (3) or (4).

(b) At the time the employee commits the act that violates subsection (3) or (4), the dealer or distributor had in force a written policy prohibiting its employees from knowingly redeeming nonreturnable containers.

(c) The dealer or distributor did not or should not have known of the employee's act in violation of subsection (3) or (4).

(6) In addition to the penalty described in this section, the court shall order a person found guilty of a misdemeanor or felony under this section to pay restitution equal to the amount of loss caused by the violation.

(7) The attorney general or a county prosecutor may bring an action to recover a civil fine under this section. A civil fine imposed under this section is payable to this state and shall be credited to the general fund.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) Senate Bill No. 1392.

(b) House Bill No. 6442.

Approved December 25, 2008.
Filed with Secretary of State December 29, 2008.

Compiler's note: Senate Bill No. 1392, referred to in enacting section 1, was filed with the Secretary of State December 29, 2008, and became 2008 PA 386, Imd. Eff. Dec. 29, 2008.

House Bill No. 6442, also referred to in enacting section 1, was filed with the Secretary of State December 29, 2008, and became 2008 PA 385, Eff. Mar. 31, 2009.

[No. 385]

(HB 6442)

AN ACT to amend 1976 IL 1, entitled "A petition to initiate legislation to provide for the use of returnable containers for soft drinks, soda water, carbonated natural or mineral water, other nonalcoholic carbonated drink, and for beer, ale, or other malt drink of whatever alcoholic content, and for certain other beverage containers; to provide for the use of unredeemed bottle deposits; to prescribe the powers and duties of certain state agencies and officials; and to prescribe penalties and provide remedies," by amending section 4b (MCL 445.574b), as added by 1998 PA 473.

The People of the State of Michigan enact:

445.574b Posting notice on dealer's premises; failure to comply; penalty.

Sec. 4b. (1) In that portion of the dealer's premises where returnable containers are redeemed, a dealer shall post a notice that says substantially the following: "A person who returns out-of-state nonreturnable containers for a refund is subject to penalties of up to 5 years in jail, a fine of $5,000.00, and restitution.".

(2) A dealer who fails to comply with this section is subject to a civil fine of not more than $50.00.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) Senate Bill No. 1392.

(b) House Bill No. 6441.

Approved December 25, 2008.
Filed with Secretary of State December 29, 2008.

Compiler's Note: Senate Bill No. 1392, referred to in enacting section 1, was filed with the Secretary of State December 29, 2008, and became 2008 PA 386, Imd. Eff. Dec. 29, 2008.

House Bill No. 6441, also referred to in enacting section 1, was filed with the Secretary of State December 29, 2008, and became 2008 PA 384, Eff. Mar. 31, 2009.

[No. 386]

(SB 1392)

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 14h of chapter XVII (MCL 777.14h), as amended by 2008 PA 65.

The People of the State of Michigan enact:

CHAPTER XVII

777.14h Applicability of chapter to certain felonies; MCL 445.65 to 445.2507(2).

Sec. 14h. This chapter applies to the following felonies enumerated in chapter 445 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
445.65	Pub ord	E	Identity theft	5
445.67	Pub ord	E	Obtain, possess, sell, or transfer personal identifying information of another or falsify a police report with intent to commit identity theft	5

445.408(2)	Pub ord	E	Buying or selling stolen scrap metal	5
445.408(3)	Pub ord	E	Buying or selling stolen scrap metal — second or subsequent offense	5
445.433(2)	Pub ord	E	Knowingly buying or selling stolen nonferrous metal articles	5
445.487(2)	Pub ord	H	Precious metal and gem dealer failure to record material matter — subsequent offense	2
445.488(2)	Pub ord	H	Precious metal and gem dealer violations — subsequent offense	2
445.489	Pub ord	H	Precious metal and gem dealer violations	2
445.490	Pub ord	H	Precious metal and gem dealer failure to obtain a certificate of registration	2
445.574a(2)(d)	Pub ord	H	Improper return of 10,000 or more nonrefundable containers	5
445.574a(3)(d)	Pub ord	H	Improper acceptance or delivery of 10,000 or more nonrefundable containers by dealer	5
445.574a(4)(d)	Pub ord	H	Improper acceptance or delivery of 10,000 or more nonrefundable containers by distributor	5
445.667	Pub ord	G	Changing, altering, or modifying reverse vending machine or data for reverse vending machine	2
445.779	Pub ord	H	Antitrust violation	2
445.1505	Pub trst	G	Franchise investment law — fraudulent filing/offers	7
445.1508	Pub trst	G	Franchise investment law — sale without proper disclosure	7
445.1513	Pub trst	G	Franchise investment law — illegal offers/sales	7
445.1520	Pub trst	G	Franchise investment law — keeping records	7
445.1521	Pub trst	G	Franchise investment law — false representation	7
445.1523	Pub trst	G	Franchise investment law — false statements of material fact	7
445.1525	Pub trst	G	Franchise investment law — false advertising	7

