The People of the State of Michigan enact:

436.1521 Limitation on tavern or class C licenses; renewal of license; conditions; revocation; transfer of license; issuance of certain licenses prohibited; "development district" defined.

Sec. 521. (1) Beginning on the effective date of the amendatory act that added section 521a, the commission shall not issue any tavern or class C licenses under this section. However, those licenses issued under this section before the effective date of the amendatory act that added section 521a remain valid and may be renewed if in compliance with this section. The commission shall renew licenses issued under this section before the effective date of the amendatory act that added section 521a for persons who operate businesses that meet all of the following conditions:

(a) The business is a full service restaurant, is open to the public, and prepares food on the premises.

(b) The business is open for food service not less than 10 hours per day, 5 days a week.

(c) At least 50% of the gross receipts of the business are derived from the sale of food for consumption on the premises. For purposes of this subdivision, food does not include beer and wine.

(d) The business has dining facilities to seat not less than 25 persons.

(e) The business is located in a development district with a population of not more than 50,000, in which the district, after a public hearing, has found that the issuance of the license would prevent further deterioration within the development district and promote economic growth within the development district.

(2) If in any licensing year the sale of food for consumption on the premises of the business represents less than 50% of the gross receipts for the business, the commission, after due notice and proper hearing, shall revoke the license issued under subsection (1).

(3) A license issued under this section is transferable as to ownership or location only within the development district.

(4) The commission shall not issue a specially designated merchant license, specially designated distributor license, or any other license that allows the sale of alcoholic liquor for consumption off the premises in conjunction with a license issued under this section or at the premises for which a license has been issued under this section.

(5) As used in this section, "development district" means any of the following:

(a) An authority district established under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830.

(b) An authority district established under the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174.

(c) A downtown district established under 1975 PA 197, MCL 125.1651 to 125.1681.

(d) A principal shopping district established under 1961 PA 120, MCL 125.981 to 125.990m, before January 1, 1996.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 162 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved December 28, 2006.

Filed with Secretary of State December 29, 2006.

Compiler's note: Senate Bill No. 162, referred to in enacting section 1, was filed with the Secretary of State December 29, 2006, and became 2006 PA 501, Imd. Eff. Dec. 29, 2006.

[No. 503]

(SB 840)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 8501, 8502, 8503, 8505, 8506, 8507, 8509, 8510, and 8514 (MCL 324.8501, 324.8502, 324.8503, 324.8505, 324.8506, 324.8507, 324.8509, 324.8510, and 324.8514), section 8501 as amended by 1998 PA 276 and sections 8502, 8503, 8505, 8506, 8507, 8509, 8510, and 8514 as added by 1995 PA 60, and by adding sections 8501a, 8519, 8520, 8521, and 8522.

The People of the State of Michigan enact:

324.8501 Definitions; A to M.

Sec. 8501. As used in this part:

(a) "Adulterated product" means a product which contains any deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil or water when applied in accordance with directions for use on the label, or if adequate warning statements or directions for use which may be necessary to protect plant life, animals, humans, aquatic life, soil or water are not shown on the label.

(b) "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

(c) "Aquifer sensitivity" means a hydrogeologic function representing the inherent abilities of materials surrounding the aquifer to attenuate the movement of nitrogen fertilizers into that aquifer.

(d) "Aquifer sensitivity region" means an area in which aquifer sensitivity estimations are sufficiently uniform to warrant their classification as a unit.

(e) "Brand or product name" means a term, design, or trademark used in connection with 1 or more grades of fertilizer.

(f) "Bulk fertilizer" means fertilizer distributed in a nonpackaged form.

(g) "Custom blend" means a fertilizer blended according to specifications provided to a blender in a soil test nutrient recommendation or blended as specifically requested by the consumer prior to blending.

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

(i) "Director" means the director of the department of agriculture or his or her designee.

(j) "Distribute" means to import, consign, sell, barter, offer for sale, solicit orders for sale, or otherwise supply fertilizer for sale or use in this state.

(k) "Distributor" means any person who distributes fertilizer for sale or use in this state.

(*l*) "Fertilizer" means a substance containing 1 or more recognized plant nutrients, which substance is used for its plant nutrient content and which is designed for use, or claimed to have value, in promoting plant growth. Fertilizer does not include unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and other materials exempted by rules promulgated under this part.

(m) "Fertilizer material" means a fertilizer that is any of the following:

(*i*) Contains not more than 1 of the following as primary nutrients:

(A) Total nitrogen (N).

(B) Available phosphate (P_2O_5).

(C) Soluble potash (K_2O).

(*ii*) Has 85% or more of its plant nutrient content present in the form of a single chemical compound.

(*iii*) Is derived from a plant or animal residue or by-product or natural material deposit which has been processed in such a way that its content of plant nutrients has not been materially changed except by purification and concentration.

(n) "Fund" means the fertilizer control fund created under section 8514.

(o) "Grade" means the percentage guarantee of total nitrogen (N), available phosphate (P_2O_5), and soluble potash (K_2O), of a fertilizer and shall be stated in the same order given in this subdivision. Indication of grade does not apply to peat or peat moss or soil conditioners.

(p) "Groundwater" means underground water within the zone of saturation.

(q) "Groundwater stewardship practices" means any of a set of voluntary practices adopted by the commission of agriculture pursuant to part 87, designed to protect groundwater from contamination by fertilizers.

(r) "Guaranteed analysis" means the minimum percentage of each plant nutrient guaranteed or claimed to be present.

(s) "Label" means any written, printed, or graphic matter on or attached to packaged fertilizer or used to identify fertilizer distributed in bulk or held in bulk storage.

(t) "Labeling" means all labels and other written, printed, electronic, or graphic matter upon or accompanying any fertilizer at any time, and includes advertising, sales literature, brochures, posters, and internet, television, and radio announcements used in promoting the sale of that fertilizer.

(u) "Licensee" means the person who receives a license to manufacture or distribute fertilizers under this part.

(v) "Lot" means an identifiable quantity of fertilizer that can be sampled officially according to methods adopted under section 8510, that amount contained in a single vehicle, or that amount delivered under a single invoice.

(w) "Manufacture" means to process, granulate, compound, produce, mix, blend, or alter the composition of fertilizer or fertilizer materials.

324.8501a Definitions; M to U.

Sec. 8501a. As used in this part:

(a) "Mixed fertilizer" means a fertilizer containing any combination or mixture of fertilizer materials.

(b) "Nitrogen fertilizer" means a fertilizer that contains nitrogen as a component.

(c) "Official sample" means a sample of fertilizer taken by a representative of the department of agriculture in accordance with acceptable sampling methods under section 8510.

(d) "Order" means a cease and desist order issued under section 8511.

(e) "Package" or "packaged" means any type of product regulated by this part that is distributed in individual labeled containers.

(f) "Percent" and "percentage" mean the percentage by weight.

(g) "Person" means an individual, partnership, association, firm, limited liability company, or corporation.

(h) "Primary nutrients" means total nitrogen, available phosphate, or soluble potash, or any combination of those nutrients.

(i) "Registrant" means the person who registers a product under this part.

(j) "Soil conditioner" means any substance that is used or intended for use to improve the physical characteristics of soil, including, but not limited to, materials such as peat moss and peat products, composted products, synthetic soil conditioners, or other products that are worked into the soil or are applied on the surface to improve the properties of the soil for enhancing plant growth. Soil conditioner does not include guaranteed plant nutrients, agricultural liming materials, pesticides, unmanipulated animal or vegetable manures, hormones, bacterial inoculants, and products used in directly influencing or controlling plant growth. A soil conditioner for which claims are made of nutrient value is considered a fertilizer for the purposes of this part.

(k) "Specialty fertilizer" means any fertilizer distributed primarily for nonfarm use, such as use in connection with home gardens, lawns, shrubbery, flowers, golf courses, parks, and cemeteries, and may include fertilizers used for research or experimental purposes.

(*l*) "Ton" means a net weight of 2,000 pounds avoirdupois.

(m) "Use" means the loading, mixing, applying, storing, transporting, or disposing of a fertilizer.

324.8502 Label; invoice.

Sec. 8502. (1) A packaged fertilizer distributed in this state, including packaged mixed fertilizer and soil conditioner, shall have placed on or affixed to the package or container a label setting forth in clearly legible and conspicuous form the following:

(a) The net weight of the contents of the package, except that soil conditioners, peat, or peat moss may be designated by volume.

(b) Brand or product name.

(c) Name and address of the licensed manufacturer or distributor.

(d) Grade. However, the grade is not required when no primary nutrients are claimed. This subdivision does not apply to peat or peat moss, material sold as a soil conditioner, or fertilizer for which no primary nutrients are claimed.

(e) Guaranteed analysis. This subdivision does not apply to peat or peat moss or material sold as a soil conditioner.

(2) A fertilizer distributed in this state in bulk, except a custom blend, shall be accompanied by a written or printed invoice or statement to be furnished to the purchaser at the time of delivery containing in clearly legible and conspicuous form the following information:

(a) Name and address of the licensed manufacturer or distributor.

(b) Name and address of purchaser.

(c) Date of sale.

(d) Brand or product name.

(e) Grade. However, the grade is not required when no primary nutrients are claimed.

(f) Guaranteed analysis.

(g) Net weight.

(3) A custom blend shall be accompanied by a written or printed invoice or statement to be furnished to the purchaser at the time of delivery containing in clearly legible and conspicuous form the following information:

(a) Name and address of the licensed manufacturer or distributor.

(b) Name and address of purchaser.

(c) Date of sale.

(d) Either the net weight and guaranteed analysis of the custom blend or the guaranteed analysis and net weight of each material used in the formulation of the custom blend or both.

(4) Fertilizer in bulk storage shall be identified with a label attached to the storage bin or container giving the name and address of the licensed manufacturer or distributor and the name and grade of the product.

324.8503 Order and form of guaranteed analysis; minimum percentage of plant nutrients; additional plant nutrients; other beneficial compounds or substances.

Sec. 8503. (1) The guaranteed analysis shall show the minimum percentage of plant nutrients claimed in the following order and form:

(a) Total nitrogen (N). _____%

Available phosphate (P_2O_5). _____%

Soluble potash (K_2O). _____%

(b) When applied to mixed fertilizers, grade shall be given in whole numbers only. However, specialty fertilizers with a guarantee of less than 1% of total nitrogen, available phosphate, and soluble potash may use fractional units. Fertilizer materials, bone meal, manures, and similar materials may be guaranteed in fractional units.

(c) When applied to custom blends, grade can either be given in whole numbers or in numbers expressed to the nearest 1/10 of a percent in the form of a decimal in the analysis.

(d) For unacidulated mineral phosphatic material and basic slag, bone, tankage, and other organic phosphatic materials, the total phosphate or degree of fineness, or both, may also be guaranteed.

(2) Additional plant nutrients, other than nitrogen, phosphorus, and potassium, claimed to be present in any form or manner shall be guaranteed on the elemental basis, at levels not less than those established by rules. Other beneficial compounds or substances, determinable by laboratory methods, may be guaranteed if approved by the director.

324.8505 Distribution of specialty fertilizer or soil conditioner; registration; application; labels to accompany application; copy of registration approval; expiration; fees.

Sec. 8505. (1) A person shall not distribute a specialty fertilizer or soil conditioner unless it is registered with the department. An application listing each brand and product name of each grade of specialty fertilizer or soil conditioner shall be made on a form furnished by the director and shall be accompanied with the fees described in subsection (2) for each brand and product name of each grade. Labels for each brand and product name of each grade shall accompany the application. Upon approval of an application by the director, a copy of the registration approval shall be furnished to the applicant. All registrations expire on December 31 of each year.

(2) A person applying for a registration under subsection (1) shall pay the following annual fees for each brand and product name of each grade:

(a) Registration fee of $25.00.

(b) Appropriate groundwater and freshwater protection fees provided for in section 8715.

(3) A distributor is not required to register a brand of fertilizer that is registered under this part by another person, if the label does not differ in any respect.

(4) A manufacturer or distributor of custom blend specialty fertilizers for home lawns, golf courses, recreational areas, or other nonfarm areas shall not be required to register each grade distributed but shall license their firm on an application furnished by the director for an annual fee of $100.00 and shall label the fertilizer as provided in section 8502. The label of each fertilizer distributed under this subsection shall be maintained by the manufacturer or distributor for 1 year for inspection by the director.

(5) A manufacturer or distributor of soil conditioners blended according to specifications provided to a blender or blended as specifically requested by the consumer prior to blending shall either register each brand or blend distributed or license its firm on an application furnished by the director for an annual fee of $100.00 and shall label the soil conditioner as provided in section 8502. The label of each soil conditioner distributed under this subsection shall be maintained by the manufacturer or distributor for 1 year for inspection by the director.

324.8506 Inspection fee; tonnage reports as basis of payment; waiver; penalty; unpaid fees and penalties as basis of judgment; responsibility for reporting tonnage and paying inspection fee.

Sec. 8506. (1) An inspection fee of 10 cents per ton shall be paid to the department for all fertilizers or soil conditioners sold or distributed in this state. For peat or peat moss, the inspection fee shall be 2 cents per cubic yard. This fee shall not apply to registered specialty fertilizers or soil conditioners sold or distributed only in packages of 10 pounds or less.

(2) Payment of the inspection fee shall be made on the basis of tonnage reports setting forth the number of tons of each grade of fertilizer and soil conditioner and the number of cubic yards of peat or peat moss sold or distributed in this state. The reports shall cover the periods of the year and be made in a manner specified by the director in rules, and shall be filed with the department not later than 30 days after the close of each period. The time may be extended for cause for an additional 15 days only on written request to, and approval by, the department. Remittance to cover the inspection fee shall accompany each tonnage report. Payments due of less than $5.00 are waived, and refunds of less than $5.00 will not be processed, unless requested in writing. For any report not filed with the department by the due date, a penalty of $50.00 or 10% of the amount due, whichever is greater, shall be assessed. Unpaid fees and penalties constitute a debt and become the basis of a judgment against the licensee. Records upon which the statement of tonnage is based are subject to department audit.

(3) When more than 1 person is involved in the distribution of fertilizer or soil conditioners, the last person who is licensed or has the fertilizer or soil conditioner registered and who distributes to a nonlicensee or nonregistrant is responsible for reporting the tonnage and paying the inspection fee.

324.8507 Records; disclosure of information.

Sec. 8507. (1) Each licensee and registrant shall maintain for a period of 3 years a record of quantities and grades of fertilizer and soil conditioner sold or distributed by the licensee or registrant and shall make the records available for inspection and audit during normal business hours on request of the department. Each distributor shall maintain for a period of 3 years shipping data such as invoices and freight bills pertaining to fertilizer and soil conditioner that establish date and origin of the shipment, and shall make the records available for inspection and audit on request of the department.

(2) Tonnage payments, tonnage reports, or other information furnished or obtained under this part shall not be disclosed in a way that will divulge the business operations of any 1 person.

324.8509 Prohibitions.

Sec. 8509. A person shall not do any of the following:

(a) Sell or distribute fertilizer or soil conditioner in violation of the requirements of this part or the rules promulgated under this part.

(b) Make a guarantee, claim, or representation in connection with the sale of fertilizer or soil conditioner, or in its labeling, which is false, deceptive, or misleading.

(c) Manufacture or distribute a fertilizer or soil conditioner without a license as required by this part or distribute a specialty fertilizer or soil conditioner unless registered as required by this part.

(d) Make a false or misleading statement in an application for a license or in an inspection fee or statistical report or in any other statement or report filed with the department pursuant to this part.

(e) Attach or cause to be attached an analysis stating that a fertilizer contains a higher percentage of a plant nutrient than it in fact contains.

(f) Distribute an adulterated product.

324.8510 Inspecting, sampling, and analyzing fertilizer and soil conditioners; methods; rules; access to premises; stopping conveyances; submission of information to department; confidentiality.

Sec. 8510. (1) The director shall inspect, sample, and analyze fertilizers and soil conditioners distributed within this state at a time and place and to the extent necessary to determine compliance with this part.

(2) The methods of sampling and analysis under subsection (1) shall be those as established by the association of American plant food control officials or the association of analytical communities, international, as those standards exist on the effective date of the amendatory act that added this subsection, and are incorporated by reference. The department may promulgate rules to update these standards. In cases not covered by such methods, or in cases where methods are available in which improved applicability has been demonstrated, the director may adopt, by rule, such other methods as are considered appropriate.

(3) Department representatives and inspectors shall have free access during regular business hours and extended operating hours to all premises where fertilizers or soil conditioners are manufactured, sold, or stored, and to all trucks or other vehicles and vessels used in the transportation of a fertilizer or soil conditioner in this state, to determine compliance with this part. Department representatives and inspectors may stop any conveyance transporting fertilizer or soil conditioner for the purpose of inspecting and sampling the products and examining their labeling.

(4) A manufacturer or distributor of fertilizer or soil conditioner shall submit to the department, upon request, product samples, copies of labeling, or any other data or information that the department may request concerning composition and claims and representations made for fertilizers and soil conditioners manufactured or distributed by the manufacturer or distributor within this state.

(5) The director may, upon reasonable notice, require a person to furnish any information relating to the identification, nature, and quantity of fertilizers that are or have been used on a particular site and to current or past practices that may have affected groundwater quality. Information required under this subsection is confidential business information and is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

324.8514 Fertilizer control fund; creation; deposits; lapse; expenditures.

Sec. 8514. (1) The fertilizer control fund is created within the state treasury.

(2) The state treasurer shall receive for deposit in the fund all fees, administrative or civil fines, and payments for the costs of investigations incurred by the department collected under this part. In addition, the state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

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

(4) The department shall expend money from the fund, upon appropriation, only for 1 or more of the following purposes:

(a) The administration and enforcement of this part.

(b) The development of training programs to ensure the proper use and storage of fertilizer.

324.8519 Hearing; request.

Sec. 8519. A person aggrieved by an order issued pursuant to this part may request a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

324.8520 Violations; penalties; remedies; injunctive action; civil action; defenses; liability for damages; applicability of provisions of revised judicature act.

Sec. 8520. (1) A person who violates this part or rules promulgated under this part is subject to the penalties and remedies provided in this part regardless of whether he or she acted directly or through an employee or agent.

(2) The director, upon finding after notice and an opportunity for an administrative hearing that a person has violated or attempted to violate any provision of this part or a rule promulgated under this part, may impose an administrative fine of not more than $1,000.00 for each violation or attempted violation.

(3) If the director finds that a violation or attempted violation has occurred despite the exercise of due care or did not result in significant harm to human health or the environment, the director may issue a warning instead of imposing an administrative fine.

(4) The director shall advise the attorney general of the failure of any person to pay an administrative fine imposed under this section. The attorney general shall bring an action in a court of competent jurisdiction to recover the fine.

(5) A person who violates this part or a rule promulgated under this part, or attempts to violate this part or a rule promulgated under this part, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $5,000.00 for each violation or attempted violation, in addition to any administrative fines imposed.

(6) A person who knowingly and with malicious intent violates this part or a rule promulgated under this part is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $25,000.00 for each offense.

(7) The director may bring an action to enjoin the violation or threatened violation of this part or a rule promulgated under this part in a court of competent jurisdiction of the county in which the violation occurs or is about to occur.

(8) The attorney general may file a civil action in which the court may impose on any person who violates this part or a rule promulgated under this part or attempts to violate this part or a rule promulgated under this part a civil fine of not more than $5,000.00 for each violation or attempted violation. In addition, the attorney general may bring an action in circuit court to recover the reasonable costs of the investigation from any person who violated this part or attempted to violate this part. Money recovered under this subsection shall be forwarded to the state treasurer for deposit into the fund.

(9) In defense of an action filed under this section for a violation of this part, in addition to any other lawful defense, a person may present evidence as an affirmative defense that, at the time of the alleged violation or attempted violation, he or she was in compliance with this part and rules promulgated under this part.

(10) A person who violates this part is liable for all damages sustained by a purchaser of a product sold in violation of this part. In an enforcement action, a court, in addition to other sanctions provided by law, may order restitution to a party injured by the purchase of a product sold in violation of this part.

(11) Applicable provisions of the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9948, apply to civil actions filed pursuant to this part.

324.8521 Penalties and sanctions; exceptions.

Sec. 8521. The penalties and sanctions provided for violations of this part do not apply to any of the following:

(a) A commercial carrier while lawfully engaged in transporting a commercial fertilizer within this state, if the carrier, upon request, permits the director to copy all records showing the transactions in and movement of the commercial fertilizer.

(b) The shipment or movement of any commercial fertilizer considered to be in violation of this part, for the specific purposes of disposal or storage when conducted under the approval of the director.

(c) Public officials of this state and the federal government while engaged in the performance of their official duties in administering this part or rules promulgated under this part.

324.8522 Finding of probable cause.

Sec. 8522. A court shall not allow the recovery of damages by a person against whom an administrative action was brought resulting in an order stopping the sale or use of fertilizer or fertilizer material or requiring its seizure if the court finds that there was probable cause for the action or order.

Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

[No. 504]

(SB 927)

AN ACT to amend 1959 PA 241, entitled "An act relating to the marking of containers used for liquefied petroleum or carbonic gas; to prohibit the defacing, erasing or other removal of such mark, and the filling, refilling, trafficking in or use of such containers without the authority of the owner; and to provide a penalty for the violation thereof," by amending the title and section 2 (MCL 429.112).

The People of the State of Michigan enact:

TITLE

An act relating to the marking of stationary containers used for liquefied petroleum or carbonic gas; to prohibit the defacing, erasing, or other removal of those marks; to prohibit the filling, refilling, trafficking in, or use of those containers without authority; to provide for the powers and duties of certain state officers; to prohibit violations and prescribe penalties; and to provide remedies.