445.1528	Pub trst	D	Pyramid/chain promotions — offer or sell	7
445.1671	Pub trst	E	Mortgage brokers, lenders — knowingly giving a false statement	15
445.2507(2)	Pub ord	F	Violation of unsolicited commercial e-mail protection act in furtherance of crime	4

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) House Bill No. 5147.

(b) House Bill No. 6441.

This act is ordered to take immediate effect.
Approved December 25, 2008.
Filed with Secretary of State December 29, 2008.

Compiler's note: House Bill No. 5147, referred to in enacting section 1, was filed with the Secretary of State December 29, 2008, and became 2008 PA 387, Eff. (pending) (See act).

House Bill No. 6441, also referred to in enacting section 1, was filed with the Secretary of State December 29, 2008, and became 2008 PA 384, Eff. Mar. 31, 2009.

[No. 387]

(HB 5147)

AN ACT to provide standards for reverse vending machines; to prohibit the use, replacement, leasing, transfer, and sales of certain designs of reverse vending machines; to prescribe penalties; and to provide for the powers and duties of certain state and local governmental officers and entities.

The People of the State of Michigan enact:

445.651 Short title.

Sec. 1. This act shall be known and may be cited as the "reverse vending machine antifraud act".

445.653 Definitions.

Sec. 3. As used in this act:

(a) "Beverage container" means that term as defined in section 1 of the beverage container law, MCL 445.571.

(b) "Beverage container law" means 1976 IL 1, MCL 445.571 to 445.576.

(c) "Brand" means any word, name, group of letters, symbol, or trademark, or any combination of them, adopted and used by a manufacturer to identify a specific flavor or type of beverage and to distinguish that flavor or type of beverage from another beverage produced or marketed by that manufacturer or another manufacturer.

(d) "Dealer" means that term as defined in section 1 of the beverage container law, MCL 445.571.

(e) "Department" means the department of treasury.

(f) "Designated glass container" means a 12-ounce glass beverage container that contains a symbol, mark, or other distinguishing characteristic that allows a reverse vending machine to determine if the beverage container is or is not a returnable container.

(g) "Designated metal container" means a 12-ounce metal beverage container that contains a symbol, mark, or other distinguishing characteristic that allows a reverse vending machine to determine if the beverage container is or is not a returnable container.

(h) "Designated plastic container" means a 20-ounce plastic beverage container that contains a symbol, mark, or other distinguishing characteristic that allows a reverse vending machine to determine if the beverage container is or is not a returnable container.

(i) "Distributor" means that term as defined in section 1 of the beverage container law, MCL 445.571.

(j) "Glass beverage container" means a beverage container composed primarily of glass.

(k) "Install" or "installation" means to equip an existing, new, or replacement reverse vending machine with vision technology for designated metal, plastic, or glass containers, including all reasonable and necessary technology, equipment, hardware, software, and labor and including 1 year of service by the reverse vending machine vendor.

(*l*) "Law enforcement agency" means the attorney general or a law enforcement agency as defined in section 2804 of the public health code, 1978 PA 368, MCL 333.2804.

(m) "Lease" does not include to renew or extend an existing lease for an existing reverse vending machine at the same location.

(n) "Manufacturer" means that term as defined in section 1 of the beverage container law, MCL 445.571.

(o) "Metal beverage container" means a beverage container composed primarily of metal.

(p) "Nonreturnable container" means that term as defined in section 1 of the beverage container law, MCL 445.571.

(q) "Person" means an individual, partnership, corporation, association, limited liability company, governmental entity, or other legal entity. The term includes a dealer, distributor, or manufacturer.

(r) "Plastic beverage container" means a beverage container composed primarily of plastic.

(s) "Returnable container" means that term as defined in section 1 of the beverage container law, MCL 445.571.

(t) "Reverse vending machine" means a device designed to properly identify and process empty beverage containers and provide a means for a deposit refund on returnable containers.