429.112 Liquefied petroleum or carbonic gas container; transfer; written authorization required; marking on surface container; compliance with rules.

Sec. 2. (1) Except as provided in subsection (4), a person shall not transfer liquefied petroleum or carbonic gas, or any other gas or compound, out of or into a stationary liquefied petroleum or carbonic gas container without the written authorization of the owner of the container.

(2) A person shall not sell, offer for sale, give, take, loan, deliver, or otherwise dispose of or traffic in a stationary liquefied petroleum or carbonic gas container or containers unless the surface of the container is marked in plainly legible characters with the name, initials, mark, or other device of the owner.

(3) A person, other than the owner of a stationary liquefied petroleum or carbonic gas container or a person authorized in writing by the owner, shall not deface, erase, obliterate, cover up, or otherwise remove or conceal any name, mark, initial, or device marked on the surface of the container.

(4) An individual transferring liquefied petroleum or carbonic gas, or any other gas or compound, out of or into a stationary liquefied petroleum or carbonic gas container shall comply with any rules promulgated by the department of environmental quality under section 3c(2) of the fire prevention code, 1941 PA 207, MCL 29.3c.

Effective date.

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

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 928 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

Compiler's note: Senate Bill No. 928, referred to in enacting section 2, was filed with the Secretary of State December 29, 2006, and became 2006 PA 505, Imd. Eff. Dec. 29, 2006.

[No. 505]

(SB 928)

AN ACT to amend 1959 PA 241, entitled "An act relating to the marking of containers used for liquefied petroleum or carbonic gas; to prohibit the defacing, erasing or other removal of such mark, and the filling, refilling, trafficking in or use of such containers without

the authority of the owner; and to provide a penalty for the violation thereof," by amending section 3 (MCL 429.113).

The People of the State of Michigan enact:

429.113 Violation of act; penalty; civil action; damages; relief; allegation and proof of compliance.

Sec. 3. (1) A person that violates this act is guilty of a misdemeanor. Each container possessed in violation of this act is a separate offense.

(2) A person may bring a civil action against a person that violates section 2(1) for damages or equitable relief. In an action for damages, the person may recover actual damages or $2,000.00, whichever is greater, for each violation of section 2(1) and costs and reasonable attorney fees.

(3) A person who brings an action in a court in this state to collect payment for transferring liquefied petroleum or carbonic gas into or out of a stationary liquefied petroleum or carbonic gas container must allege and prove that the person complied with section 2(1) in the transfer of the gas to prevail in that action.

Effective date.

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

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 927 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

Compiler's note: Senate Bill No 927, referred to in enacting section 2, was filed with the Secretary of State December 29, 2006, and became 2006 PA 504, Imd. Eff. Dec. 29, 2006.

[No. 506]

(SB 1104)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 2534 (MCL 600.2534), as amended by 1996 PA 378.

The People of the State of Michigan enact:

600.2534 Publication of legal notice, order, citation, summons, advertisement, or other matter; rates.

Sec. 2534. (1) For publishing a legal notice or an order, citation, summons, advertisement, or other matter arising out of judicial proceedings required by law to be published in a newspaper, except as provided in subsection (2), the cost shall not exceed the rate of $20.50 per folio for the first insertion, and $8.45 per folio for each subsequent insertion. A minimum cost of $59.00 shall be allowed for a notice which must appear 2 times or more, and a minimum cost of $44.00 shall be allowed for a notice which must appear 1 time.

(2) Each year for 5 years beginning March 1, 2008, the rates described in subsection (1) shall be adjusted by the percentage increase in the United States consumer price index for the immediately preceding calendar year and the result rounded to the nearest multiple of 5 cents.

(3) A newspaper publishing for the state an advertisement other than tax lists shall be permitted to charge for the advertisement its regular established commercial rate in effect at the time the advertisement is published.

(4) A newspaper accepting for publication a legal or public notice as provided by law shall not charge higher rates or collect higher rates for political notices or political advertising than they charge for commercial advertising of the same or similar size.

Effective date.

Enacting section 1. This amendatory act takes effect March 1, 2007.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

[No. 507]

(SB 1110)

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 2a of chapter XI (MCL 771.2a), as amended by 2005 PA 126.

The People of the State of Michigan enact:

CHAPTER XI

771.2a Probation for not more than 5 years; probation for term of years; order fixing period and conditions of probation; applicability of section to certain juveniles; probation for not less than 5 years; conditions; residing or working within school safety zone; exemption; definitions.

Sec. 2a. (1) The court may place an individual convicted of violating section 411h of the Michigan penal code, 1931 PA 328, MCL 750.411h, on probation for not more than 5 years. The sentence is subject to the conditions of probation set forth in section 411h(3) of the Michigan penal code, 1931 PA 328, MCL 750.411h, and section 3 of this chapter. The probation is subject to revocation for any violation of a condition of that probation.

(2) The court may place an individual convicted of violating section 411i of the Michigan penal code, 1931 PA 328, MCL 750.411i, on probation for any term of years, but not less than 5 years. The sentence is subject to the conditions of probation set forth in section 411i(4) of the Michigan penal code, 1931 PA 328, MCL 750.411i, and section 3 of this chapter. The probation is subject to revocation for any violation of a condition of that probation.

(3) The court may place an individual convicted of a violation of section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b, that is designated as a misdemeanor on probation for not more than 5 years.

(4) The court shall by order, to be filed or entered in the cause as the court directs by general rule or in each case, fix and determine the period and conditions of probation. The order is part of the record in the cause. The court may amend the order in form or substance at any time.

(5) Subsections (1), (2), (3), and (4) do not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

(6) Except as otherwise provided by law, the court may place an individual convicted of a listed offense on probation subject to the requirements of this subsection and subsections (7) through (12) for any term of years but not less than 5 years.

(7) Except as otherwise provided in subsections (8) to (12), if an individual is placed on probation under subsection (6), the court shall order the individual not to do any of the following:

(a) Reside within a student safety zone.

(b) Work within a student safety zone.

(c) Loiter within a student safety zone.

(8) The court shall not impose a condition of probation described in subsection (7)(a) if any of the following apply:

(a) The individual is not more than 19 years of age and attends secondary school or post-secondary school, and resides with his or her parent or guardian. However, an individual described in this subdivision shall be ordered not to initiate or maintain contact with a minor

within that student safety zone. The individual shall be permitted to initiate or maintain contact with a minor with whom he or she attends secondary school or postsecondary school in conjunction with that school attendance.

(b) The individual is not more than 26 years of age, attends a special education program, and resides with his or her parent or guardian or in a group home or assisted living facility. However, an individual described in this subdivision shall be ordered not to initiate or maintain contact with a minor within that student safety zone. The individual shall be permitted to initiate or maintain contact with a minor with whom he or she attends a special education program in conjunction with that attendance.

(c) The individual was residing within that student safety zone at the time the amendatory act that added this subdivision was enacted into law. However, if the individual was residing within the student safety zone at the time the amendatory act that added this subdivision was enacted into law, the court shall order the individual not to initiate or maintain contact with any minors within that student safety zone. This subdivision does not prohibit the court from allowing contact with any minors named in the probation order for good cause shown and as specified in the probation order.

(9) An order issued under subsection (7)(a) shall not prohibit an individual from being a patient in a hospital or hospice that is located within a student safety zone. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(10) The court shall not impose a condition of probation described in subsection (7)(b) if the individual was working within the student safety zone at the time the amendatory act that added this subsection was enacted into law. However, if the individual was working within the student safety zone at the time the amendatory act that added this subsection was enacted into law, the court shall order the individual not to initiate or maintain contact with any minors in the course of his or her employment within that student safety zone. This subsection does not prohibit the court from allowing contact with any minors named in the probation order for good cause shown and as specified in the probation order.

(11) The court shall not impose a condition of probation described in subsection (7)(b) if the individual only intermittently or sporadically enters a student safety zone for purposes of work. If the individual intermittently or sporadically works within a student safety zone, the court shall order the individual not to initiate or maintain contact with any minors in the course of his or her employment within that safety zone. This subsection does not prohibit the court from allowing contact with any minors named in the probation order for good cause shown and as specified in the probation order.

(12) The court may exempt an individual from probation under subsection (6) if any of the following apply:

(a) The individual has successfully completed his or her probationary period under sections 11 to 15 of chapter II for committing a listed offense and has been discharged from youthful trainee status.

(b) The individual was convicted of committing or attempting to commit a violation solely described in section 520e(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520e, and at the time of the violation was 17 years of age or older but less than 21 years of age and is not more than 5 years older than the victim.

(13) As used in this section:

(a) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(b) "Loiter" means to remain for a period of time and under circumstances that a reasonable person would determine is for the primary purpose of observing or contacting minors.

(c) "Minor" means an individual less than 18 years of age.

(d) "School" means a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from 1 through 12. School does not include a home school.

(e) "School property" means a building, facility, structure, or real property owned, leased, or otherwise controlled by a school, other than a building, facility, structure, or real property that is no longer in use on a permanent or continuous basis, to which either of the following applies:

(*i*) It is used to impart educational instruction.

(*ii*) It is for use by students not more than 19 years of age for sports or other recreational activities.

(f) "Student safety zone" means the area that lies 1,000 feet or less from school property.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

[No. 508]

(SB 1125)

AN ACT to amend 1976 PA 331, entitled "An act to prohibit certain methods, acts, and practices in trade or commerce; to prescribe certain powers and duties; to provide for certain remedies, damages, and penalties; to provide for the promulgation of rules; to provide for certain investigations; and to prescribe penalties," by amending sections 2, 3, and 5 (MCL 445.902, 445.903, and 445.905), section 2 as amended by 1984 PA 91 and section 3 as amended by 2004 PA 462.

The People of the State of Michigan enact:

445.902 Definitions.

Sec. 2. (1) As used in this act:

(a) Subject to subsection (2), "business opportunity" means the sale or lease of any products, equipment, supplies, or services for the purpose of enabling the purchaser to start a business, and in which the seller represents 1 or more of the following:

(*i*) That the seller will provide locations or assist the purchaser in finding locations for the use or operation of vending machines, racks, display cases, or other similar devices, or currency operated amusement machines or devices, on premises neither owned nor leased by the purchaser or seller.

(*ii*) That the seller may, in the ordinary course of business, purchase any or all products made, produced, fabricated, grown, bred, or modified by the purchaser using whole or in part the supplies, services, or chattels sold to the purchaser.

(*iii*) The seller guarantees that the purchaser will derive income from the business opportunity that exceeds the price paid for the business opportunity; or that the seller will refund all or part of the price paid for the business opportunity, or repurchase any of the products, equipment, supplies, or chattels supplied by the seller, if the purchaser is unsatisfied with

the business opportunity. As used in this subparagraph, "guarantee" means a written or oral representation that would cause a reasonable person in the purchaser's position to believe that income is assured.

(*iv*) That the seller will provide a sales program or marketing program which will enable the purchaser to derive income from the business opportunity that exceeds the price paid for the business opportunity. This subparagraph does not apply to the sale of a marketing program made in conjunction with the licensing of a federally registered trademark or a federally registered service mark, or to the sale of a business opportunity for which the purchaser pays less than $500.00 in total for the business opportunity from anytime before the date of sale to anytime within 6 months after the date of sale.

(b) "Documentary material" includes the original or copy of a book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or recording, wherever situated.

(c) "Performing group" means a vocal or instrumental group seeking to use the name of another group that has previously released a commercial sound recording under that name.

(d) "Person" means a natural person, corporation, limited liability company, trust, partnership, incorporated or unincorporated association, or other legal entity.

(e) "Recording group" means a vocal or instrumental group that meets both of the following:

(*i*) At least 1 of the members of the group has previously released a commercial sound recording under the group's name.

(*ii*) At least 1 of the members of the group has a legal right to use the group's name, by virtue of use or operation under the group's name without abandoning the name of or affiliation with the group.

(f) "Sound recording" means a work that results from the fixation on a material object of a series of musical, spoken, or other sounds regardless of the nature of the material object, such as a disk, tape, or other phono-record, in which the sounds are embodied.

(g) "Trade or commerce" means the conduct of a business providing goods, property, or service primarily for personal, family, or household purposes and includes the advertising, solicitation, offering for sale or rent, sale, lease, or distribution of a service or property, tangible or intangible, real, personal, or mixed, or any other article, or a business opportunity. "Trade or commerce" does not include the purchase or sale of a franchise, but does include pyramid and chain promotions, as "franchise", "pyramid", and "chain promotions" are defined in the franchise investment law, 1974 PA 269, MCL 445.1501 to 445.1546.

(2) As used in this act, "business opportunity" does not include a sale of a franchise as defined in section 2 of the franchise investment law, 1974 PA 269, MCL 445.1502, or the sale of an ongoing business if the owner of the business sells and intends to sell only that single business opportunity.

445.903 Unfair, unconscionable, or deceptive methods, acts, or practices in conduct of trade or commerce; rules; applicability of subsection (1)(hh).

Sec. 3. (1) Unfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce are unlawful and are defined as follows:

(a) Causing a probability of confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services.

(b) Using deceptive representations or deceptive designations of geographic origin in connection with goods or services.

(c) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has sponsorship, approval, status, affiliation, or connection that he or she does not have.

(d) Representing that goods are new if they are deteriorated, altered, reconditioned, used, or secondhand.

(e) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.

(f) Disparaging the goods, services, business, or reputation of another by false or misleading representation of fact.

(g) Advertising or representing goods or services with intent not to dispose of those goods or services as advertised or represented.

(h) Advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity in immediate conjunction with the advertised goods or services.

(i) Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions.

(j) Representing that a part, replacement, or repair service is needed when it is not.

(k) Representing to a party to whom goods or services are supplied that the goods or services are being supplied in response to a request made by or on behalf of the party, when they are not.

(*l*) Misrepresenting that because of some defect in a consumer's home the health, safety, or lives of the consumer or his or her family are in danger if the product or services are not purchased, when in fact the defect does not exist or the product or services would not remove the danger.

(m) Causing a probability of confusion or of misunderstanding with respect to the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction.

(n) Causing a probability of confusion or of misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction.

(o) Causing a probability of confusion or of misunderstanding as to the terms or conditions of credit if credit is extended in a transaction.

(p) Disclaiming or limiting the implied warranty of merchantability and fitness for use, unless a disclaimer is clearly and conspicuously disclosed.

(q) Representing or implying that the subject of a consumer transaction will be provided promptly, or at a specified time, or within a reasonable time, if the merchant knows or has reason to know it will not be so provided.

(r) Representing that a consumer will receive goods or services "free" or "without charge", or using words of similar import in the representation, without clearly and conspicuously disclosing with equal prominence in immediate conjunction with the use of those words the conditions, terms, or prerequisites to the use or retention of the goods or services advertised.

(s) Failing to reveal a material fact, the omission of which tends to mislead or deceive the consumer, and which fact could not reasonably be known by the consumer.

(t) Entering into a consumer transaction in which the consumer waives or purports to waive a right, benefit, or immunity provided by law, unless the waiver is clearly stated and the consumer has specifically consented to it.

(u) Failing, in a consumer transaction that is rescinded, canceled, or otherwise terminated in accordance with the terms of an agreement, advertisement, representation, or provision

of law, to promptly restore to the person or persons entitled to it a deposit, down payment, or other payment, or in the case of property traded in but not available, the greater of the agreed value or the fair market value of the property, or to cancel within a specified time or an otherwise reasonable time an acquired security interest.

(v) Taking or arranging for the consumer to sign an acknowledgment, certificate, or other writing affirming acceptance, delivery, compliance with a requirement of law, or other performance, if the merchant knows or has reason to know that the statement is not true.

(w) Representing that a consumer will receive a rebate, discount, or other benefit as an inducement for entering into a transaction, if the benefit is contingent on an event to occur subsequent to the consummation of the transaction.

(x) Taking advantage of the consumer's inability reasonably to protect his or her interests by reason of disability, illiteracy, or inability to understand the language of an agreement presented by the other party to the transaction who knows or reasonably should know of the consumer's inability.

(y) Gross discrepancies between the oral representations of the seller and the written agreement covering the same transaction or failure of the other party to the transaction to provide the promised benefits.

(z) Charging the consumer a price that is grossly in excess of the price at which similar property or services are sold.

(aa) Causing coercion and duress as the result of the time and nature of a sales presentation.

(bb) Making a representation of fact or statement of fact material to the transaction such that a person reasonably believes the represented or suggested state of affairs to be other than it actually is.

(cc) Failing to reveal facts that are material to the transaction in light of representations of fact made in a positive manner.

(dd) Subject to subdivision (ee), representations by the manufacturer of a product or package that the product or package is 1 or more of the following:

(*i*) Except as provided in subparagraph (*ii*), recycled, recyclable, degradable, or is of a certain recycled content, in violation of guides for the use of environmental marketing claims, 16 CFR part 260.

(*ii*) For container holding devices regulated under part 163 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.16301 to 324.16303, representations by a manufacturer that the container holding device is degradable contrary to the definition provided in that act.

(ee) Representing that a product or package is degradable, biodegradable, or photodegradable unless it can be substantiated by evidence that the product or package will completely decompose into elements found in nature within a reasonably short period of time after consumers use the product and dispose of the product or the package in a landfill or composting facility, as appropriate.

(ff) Offering a consumer a prize if in order to claim the prize the consumer is required to submit to a sales presentation, unless a written disclosure is given to the consumer at the time the consumer is notified of the prize and the written disclosure meets all of the following requirements:

(*i*) Is written or printed in a bold type that is not smaller than 10-point.

(*ii*) Fully describes the prize, including its cash value, won by the consumer.

(*iii*) Contains all the terms and conditions for claiming the prize, including a statement that the consumer is required to submit to a sales presentation.

(*iv*) Fully describes the product, real estate, investment, service, membership, or other item that is or will be offered for sale, including the price of the least expensive item and the most expensive item.

(gg) Violating 1971 PA 227, MCL 445.111 to 445.117, in connection with a home solicitation sale or telephone solicitation, including, but not limited to, having an independent courier service or other third party pick up a consumer's payment on a home solicitation sale during the period the consumer is entitled to cancel the sale.

(hh) Except as provided in subsection (3), requiring a consumer to disclose his or her social security number as a condition to selling or leasing goods or providing a service to the consumer, unless any of the following apply:

(*i*) The selling, leasing, providing, terms of payment, or transaction includes an application for or an extension of credit to the consumer.

(*ii*) The disclosure is required or authorized by applicable state or federal statute, rule, or regulation.

(*iii*) The disclosure is requested by a person to obtain a consumer report for a permissible purpose described in section 604 of the fair credit reporting act, 15 USC 1681b.

(*iv*) The disclosure is requested by a landlord, lessor, or property manager to obtain a background check of the individual in conjunction with the rent or leasing of real property.

(*v*) The disclosure is requested from an individual to effect, administer or enforce a specific telephonic or other electronic consumer transaction that is not made in person but is requested or authorized by the individual if it is to be used solely to confirm the identity of the individual through a fraud prevention service database. The consumer good or service shall still be provided to the consumer upon verification of his or her identity if he or she refuses to provide his or her social security number but provides other information or documentation that can be used by the person to verify his or her identity. The person may inform the consumer that verification through other means than use of the social security number may cause a delay in providing the service or good to the consumer.

(ii) If a credit card or debit card is used for payment in a consumer transaction, issuing or delivering a receipt to the consumer that displays any part of the expiration date of the card or more than the last 4 digits of the consumer's account number. This subdivision does not apply if the only receipt issued in a consumer transaction is a credit card or debit card receipt on which the account number or expiration date is handwritten, mechanically imprinted, or photocopied. This subdivision applies to any consumer transaction that occurs on or after March 1, 2005, except that if a credit or debit card receipt is printed in a consumer transaction by an electronic device, this subdivision applies to any consumer transaction that occurs using that device only after 1 of the following dates, as applicable:

(*i*) If the electronic device is placed in service after March 1, 2005, July 1, 2005 or the date the device is placed in service, whichever is later.

(*ii*) If the electronic device is in service on or before March 1, 2005, July 1, 2006.

(jj) Violating section 11 of the identity theft protection act, 2004 PA 452, MCL 445.71.

(kk) Advertising or conducting a live musical performance or production in this state through the use of a false, deceptive, or misleading affiliation, connection, or association between a performing group and a recording group. This subdivision does not apply if any of the following are met:

(*i*) The performing group is the authorized registrant and owner of a federal service mark for that group registered in the United States patent and trademark office.

(*ii*) At least 1 member of the performing group was a member of the recording group and has a legal right to use the recording group's name, by virtue of use or operation under the recording group's name without having abandoned the name or affiliation with the recording group.

(*iii*) The live musical performance or production is identified in all advertising and promotion as a salute or tribute and the name of the vocal or instrumental group performing is not so closely related or similar to that used by the recording group that it would tend to confuse or mislead the public.

(*iv*) The advertising does not relate to a live musical performance or production taking place in this state.

(*v*) The performance or production is expressly authorized by the recording group.

(2) The attorney general may promulgate rules to implement this act under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The rules shall not create an additional unfair trade practice not already enumerated by this section. However, to assure national uniformity, rules shall not be promulgated to implement subsection (1)(dd) or (ee).

(3) Subsection (1)(hh) does not apply to either of the following:

(a) Providing a service related to the administration of health-related or dental-related benefits or services to patients, including provider contracting or credentialing. This subdivision is intended to limit the application of subsection (1)(hh) and is not intended to imply that this act would otherwise apply to health-related or dental-related benefits.

(b) An employer providing benefits or services to an employee.

445.905 Action to restrain defendant by temporary or permanent injunction; venue; costs; civil penalty; notice to defendant; notice to attorney general; violation of injunction, order, decree, or judgment; civil fine; retention of jurisdiction, continuation of cause, and petition for recovery of civil fine.