(u) "Reverse vending machine manufacturer" means a person that engages in any of the following and the representatives of that person:

(*i*) Designing or manufacturing a reverse vending machine.

(*ii*) Selling or leasing a reverse vending machine to a dealer in this state.

(*iii*) Servicing or replacing a reverse vending machine of a dealer in this state.

(v) "Update" means to install vision technology for designated metal, plastic, or glass beverage containers in an existing, new, or replacement reverse vending machine.

(w) "Vision technology" means a camera or other scanning device that allows a reverse vending machine to determine if beverage containers are returnable containers based on symbols, marks, or other distinguishing characteristics on the beverage containers.

445.655 Installation of vision technology.

Sec. 5. Not later than 450 days after the effective date of this act, a reverse vending machine manufacturer shall begin installing vision technology into a sufficient sample of reverse vending machines that process glass beverage containers and plastic beverage containers and conducting testing of that vision technology in a commercial environment or other testing environment that is substantially similar to a commercial environment.

445.657 Reverse vending machine used in county that borders another state or county in Lower Peninsula contiguous with county that borders another state; processing metal beverage containers; requirements; extension of date.

Sec. 7. (1) Subject to subsection (2), beginning 360 days after the effective date of this act, a reverse vending machine manufacturer shall not lease, sell, or otherwise transfer a reverse vending machine that processes metal beverage containers for use in any county of this state that borders another state, or any county in the Lower Peninsula that is contiguous with a county of this state that borders another state, and a dealer shall not use a reverse vending machine that processes metal beverage containers in any of those counties, if the reverse vending machine does not meet the following standards:

(a) It identifies at least 85% of appropriately marked and legible designated metal containers that are or are not nonreturnable containers, and authorizes or provides a refund only for those containers identified as returnable containers or refuses to provide or authorize a refund for those containers identified as nonreturnable containers.

(b) It maintains accurate data concerning the number of beverage containers accepted by that reverse vending machine, categorized according to the distributor of those beverage containers.

(2) If a reverse vending machine manufacturer demonstrates to the department's satisfaction that material and technical issues prevent the reverse vending machine manufacturer from meeting the requirements of subsection (1) by the date described in that subsection, the department may grant an extension of that date of not more than 180 days.

445.659 Reverse vending machine used in county that borders another state or county in Lower Peninsula contiguous with county that borders another state; processing glass or plastic beverage containers; requirements; extension of date.

Sec. 9. (1) Subject to subsection (2), beginning 720 days after the effective date of this act, a reverse vending machine manufacturer shall not lease, sell, or otherwise transfer a reverse vending machine that processes glass beverage containers or plastic beverage containers for use in any county of this state that borders another state, or any county in the Lower Peninsula that is contiguous with a county of this state that borders another state, and a dealer shall not use a reverse vending machine that processes glass beverage containers or plastic beverage containers in any of those counties, if the reverse vending machine does not meet the following standards:

(a) It identifies at least 85% of appropriately marked and legible designated glass containers and designated plastic containers that are or are not nonreturnable containers, and authorizes or provides a refund only for those containers identified as returnable containers or refuses to provide or authorize a refund for those containers identified as nonreturnable containers.

(b) It maintains accurate data concerning the number of beverage containers accepted by that reverse vending machine, categorized according to the distributor of those beverage containers.

(2) If a reverse vending machine manufacturer demonstrates to the department's satisfaction that material and technical issues prevent the reverse vending machine manufacturer from meeting the requirements of subsection (1) by the date described in that subsection, the department may grant an extension of that date of not more than 180 days. The department may grant a second extension of not more than an additional 180 days, but only if the department determines that the reverse vending machine manufacturer gave its best effort to meeting the requirements of subsection (1) before the end of the first extension.

445.661 Change, alteration, or modification; prohibitions.

Sec. 11. A person shall not change, alter, or modify a reverse vending machine used or intended for use in this state in a manner designed to prevent the reverse vending machine from meeting the standards described in section 7(1) or 9(1). A person shall not assist another person's efforts to change, alter, or modify a reverse vending machine used or intended for use in this state in a manner designed to prevent the reverse vending machine from meeting the standards described in section 7(1) or 9(1).

445.663 Fraudulent change, alteration, or modification; data; retention; availability for inspection.

Sec. 13. (1) A person shall not fraudulently change, alter, or modify data described in section 7(1) or 9(1) or assist another person's efforts to fraudulently change, alter, or modify data described in section 7(1) or 9(1).