Sec. 5. (1) If the attorney general has probable cause to believe that a person has engaged, is engaging, or is about to engage in a method, act, or practice that is unlawful pursuant to section 3, and gives notice in accordance with this section, the attorney general may bring an action in accordance with principles of equity to restrain the defendant by temporary or permanent injunction from engaging in the method, act, or practice. The action may be brought in the circuit court of the county where the defendant is established or conducts business or, if the defendant is not established in this state, in the circuit court of Ingham county. The court may award costs to the prevailing party. For persistent and knowing violation of section 3 the court may assess the defendant a civil fine of not more than $25,000.00. For a violation of section 3(1)(kk), each performance or production is a separate violation.

(2) Unless waived by the court on good cause shown not less than 10 days before the commencement of an action under this section, the attorney general shall notify the person of his or her intended action and give the person an opportunity to cease and desist from the alleged unlawful method, act, or practice or to confer with the attorney general in person, by counsel, or by other representative as to the proposed action before the proposed filing date. The notice may be given the person by mail, postage prepaid, to his or her usual place of business or, if the person does not have a usual place of business, to his or her last known address, or, if the person is a corporation, only to a resident agent who is designated to receive service of process or to an officer of the corporation.

(3) A prosecuting attorney or law enforcement officer receiving notice of an alleged violation of this act, or of a violation of an injunction, order, decree, or judgment issued in an action brought pursuant to this section, or of an assurance under this act, shall immediately forward written notice of the violation together with any information he or she may have to the office of the attorney general.

(4) A person who knowingly violates the terms of an injunction, order, decree, or judgment issued pursuant to this section shall forfeit and pay to the state a civil fine of not more than $5,000.00 for each violation. For the purposes of this section, the court issuing an injunction, order, decree, or judgment shall retain jurisdiction, the cause shall be continued, and the attorney general may petition for recovery of a civil fine as provided by this section.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

[No. 509]

(SB 1257)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 716 (MCL 257.716), as amended by 1998 PA 427.

The People of the State of Michigan enact:

257.716 Size, weight, and load limitations; exceptions; rules; operation of wrecker, disabled vehicle, and trailer; noncompliance; fine.

Sec. 716. (1) Unless specifically declared to be a civil infraction, it is a misdemeanor for a person to drive or move or for the owner to cause or permit to be driven or moved on a highway a vehicle or vehicles of a size or weight exceeding the limitations stated in this chapter or otherwise in violation of this chapter, and the maximum size and weight specified in

this chapter are lawful throughout this state, and local authorities shall not alter those size and weight limitations except as express authority is granted in this chapter.

(2) The provisions of this chapter governing size, weight, and load do not apply to a fire apparatus, to an implement of husbandry incidentally moved upon a highway, a combination of vehicles described in, and under the conditions provided by, subsection (4), or to a vehicle operated under the terms of a special permit issued as provided in this chapter.

(3) The state transportation department, under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, may promulgate rules permitting and regulating the operation of a vehicle or vehicles of a size or weight that exceeds the size or weight limitations in this chapter. The rules may restrict or proscribe the conditions of operation of a vehicle or vehicles of a size or weight that exceeds the size or weight limitations in this chapter, if the restriction or proscription is necessary to protect the public safety or to prevent undue damage to a road foundation or surface, a structure, or an installation. The rules may provide for a reasonable inspection fee for an inspection of a vehicle or vehicles to determine whether their sizes and weights are in conformance with this act, and may require other security necessary to compensate for damage caused by the vehicle or vehicles described in this subsection.

(4) A wrecker and a disabled vehicle, or a wrecker and a combination of a disabled vehicle and 1 trailer, that exceeds the size and weight limitations in this chapter may be operated upon the highways of this state under the following conditions:

(a) The wrecker is specifically designed for such towing operations, is equipped with flashing, oscillating, or rotating amber or red lights as permitted under section 698, and is capable of utilizing the lighting and braking systems of the disabled vehicle or combination of disabled vehicles if those systems are operational.

(b) For a combination of disabled vehicles, the wrecker is issued a special permit under section 725 by the state transportation department if each trip beginning from the place of original disablement of the combination of disabled vehicles is 25 miles or less except that, for each trip that begins and ends north of a line between Ludington and Pinconning, the trip beginning from the place of original disablement of the combination of vehicles may be 50 miles or less. The special permit is valid for the entire towing distance set forth in this subdivision, and the operator of the wrecker may remove the disabled vehicles from the roadway at any lawful point of his or her choosing within that distance.

(c) For a single disabled vehicle, the wrecker is issued a special permit under section 725 by the state transportation department for the transport of the disabled vehicle. A wrecker operator is not subject to mileage limitations for a special permit issued for purposes of this subdivision.

(d) The wrecker does not operate on any highway, road, street, or structure included on a list provided by the state transportation department unless the disabled vehicle or combination of vehicles is located on 1 of those roads or structures.

(5) The owner or operator of a wrecker that does not comply with subsection (4)(d) is responsible for a civil infraction and shall pay a civil fine of not less than $250.00 or more than $500.00. The civil fine imposed under this subsection is in addition to any fine that may be imposed under section 724 or 725.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

[No. 510]

(SB 1266)

AN ACT to amend 2003 PA 238, entitled "An act to provide for the qualification, appointment, and regulation of notaries; to provide for the levy, assessment, and collection of certain service charges and fees and to provide for their disposition; to create certain funds for certain purposes; to provide for liability for certain persons; to provide for the admissibility of certain evidence; to prescribe powers and duties of certain state agencies and local officers; to provide for remedies and penalties; and to repeal acts and parts of acts," by amending sections 11, 13, 15, and 19 (MCL 55.271, 55.273, 55.275, and 55.279), as amended by 2006 PA 426.

The People of the State of Michigan enact:

55.271 Notary public; qualifications.

Sec. 11. (1) The secretary may appoint as a notary public a person who applies to the secretary and meets all of the following qualifications:

(a) Is at least 18 years of age.

(b) Is a resident of this state or maintains a principal place of business in this state.

(c) Reads and writes in the English language.

(d) Is free of any felony convictions, misdemeanor convictions, and violations as described in section 41.

(e) For a person who does not reside in the state of Michigan, demonstrates that his or her principal place of business is located in the county in which he or she requests appointment and indicates that he or she is engaged in an activity in which he or she is likely to be required to perform notarial acts as that word is defined in section 2 of the uniform recognition of acknowledgments act, 1969 PA 57, MCL 565.262.

(f) If applicable, has filed with the county clerk of his or her county of residence or expected appointment a proper surety bond and an oath taken as prescribed by the constitution in a format acceptable to the secretary. The requirement of filing a bond does not apply to an applicant that demonstrates, in a manner acceptable to the secretary, licensure as an attorney at law in this state.

(2) The secretary shall, on a monthly basis, notify the county clerk's office of the appointment of any notaries.

55.273 Filing; oath; bond; fee.

Sec. 13. (1) Within 90 days before filing an application for a notary public appointment, a person shall file with the county clerk of his or her residence or expected appointment a proper surety bond and an oath taken as prescribed by the constitution.

(2) The bond shall be in the sum of $10,000.00 with good and sufficient surety by a surety licensed to do business in this state. The bond shall be conditioned upon indemnifying or reimbursing a person, financing agency, or governmental agency for monetary loss caused through the official misconduct of the notary public in the performance of a notarial act. The surety is required to indemnify or reimburse only after a judgment based on official misconduct has been entered in a court of competent jurisdiction against the notary public. The aggregate liability of the surety shall not exceed the sum of the bond. The surety on the bond may cancel the bond 60 days after the surety notifies the notary, the secretary, and the county clerk of the cancellation. The surety is not liable for a breach of a condition occurring after the effective date of the cancellation. The county clerk shall not accept the personal assets of an applicant as security for a surety bond under this act.

(3) Each person who files an oath and, if applicable, a bond with a county clerk as required in subsection (1) shall pay a $10.00 filing fee to the county clerk. Upon receipt of the filing fee, the county clerk shall give an oath certificate of filing and a bond, if applicable, to the person as prescribed by the secretary. A charter county with a population of more than 2,000,000 may impose by ordinance a fee for the county clerk's services different than the amount prescribed by this subsection. Two dollars of each fee collected under this subsection shall be deposited into the notary education and training fund established in section 17 on a schedule determined by the secretary.

55.275 Application; format; fee; use of L.E.I.N. provided in C.J.I.S. policy council act; certificate of appointment.

Sec. 15. (1) A person shall apply to the secretary for appointment as a notary public in a format as prescribed by the secretary. An application for appointment as a notary public shall contain the signature of the applicant. In addition to other information as may be required by the secretary, the application shall include all of the following:

(a) The applicant's name, residence address, business address, date of birth, and residence and business telephone numbers.

(b) The applicant's driver license or state personal identification card number.

(c) A validated copy of the filing of the bond, if applicable, and oath certificate received from the county clerk.

(d) If applicable, a statement showing whether the applicant has previously applied for an appointment as a notary public in this or any other state, the result of the application, and whether the applicant has ever been the holder of a notary public appointment that was revoked, suspended, or canceled in this or any other state.

(e) A statement describing the date and circumstances of any felony or misdemeanor conviction of the applicant during the preceding 10 years.

(f) A declaration that the applicant is a citizen of the United States or, if not a citizen of the United States, proof of the applicant's legal presence in this country.

(g) An affirmation by the applicant that the application is correct, that the applicant has read this act, and that the applicant will perform his or her notarial acts faithfully.

(2) Each application shall be accompanied by an application processing fee of $10.00. One dollar of each fee collected under this subsection shall be deposited into the notary education and training fund established in section 17 on a schedule determined by the secretary.

(3) Upon receipt of an application that is accompanied by the prescribed processing fee, the secretary may inquire as to the qualifications of the applicant and shall determine whether the applicant meets the qualifications prescribed in this act. To assist in deciding whether the applicant is qualified, the secretary may use the law enforcement information network as provided in the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215, to check the criminal background of the applicant.

(4) After approval of the application, the secretary shall mail directly to the applicant the certificate of appointment as a notary public. Each certificate of appointment shall identify the person as a notary public of this state and shall specify the term and county of the person's commission.

55.279 Reappointment; licensed attorney as notary public; cause for cancellation of appointment.

Sec. 19. (1) The secretary shall not automatically reappoint a notary public.

(2) A person desiring another notary public appointment may apply to the secretary, in a format prescribed by the secretary, for an original appointment as a notary public. The

application may be submitted not more than 60 days before the expiration of his or her current notary public commission.

(3) In the case of a licensed attorney granted an appointment as a notary public under this act and after the initial application under section 15, the secretary shall send a reappointment application form to the licensed attorney at least 90 days before the expiration of the current notary appointment. The application for reappointment shall contain a certification to be completed by the applicant certifying that he or she is still a member in good standing in the state bar of Michigan. The applicant shall otherwise comply with the requirements for appointment as a notary public as described in section 15.

(4) The secretary shall automatically cancel the notary public commission of any person who makes, draws, utters, or delivers any check, draft, or order for the payment of a processing fee under this act that is not honored by the bank, financial institution, or other depository expected to pay the check, draft, or order for payment upon its first presentation.

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2007.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

[No. 511]

(SB 1269)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit

malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 4404 (MCL 500.4404), as amended by 1995 PA 210.

The People of the State of Michigan enact:

500.4404 Employee groups; required number of participants; premium payments; group life insurance as part of combined group life and disability insurance policy.

Sec. 4404. Group life insurance may be issued covering not less than 2 employees with or without medical examination, written under a policy issued to the employer or to the trustees of a fund established by the employer, the premium on which is to be paid by the employer, the employees, or by the employer and the employees jointly, and insuring only all of his or her employees, or all of any class or classes of employees determined by conditions pertaining to the employment, for amounts of insurance based upon some plan that will preclude individual selection, for the benefit of persons other than the employer. This section does not require an employee to purchase group life insurance. Group life insurance may be written as part of a combined group life and disability insurance policy.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

[No. 512]

(SB 1393)

AN ACT to amend 1939 PA 280, entitled "An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies;

to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates," by amending section 57k (MCL 400.57k), as amended by 2004 PA 445.

The People of the State of Michigan enact:

400.57k Individual development account for postsecondary education, business capitalization, or first-time home purchase; definitions.

Sec. 57k. (1) The department shall operate a program allowing an individual eligible for family independence assistance to establish an individual development account for postsecondary education, business capitalization, or a first-time home purchase in accordance with this section. The department shall disregard all savings deposited, including accrued interest, in an individual development account and individual or family development account in determining the individual's eligibility for family independence assistance and the amount of the grant the individual receives.

(2) An individual who is eligible to receive family independence assistance, or another person on behalf of that individual, may establish an individual development account for the purpose of accumulating funds for a qualified purpose described in subsection (3). An individual shall only contribute money to the individual development account that is derived from earned income, as that term is defined in section 911(d)(2) of the internal revenue code. The individual shall withdraw money from the individual development account only for a qualified purpose described in subsection (3).

(3) An individual who has established an individual development account under this section may withdraw and expend funds from the individual development account only for payment toward postsecondary education or business capitalization, or for payment of qualified acquisition costs with respect to a qualified principal residence for a qualified first-time homebuyer, if paid from an individual development account directly to the persons to whom the qualified acquisition costs are due.

(4) The department shall operate the program authorized by this section in coordination with the individual or family development account program of the Michigan state housing development authority established under the individual or family development account program act.

(5) As used in this section:

(a) "Date of acquisition" means the date on which a qualified first-time homebuyer enters into a binding contract to acquire, construct, or reconstruct the qualified first-time homebuyer's principal residence.

(b) "Individual development account" means a trust created or organized in the United States that is funded through periodic contributions by the establishing individual in accordance with this section and that may be matched by or through a qualified entity for a qualified purpose described in subsection (3).

(c) "Individual or family development account" means that term as defined in the individual or family development account program act.

(d) "Qualified acquisition costs" means the costs of acquiring, constructing, or reconstructing a qualified principal residence. The term includes any usual or reasonable settlement, financing, or other closing costs.

(e) "Qualified entity" means either of the following:

(*i*) A not-for-profit organization described in section 501(c)(3) of the internal revenue code and exempt from taxation under section 501(a) of the internal revenue code.

(*ii*) A state or local governmental agency acting in cooperation with an organization described in subparagraph (*i*).

(f) "Qualified first-time homebuyer" means a taxpayer and, if married, the taxpayer's spouse who has no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the qualified principal residence to which this section applies.

(g) "Qualified principal residence" means a principal residence within the meaning of former section 1034 of the internal revenue code, the qualified acquisition costs of which do not exceed 100% of the average area purchase price applicable to that residence, determined in accordance with paragraphs (2) and (3) of section 143(e) of the internal revenue code.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) Senate Bill No. 640.

(b) House Bill No. 5022.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

Compiler's note: Senate Bill No. 640, referred to in enacting section 1, was filed with the Secretary of State December 29, 2006, and became 2006 PA 513, Eff. Jan. 1, 2007.

House Bill No. 5022, also referred to in enacting section 1, was filed with the Secretary of State December 29, 2006, and became 2006 PA 514, Imd. Eff. Dec. 29, 2006.

[No. 513]

(SB 640)

AN ACT to permit the establishment and maintenance of individual or family development accounts; to provide for certain tax deductions and tax credits; to prescribe the requirements of and restrictions on individual or family development accounts; to provide for the promulgation of rules; and to provide penalties and remedies.

The People of the State of Michigan enact:

206.701 Short title.

Sec. 1. This act shall be known and may be cited as the "individual or family development account program act".

206.702 Definitions.

Sec. 2. As used in this act:

(a) "Account holder" means a person who is the owner of an individual or family development account or the family if the account is a family account.

(b) "Agency" means the Michigan state housing development authority of the department of labor and economic growth.

(c) "Contributor" means a person that makes a contribution to an individual or family development account reserve fund and is not an account holder.

(d) "Director" means the executive director of the Michigan state housing development authority of the department of labor and economic growth.

(e) "Education expenses" means tuition and fees required for the enrollment or attendance of a student at an eligible educational institution, and expenses for fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

(f) "Eligible educational institution" means any of the following:

(*i*) A college, university, community college, or junior college described in section 4, 5, or 6 of article VIII of the state constitution of 1963 or established under section 7 of article VIII of the state constitution of 1963.

(*ii*) An independent nonprofit college or university located in this state.

(*iii*) A state-licensed vocational or technical education program.

(*iv*) A state-licensed proprietary school.

(g) "Federal poverty level" means the poverty guidelines published annually in the federal register by the United States department of health and human services under its authority to revise the poverty line under section 673(2) of subtitle B of title VI of the omnibus budget reconciliation act of 1981, Public Law 97-35, 42 USC 9902.

(h) "Fiduciary organization" or "organization" means a charitable organization exempt from taxation under section 501(c)(3) of the internal revenue code that is approved by the director of the agency or his or her designee to manage a reserve fund. A fiduciary organization may also be a program site.

(i) "Financial institution" means a state chartered bank, state chartered savings bank, savings and loan association, credit union, or trust company; or a national banking association or federal savings and loan association or credit union.

(j) "Financial literacy" means personal financial planning and education.

(k) "Individual or family development account" or "account" means an account established pursuant to section 4.

(*l*) "Individual or family development account reserve fund" or "reserve fund" means an account established and managed by a fiduciary organization housed at a financial institution. The reserve fund holds money that will be used to match participant savings based on a participant savings plan agreement.

(m) "Program" means the individual or family development account program established in section 3.

(n) "Program site" means a charitable organization exempt from taxation under section 501(c)(3) or 501(c)(14) of the internal revenue code that is approved by the director or his or her designee to implement the individual or family development account program.

206.703 Individual or family development account; establishment; purpose; policies and procedures; review of qualifications of fiduciary organizations and program sites; factors; implementation of programs.

Sec. 3. (1) The individual or family development account program is established within the agency. The program shall provide eligible individuals and families with an opportunity to establish accounts to be used for education, first-time purchase of a primary residence, or business capitalization as provided in section 4.

(2) The agency shall establish policies and procedures for the program taking into consideration the policies and procedures adopted by the department of human services to implement the individual development account program under section 57k of the social welfare act, 1939 PA 280, MCL 400.57k.

(3) In reviewing the qualifications of fiduciary organizations and program sites, the agency shall consider all of the following factors:

(a) The not-for-profit status of the organization.

(b) The fiscal accountability of the organization.

(c) The ability of the organization to provide or raise money for matching contributions.

(d) The significance and quality of proposed auxiliary services to support the goals of the program.

(e) The availability of a financial literacy program for account holders.

(f) The ability to maintain and manage necessary program data for tracking account holders and participants in the program and for development of reports as required under section 9.

(4) The agency shall select fiduciary organizations to provide technical assistance and support to program sites and establish and manage reserve accounts on a not-for-profit basis. In reviewing the qualifications of fiduciary organizations, the agency shall consider the ability of the fiduciary organizations to do all of the following:

(a) Administer 1 or more reserve funds to provide matching funds for account holders pursuant to participant savings plan agreements.

(b) Administer any money appropriated by this state for the purposes of this act.

(c) Collaborate with program sites on a regional basis.

(d) Provide technical assistance and support to program sites to assist them to effectively administer programs.

(e) Work in conjunction with approved program sites to hold, manage, and disburse matching funds for accounts as provided in section 5.

(f) Maintain and manage necessary program data for tracking account holders and participants in the program and for development reports as required under section 9.

(5) The agency shall select program sites to administer the accounts on a not-for-profit basis. In reviewing the qualifications of program sites, the agency shall consider the ability of the program site to do all of the following:

(a) Develop and implement participant savings plan agreements to be used with account holders that include at least all of the following:

(*i*) The purpose for which the account holder's account is established.

(*ii*) The schedule of deposits that the account holder will make to the account.

(*iii*) The agreed-upon amount of matching funds and the projected date when those matching funds will be provided.

(*iv*) A plan to provide financial literacy; homeownership training; education, career, or business planning assistance, if appropriate; and any other services designed to increase the independence of the account holder or the account holder's family through the achievement of the designated purpose of the account.

(b) Develop a partnership with all account holders with whom the program site has a participant savings plan agreement to assist the account holder to effectively make financial decisions relating to the use of the funds available through the account and to offer support services to maximize the opportunities provided by the individual or family development account program.

(6) The agency shall work cooperatively with financial institutions, fiduciary organizations, program sites, and contributors to implement the programs under this act.

206.704 Eligibility; approval or rejection of applicant by program site; limitation on number of accounts; duties of individual; establishment of account; purposes; signatures for withdrawals.

Sec. 4. (1) An individual or family whose household income is less than or equal to 200% of the federal poverty level for an individual or for that family's family size may apply to a program site to establish an individual or family development account.

(2) A program site may approve applications to the extent that the program site has matching funds available to meet matching commitments in participant savings plan agreements.

(3) A program site may reject an application made under subsection (1) if approving the application would result in the establishment of an individual or family development account by 1 or more of the members of a family that has established an individual or family development account for the same person for the same purpose.

(4) A household shall not have more than 1 account for the same purpose if that purpose is a first-time purchase of a primary residence or start-up capitalization of a business.

(5) If the program site approves the individual's or the family's application to establish an individual or family development account, the individual shall do all of the following:

(a) Establish the individual or family development account with a financial institution.

(b) Enter into a participant savings plan agreement with a program site.

(c) Declare, with the approval of the program site, the purpose for which the account is established.

(d) Any other criteria required by the program site.

(6) An account may be established only to pay qualified expenses as provided in subsection (7).

(7) An account shall be established for 1 or more of the following purposes:

(a) To pay educational expenses for the individual account holder who will be 17 years of age or older when the funds in the account will be used if the account is an account for educational purposes.

(b) For the first-time purchase of a primary residence by the individual account holder if the account is an account for the purchase of a primary residence.