(2) Each dealer shall retain the data described in sections 7(1) and 9(1) for at least 2 years, shall make any of that data concerning brands distributed by a distributor that provides a refund to the dealer under section 2(6) of the beverage container law, MCL 445.572, available for inspection by that distributor, and shall provide copies of that data to that distributor on request.

445.665 Inspection; investigation of complaint; notice of violation; installation or update to comply with requirements.

Sec. 15. (1) Each dealer shall allow the department and any law enforcement agency to inspect the dealer's reverse vending machines and the data described in sections 7(1) and 9(1) for the purpose of enforcing this act.

(2) If the department receives a complaint of a violation of this act, the department shall investigate to determine if a violation of this act has occurred.

(3) If the department determines or discovers that a violation of this act has occurred, the department shall notify the appropriate law enforcement agency of the violation.

(4) The department shall not require that a dealer or reverse vending machine manufacturer install or update a reverse vending machine to meet the requirements of section 7(1) or 9(1) unless the department first establishes under the beverage container redemption antifraud act that the dealer must install or retrofit the reverse vending machines at a retail location in order to meet the requirements of section 7(1) or 9(1) and makes money available for that installation or update under the beverage container redemption antifraud act.

445.667 Violations; penalties; restitution.

Sec. 17. (1) A person who violates section 11 or 13(1) is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $10,000.00, or both.

(2) Except as provided in subsection (1), and subject to subsections (3) and (4), a person that violates this act is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $5,000.00, or both.

(3) A dealer or reverse vending machine manufacturer is not considered in violation of section 7(1) or 9(1) if the department has not made money available to the reverse vending

machine manufacturer under the beverage container redemption antifraud act to update the dealer's reverse vending machines.

(4) A dealer is not considered in violation of the requirements imposed on a dealer in section 7(1) or 9(1) if the dealer is using the reverse vending machines of a reverse vending machine manufacturer and the reverse vending machines of that reverse vending machine manufacturer cannot be retrofitted due to the lack of technology to meet the standards described in subdivisions (a) and (b) of section 7(1) or 9(1).

(5) In addition to the penalty imposed under subsection (1) or (2), a court shall order a person convicted of a violation of this act to make restitution to this state and to any dealer or distributor for any loss caused by the violation.

445.669 Report.

Sec. 19. Within 4 years after the effective date of this act, the department shall provide a written report to the governor, the speaker of the house of representatives, and the senate majority leader. The report shall include a status report concerning the implementation of this act and the beverage container redemption antifraud act, the department's analysis of the effectiveness of these acts in reducing the redemption of nonreturnable containers in this state, the department's recommendation concerning whether the requirements of sections 7(1) and 9(1) should be extended to apply to reverse vending machines located in areas of the state not included in those sections, and any other recommendations the department may have for changes to these acts or other legislative action to reduce the redemption of nonreturnable containers in this state.

Effective date; condition.

Enacting section 1. This act takes effect on the date that deposits into the beverage container redemption antifraud fund created in the beverage container redemption antifraud act from money appropriated by the legislature equal or exceed $1,000,000.00.

Conditional effective date.

Enacting section 2. This act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) Senate Bill No. 1532.

(b) Senate Bill No. 1648.

Approved December 25, 2008.
Filed with Secretary of State December 29, 2008.

Compiler's note: Senate Bill No. 1532, referred to in enacting section 2, was filed with the Secretary of State December 29, 2008, and became 2008 PA 389, Eff. (pending).

Senate Bill No. 1648, also referred to in enacting section 2, was filed with the Secretary of State December 29, 2008, and became 2008 PA 388, Imd. Eff. Dec. 29, 2008.

[No. 388]

(SB 1648)

AN ACT to provide state payments to reverse vending machine manufacturers for the cost of retrofitting certain reverse vending machines; to provide money to certain dealers for the purchase of certain new reverse vending machines; to create the beverage container redemption antifraud fund; and to provide for the powers and duties of certain state governmental officers and entities.

The People of the State of Michigan enact:

445.631 Short title.

Sec. 1. This act shall be known and may be cited as the "beverage container redemption antifraud act".

445.633 Definitions.

Sec. 3. As used in this act:

(a) "Beverage container law" means 1976 IL 1, MCL 445.571 to 445.576.

(b) "Dealer" means that term as defined in section 1 of the beverage container law, MCL 445.571.

(c) "Department" means the department of treasury.