(c) For start-up capitalization of a business for the individual account holder who is 18 years of age or older if the account is an account for capitalization of a business based on a business plan approved by the program site.

(8) An account established under this section shall be an account that requires 2 signatures for withdrawals. The 2 required signatures shall be those of the account holder and an administrator of the program site with which the account holder has a participant savings plan agreement.

206.705 Participant savings plan agreement; matching funds; distributions; manner.

Sec. 5. (1) A program site shall enter into a participant savings plan agreement with each account holder who is approved to establish an individual or family development account.

(2) The program site shall provide matching funds for contributions to an account by an account holder pursuant to a participant savings plan agreement.

(3) Matching fund distributions shall be made on behalf of an account holder pursuant to participant savings plan agreements at the same time that an account holder withdraws money to pay qualified expenses. Matching distributions shall be at least a match of $1.00 for every $1.00 withdrawn from an account by an account holder to pay expenses for a purpose described in section 4(7) or for a purpose approved by the agency.

(4) Matching distributions under this section shall be made by check to the order of the account holder and the entity the account holder is paying.

206.706 Withdrawal matched by program site; contingent beneficiary; financial institution not responsible for verification.

Sec. 6. (1) Money withdrawn during a calendar year from an individual or family development account by an account holder for a purpose under section 4 shall be matched by the program site as provided in the participant savings plan agreement between the account holder and the program site.

(2) An account holder shall name at least 1 contingent beneficiary at the time the account is established and may change beneficiaries at any time. If an account holder dies, the account shall be transferred to a contingent beneficiary. If the named beneficiary is deceased or otherwise cannot accept the transfer, the money shall be transferred to the estate of the beneficiary.

(3) A financial institution is not responsible for verifying whether or not withdrawals from accounts held at that financial institution are made in accordance with and for a purpose allowed under section 4.

206.707 Eligibility for tax credit.

Sec. 7. (1) An individual who is not an account holder and who is subject to the tax imposed by the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, may claim a credit under section 272 of the income tax act of 1967, 1967 PA 281, MCL 206.272, equal to 75% of the contributions made to the reserve fund of a fiduciary organization against the tax imposed by the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(2) The administrator of a fiduciary organization that administers 1 or more reserve funds, with the cooperation of the participating financial institutions, shall submit the names of contributors and the total amount that each contributor contributes to an individual or family development account reserve fund for each calendar year to the agency. The director shall determine the date by which the information shall be submitted to the agency.

206.708 Tax credits; total; limitation; reserve fund; application for credits; certificate.

Sec. 8. (1) The total of all credits under section 272 of the income tax act of 1967, 1967 PA 281, MCL 206.272, shall not exceed $1,000,000.00 per calendar year.

(2) A taxpayer that makes a contribution to a reserve fund as provided under section 7 shall apply to the agency for certification that the contribution qualifies for a credit under section 272 of the income tax act of 1967, 1967 PA 281, MCL 206.272. An application shall be approved or denied not more than 45 days after receipt of the application. If the application is not approved or denied 45 days after the application is received by the agency, the application is considered approved and the agency shall issue a certificate under this subsection. If the agency approves an application under this section, the director or his or her designee shall issue a certificate that states that the taxpayer is eligible to claim a credit based on the contribution and the amount of the credit. If an application is denied under this section, a taxpayer is not prohibited from subsequently applying under this section for another contribution.

(3) In reviewing applications for credits, the agency shall consider all of the following criteria:

(a) The funds available to match contributions are deposited into a reserve fund in the same year that the credit will be claimed.

(b) The approval of the credit will not exceed the annual maximum amount under subsection (1).

(c) The overall benefit to the program of the contribution for which a credit is requested.

(4) A taxpayer shall not claim a credit in excess of the amount approved under subsection (2).

(5) A taxpayer shall attach the certificate received pursuant to subsection (2) to the return filed under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, on which a credit allowed under section 272 of the income tax act of 1967, 1967 PA 281, MCL 206.272, is claimed.

206.709 Administration of individual or family development account program by fiduciary organization; report.

Sec. 9. (1) A fiduciary organization selected to administer an individual or family development account program under this act shall file an annual report with the agency of the fiduciary organization's individual development account program activity. The report shall be filed no later than September 30 each year. The report shall include, but is not limited to, all of the following:

(a) The number of individual development accounts administered by the fiduciary organization.

(b) The amount of deposits and matching deposits for each account.

(c) The purpose of each account.

(d) The number of withdrawals made.

(e) The number of terminated accounts and the reasons for termination.

(f) Any other information the agency may require for the purpose of making a return on investment analysis.

(2) The agency shall file a report not later than December 31 each year with the clerk of the house of representatives and the secretary of the senate that includes all of the information under subsection (1) and copies of any changes in policies or procedures used to administer this act that occurred during the year.

206.710 Rules.

Sec. 10. The Michigan state housing development authority may promulgate rules as needed to implement this act under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

206.711 Effective date.

Sec. 11. This act takes effect January 1, 2007.

Conditional effective date.

Enacting section 1. This act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) Senate Bill No. 1393.

(b) House Bill No. 5022.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

Compiler's note: Senate Bill No. 1393, referred to in enacting section 1, was filed with the Secretary of State December 29, 2006, and became 2006 PA 512, Imd. Eff. Dec. 29, 2006.

House Bill No. 5022, also referred to in enacting section 1, was filed with the Secretary of State December 29, 2006, and became 2006 PA 514, Imd. Eff. Dec. 29, 2006.

[No. 514]

(HB 5022)

AN ACT to amend 1967 PA 281, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts," (MCL 206.1 to 206.532) by adding section 276.

The People of the State of Michigan enact:

206.276 Tax credit pursuant to individual or family development account program act; limitation; definitions.

Sec. 276. (1) For tax years that begin after December 31, 2006, a taxpayer who is not an account holder may claim a credit against the tax imposed by this act equal to 75% of the contributions made in the tax year by the taxpayer to the reserve fund of a fiduciary organization pursuant to the individual or family development account program act.

(2) If the amount of the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall not be refunded.

(3) The credit under this section shall not exceed an annual cumulative maximum amount of $1,000,000.00. The determination of the maximum allowed under this subsection shall be made as provided in the individual or family development account program act.

(4) As used in this section, "account holder", "fiduciary organization", "individual or family development account", and "reserve fund" mean those terms as defined in the individual or family development account program act.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) Senate Bill No. 640.

(b) Senate Bill No. 1393.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

Compiler's note: Senate Bill No. 640, referred to in enacting section 1, was filed with the Secretary of State December 29, 2006, and became 2006 PA 513, Eff. Jan. 1, 2007.

Senate Bill No. 1393, also referred to in enacting section 1, was filed with the Secretary of State December 29, 2006, and became 2006 PA 512, Imd. Eff. Dec. 29, 2006.

[No. 515]

(SB 1398)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating

to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 11a (MCL 380.11a), as amended by 2003 PA 299.

The People of the State of Michigan enact:

380.11a General powers school district.

Sec. 11a. (1) Beginning on July 1, 1996, each school district formerly organized as a primary school district or as a school district of the fourth class, third class, or second class shall be a general powers school district under this act.

(2) Beginning on July 1, 1996, a school district operating under a special or local act shall operate as a general powers school district under this act except to the extent that the special or local act is inconsistent with this act. Upon repeal of a special or local act that governs a school district, that school district shall become a general powers school district under this act.

(3) A general powers school district has all of the rights, powers, and duties expressly stated in this act; may exercise a power implied or incident to a power expressly stated in this act; and, except as provided by law, may exercise a power incidental or appropriate to the performance of a function related to operation of the school district in the interests of public elementary and secondary education in the school district, including, but not limited to, all of the following:

(a) Educating pupils. In addition to educating pupils in grades K-12, this function may include operation of preschool, lifelong education, adult education, community education, training, enrichment, and recreation programs for other persons.

(b) Providing for the safety and welfare of pupils while at school or a school sponsored activity or while en route to or from school or a school sponsored activity.

(c) Acquiring, constructing, maintaining, repairing, renovating, disposing of, or conveying school property, facilities, equipment, technology, or furnishings.

(d) Hiring, contracting for, scheduling, supervising, or terminating employees, independent contractors, and others to carry out school district powers. A school district may indemnify its employees.

(e) Receiving, accounting for, investing, or expending school district money; borrowing money and pledging school district funds for repayment; and qualifying for state school aid and other public or private money from local, regional, state, or federal sources.

(4) A general powers school district may enter into agreements or cooperative arrangements with other entities, public or private, or join organizations as part of performing the functions of the school district. An agreement or cooperative arrangement that is entered into under this act is not required to comply with the provisions of the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, as provided under section 503 of that act, MCL 124.503.

(5) A general powers school district is a body corporate and shall be governed by a school board. An act of a school board is not valid unless approved, at a meeting of the school board, by a majority vote of the members lawfully serving on the board.

(6) The board of a general powers school district shall adopt bylaws. These bylaws may establish or change board procedures, the number of board officers, titles and duties of board officers, and any other matter related to effective and efficient functioning of the board. Regular meetings of the board shall be held at least once each month, at the time and place fixed by the bylaws. Special meetings may be called and held in the manner and for the purposes specified in the bylaws. Board procedures, bylaws, and policies in effect on the effective date of this section shall continue in effect until changed by action of the board.

(7) The board of a school district shall be elected as provided under this act and the Michigan election law. The number of members of the board of a general powers school district shall remain the same as for that school district before July 1, 1996 unless changed by the school electors of the school district at a regular or special school election. A ballot question for changing the number of board members may be placed on the ballot by action of the board or by petition submitted by school electors as provided under chapter XIV of the Michigan election law, MCL 168.301 to 168.315.

(8) Members of the board of a general powers school district shall be elected by the school electors for terms of 4 or 6 years, as provided by the school district's bylaws. At each regular school election, members of the board shall be elected to fill the positions of those whose terms will expire. A term of office begins as provided in section 302 of the Michigan election law, MCL 168.302, and continues until a successor is elected and qualified.

(9) The board of a general powers school district may submit to the school electors of the school district a question that is within the scope of the powers of the school electors and that the board considers proper for the management of the school system or the advancement of education in the school district. Upon the adoption of a question by the board, the board shall submit the question to the school electors by complying with section 312 of the Michigan election law, MCL 168.312.

(10) A special election may be called by the board of a general powers school district as provided under chapter XIV of the Michigan election law, MCL 168.301 to 168.315.

(11) Unless expressly provided in 1995 PA 289, the powers of a school board or school district are not diminished by this section or by 1995 PA 289.

(12) A school district operating a public library, public museum, or community recreational facility as of July 1, 1996 may continue to operate the public library, public museum, or community recreational facility.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

[No. 516]

(SB 1399)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination,

licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 226a (MCL 257.226a), as amended by 2002 PA 642.

The People of the State of Michigan enact:

257.226a Temporary registration plates or markers.