(d) "Designated glass container", "designated metal container", and "designated plastic container" mean those terms as defined in the reverse vending machine antifraud act.

(e) "Fund" means the beverage container redemption antifraud fund created in section 7.

(f) "Install vision technology" means to equip an existing, new, or replacement reverse vending machine with vision technology for designated metal, plastic, or glass containers, including all reasonable and necessary technology, equipment, hardware, software, and labor, and 1 year of service directly related to the vision technology by the reverse vending machine vendor.

(g) "Overredeemer" means that term as defined in section 3b of the beverage container law, MCL 445.573b.

(h) "Retrofit" means to install vision technology for designated metal, plastic, or glass beverage containers in an existing, new, or replacement reverse vending machine.

(i) "Reverse vending machine" means that term as defined in the reverse vending machine antifraud act.

(j) "Reverse vending machine manufacturer" means that term as defined in the reverse vending machine antifraud act.

(k) "Vision technology" means that term as defined in the reverse vending machine antifraud act.

445.635 Retrofit of reverse vending machines; payment to reverse vending machine manufacturers; application for payment; acceptance as full payment; proof of completion; conditions for requiring installation or retrofitting of reverse vending machines.

Sec. 5. (1) The department shall pay reverse vending machine manufacturers to retrofit reverse vending machines to comply with the reverse vending machine antifraud act.

(2) A reverse vending machine manufacturer that has agreed to retrofit a dealer's reverse vending machines to comply with the reverse vending machine antifraud act shall submit a written application to the department for payment to retrofit the dealer's reverse vending machines. All of the following apply to the application for payment described in this subsection:

(a) The department shall prescribe the form of the application.

(b) A reverse vending machine manufacturer may only submit an application for retrofitting a dealer's reverse vending machines and receive payment under this act if the dealer is required to retrofit those reverse vending machines under the reverse vending machine antifraud act.

(c) An application submitted to the department shall include all of the following:

(*i*) Contact information for the reverse vending machine manufacturer, the number of reverse vending machines to be retrofitted by the manufacturer, the serial numbers of those machines, where those machines are located, the name and contact information of the dealer that owns or leases those machines, a copy of the dealer's purchase order for the retrofitting of those machines, the street address and county where those machines will be in operation after they are retrofitted, and any other information required by the department.

(*ii*) The total cost of retrofitting each reverse vending machine described in the application to install vision technology.

(*iii*) The signature of a designated agent of the reverse vending machine manufacturer, certifying that all of the contents of the application are correct.

(*iv*) The signature of a designated agent of the dealer whose reverse vending machines are to be retrofitted by the reverse vending machine manufacturer, certifying that all of the contents of the application are correct.

(d) A reverse vending machine manufacturer shall submit a separate application for each location where a dealer operates reverse vending machines.

(3) A reverse vending machine manufacturer that receives payment under this act for retrofitting a reverse vending machine manufacturer shall accept that payment as full payment for the retrofitting of that machine.

(4) When a reverse vending machine manufacturer completes the retrofitting of the reverse vending machine at a dealer's location, the reverse vending machine manufacturer shall submit proof to the department, in a form and manner prescribed by the department and signed by a designated agent of the dealer, that the retrofitting is complete.

(5) The department shall not require that a dealer or reverse vending machine manufacturer retrofit a reverse vending machine to meet the dealer requirements imposed in section 7(1) or 9(1) of the reverse vending machine antifraud act unless the department first establishes under this act that the dealer must install or retrofit the reverse vending machines at a retail location in order to meet the requirements of section 7(1) or 9(1) of the reverse vending machine antifraud act and makes money available for that retrofit under this act.

445.636 Establishment of new retail store in county bordering another state or in Lower Peninsula contiguous with county bordering another state; installation of vision technology; requirements.

Sec. 6. (1) If a dealer establishes a new retail store in a county of this state that borders another state, or in a county in the Lower Peninsula that is contiguous with a county of this state that borders another state, and acquires new reverse vending machines for use in that store, the department shall pay the reverse vending machine manufacturer to install vision technology in those new reverse vending machines that meets the requirements of the reverse vending machine antifraud act.

(2) All of the following apply if a dealer purchases new reverse vending machines from a reverse vending machine manufacturer for use in a new retail store in a county described in subsection (1):

(a) The reverse vending machine manufacturer shall submit an application for payment in the form prescribed by the department. The reverse vending machine manufacturer shall include with the application a copy of the dealer's purchase order for the new reverse vending machines.