Sec. 226a. (1) Temporary registration plates or markers may be issued to licensed dealers in vehicles and to persons engaged in the sale of vessels required to be numbered by part 801 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80101 to 324.80199, upon application accompanied by the proper fee, for use by purchasers or lessees of vehicles, for not to exceed 15 days pending receipt of regular registration plates from the dealer or person. Only 1 temporary plate or marker may be issued to a purchaser or lessee of a vehicle. If a dealer or person requires a purchaser or lessee of a vehicle or purchaser or lessee of a vessel to pay for a temporary plate or marker, the dealer or person shall not charge the purchaser or lessee more than the dealer or person was charged by the secretary of state for the individual plate or marker. The secretary of state shall determine the composition and design of the temporary registration plates or markers.

(2) A temporary registration plate or marker shall show in ink the date of issue, a description of the vehicle for which issued, and any other information required by the secretary of state. A dealer or person shall immediately notify the secretary of state of each temporary registration plate or marker issued by the dealer or person, on a form prescribed by the secretary of state. Upon the attachment of the regular plate to a vehicle for which a temporary registration plate or marker has been issued, the temporary plate shall be destroyed.

(3) All temporary registration plates or markers shall be serially numbered and upon issuance the number shall be noted on the statement of vehicle sale form or in the case of a boat trailer on a form prescribed by the secretary of state.

(4) A dealer or person, upon demand, shall immediately surrender any temporary registration plates or markers in his or her possession if the secretary of state finds, after investigation, that the dealer or person has violated this section, and the dealer or person shall immediately forfeit any right to the temporary registration plates or markers.

(5) The secretary of state may issue a registration plate upon application and payment of the proper fee to an individual, partnership, corporation, or association who in the ordinary course of business has occasion to legally repossess a vehicle in which a security interest is held. A registration plate issued pursuant to this subsection shall be used to move and dispose of a vehicle.

(6) The secretary of state may issue a registration plate upon application and payment of the proper fee to an individual, partnership, corporation, or association who in the ordinary course of business has occasion to legally pick up or deliver a vehicle not required to be titled under this act, to legally pick up or deliver a commercial motor vehicle being driven

to a facility to undergo aftermarket modification, or to repair or service a vehicle, or to persons defined as dealers under part 801 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80101 to 324.80199, for the purpose of delivering a vessel or trailer to a customer or to and from a boat show or exposition. A registration plate issued under this subsection shall be used to move the vehicle.

(7) The secretary of state may issue a registration plate upon application and payment of the proper fee to an individual, partnership, corporation, or association who in the ordinary course of business operates an auto auction, and who in the ordinary course of business has occasion to legally pick up a vehicle which will be offered for sale at the auction, or deliver a vehicle which has been offered for sale at the auction. The registration plate shall be used only to move vehicles as provided in this subsection. Auto auctions that make application for a registration plate under this subsection shall furnish a surety bond as required by the secretary of state.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

[No. 517]

(SB 1404)

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 50c and 81d (MCL 750.50c and 750.81d), section 50c as amended by 2002 PA 672 and section 81d as added by 2002 PA 266.

The People of the State of Michigan enact:

750.50c Police dog or police horse; definitions; violation as felony or misdemeanor; penalty; other violations.

Sec. 50c. (1) As used in this section:

(a) "Dog handler" means a peace officer who has successfully completed training in the handling of a police dog pursuant to a policy of the law enforcement agency that employs that peace officer.

(b) "Physical harm" means any injury to a dog's or horse's physical condition.

(c) "Police dog" means a dog used by a law enforcement agency of this state or of a local unit of government of this state that is trained for law enforcement work and subject to the control of a dog handler.

(d) "Police horse" means a horse used by a law enforcement agency of this state or of a local unit of government of this state for law enforcement work.

(e) "Search and rescue dog" means a dog that is trained for, being trained for, or engaged in a search and rescue operation.

(f) "Search and rescue operation" means an effort conducted at the direction of an agency of this state or of a political subdivision of this state to locate or rescue a lost, injured, or deceased individual.

(g) "Serious physical harm" means any injury to a dog's or horse's physical condition or welfare that is not necessarily permanent but that constitutes substantial body disfigurement, or that seriously impairs the function of a body organ or limb.

(2) A person shall not intentionally kill or cause serious physical harm to a police dog or police horse or a search and rescue dog.

(3) A person shall not intentionally cause physical harm to a police dog or police horse or a search and rescue dog.

(4) A person shall not intentionally harass or interfere with a police dog or police horse or search and rescue dog lawfully performing its duties.

(5) A person who violates subsection (2) is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00, or both.

(6) Except as provided in subsection (7), a person who violates subsection (3) or (4) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $5,000.00, or both.

(7) A person who violates subsection (3) or (4) while committing a crime is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $15,000.00, or both.

(8) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law committed by that individual while violating this section.

750.81d Assaulting, battering, resisting, obstructing, opposing person performing duty; felony; penalty; other violations; consecutive terms; definitions.

Sec. 81d. (1) Except as provided in subsections (2), (3), and (4), an individual who assaults, batters, wounds, resists, obstructs, opposes, or endangers a person who the individual knows or has reason to know is performing his or her duties is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(2) An individual who assaults, batters, wounds, resists, obstructs, opposes, or endangers a person who the individual knows or has reason to know is performing his or her duties causing a bodily injury requiring medical attention or medical care to that person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

(3) An individual who assaults, batters, wounds, resists, obstructs, opposes, or endangers a person who the individual knows or has reason to know is performing his or her duties causing a serious impairment of a body function of that person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $10,000.00, or both.

(4) An individual who assaults, batters, wounds, resists, obstructs, opposes, or endangers a person who the individual knows or has reason to know is performing his or her duties causing the death of that person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $20,000.00, or both.

(5) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

(6) A term of imprisonment imposed for a violation of this section may run consecutively to any term of imprisonment imposed for another violation arising from the same transaction.

(7) As used in this section:

(a) "Obstruct" includes the use or threatened use of physical interference or force or a knowing failure to comply with a lawful command.

(b) "Person" means any of the following:

(*i*) A police officer of this state or of a political subdivision of this state including, but not limited to, a motor carrier officer or capitol security officer of the department of state police.

(*ii*) A police officer of a junior college, college, or university who is authorized by the governing board of that junior college, college, or university to enforce state law and the rules and ordinances of that junior college, college, or university.

(*iii*) A conservation officer of the department of natural resources or the department of environmental quality.

(*iv*) A conservation officer of the United States department of the interior.

(*v*) A sheriff or deputy sheriff.

(*vi*) A constable.

(*vii*) A peace officer of a duly authorized police agency of the United States, including, but not limited to, an agent of the secret service or department of justice.

(*viii*) A firefighter.

(*ix*) Any emergency medical service personnel described in section 20950 of the public health code, 1978 PA 368, MCL 333.20950.

(*x*) An individual engaged in a search and rescue operation as that term is defined in section 50c.

(c) "Serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

[No. 518]

(SB 1405)

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 16b of chapter XVII (MCL 777.16b), as amended by 2000 PA 279.

The People of the State of Michigan enact:

CHAPTER XVII

777.16b MCL 750.49 to 750.68; felonies to which chapter applicable.

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

M.C.L.	Category	Class	Description	Stat Max
750.49(2)(a) to (d)	Pub ord	F	Fighting animals or providing facilities for animal fights	4
750.49(2)(e)	Pub ord	F	Organizing or promoting animal fights	4
750.49(2)(f)	Pub ord	H	Attending animal fight	4
750.49(2)(g)	Pub ord	F	Breeding or selling fighting animals	4
750.49(2)(h)	Pub ord	F	Selling or possessing equipment for animal fights	4
750.49(8)	Person	A	Inciting fighting animal resulting in death	Life
750.49(9)	Person	F	Inciting fighting animal to attack	4
750.49(10)	Person	D	Fighting animal attacking without provocation and death resulting	15
750.50(4)	Pub ord	G	Animal neglect or cruelty — second offense	2
	Pub ord	F	Animal neglect or cruelty — third or subsequent offense	4
750.50b(2)	Property	F	Killing or torturing animals	4
750.50c(5)	Pub ord	E	Killing or causing serious physical harm to law enforcement animal or search and rescue dog	5
750.50c(7)	Pub saf	H	Harassing or causing harm to law enforcement animal or search and rescue dog while committing crime	2
750.68	Property	G	Changing brands with intent to steal	4

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1404 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved December 28, 2006.

Filed with Secretary of State December 29, 2006.

Compiler's note: Senate Bill No. 1404, referred to in enacting section 1, was filed with the Secretary of State December 29, 2006, and became 2006 PA 517, Imd. Eff. Dec. 29, 2006.

[No. 519]

(SB 1408)

AN ACT to amend 1963 PA 42, entitled "An act to provide for the termination of dormant oil and gas interests in land owned by persons other than the owners of the surface and for the vesting of title to same in the surface owners in the absence of the filing of a notice of claim of interest within a specified period of time," by amending sections 1, 2, and 4 (MCL 554.291, 554.292, and 554.294).

The People of the State of Michigan enact:

554.291 Oil or gas interest in land; abandonment; claim of interest; vesting in surface owner; preservation from disclosure.

Sec. 1. (1) Any interest in oil or gas in any land owned by any person other than the owner of the surface, which has not been sold, leased, mortgaged, or transferred by instrument recorded in the register of deeds office for the county where that interest in oil or gas is located for a period of 20 years shall, in the absence of the issuance of a permit to drill an oil or gas well issued by the department of environmental quality, or its predecessor or successor, as to that interest in oil or gas or the actual production or withdrawal of oil or gas from said lands, or from lands covered by a lease to which that interest in oil or gas is subject, or from lands pooled, unitized, or included in unit operations therewith, or the use of that interest in underground gas storage operations, during such period of 20 years, be deemed abandoned, unless the owner thereof shall, within 3 years after September 6, 1963 or within 20 years after the last sale, lease, mortgage, or transfer of record of that interest in oil or gas or within 20 years after the last issuance of a drilling permit as to that interest in oil or gas or actual production or withdrawal of oil or gas, from said lands, or from lands covered by a lease to which that interest in oil or gas is subject, or from lands pooled, unitized, or included in unit operations therewith, or the use of that interest in oil or gas in underground gas storage operations, whichever is later, record a claim of interest as provided in section 2.

(2) Any interest in oil or gas deemed abandoned as provided in subsection (1) shall vest as of the date of such abandonment in the owner or owners of the surface in keeping with the character of the surface ownership.

(3) Notwithstanding any other provision of this act to the contrary, if a judgment of foreclosure is entered under section 78k of the general property tax act, 1893 PA 206, MCL

211.78k, for the nonpayment of delinquent taxes levied on property, an oil or gas interest in the property owned by a person other than the owner of the surface shall not be preserved from foreclosure under section 78k of the general property tax act, 1893 PA 206, MCL 211.78k, unless that interest is sold, leased, mortgaged, transferred, reserved, or subject to a claim of interest under section 2 and an instrument evidencing the sale, lease, mortgage, transfer, reservation, or claim of interest is recorded in the office of the register of deeds in the county in which the property is located during the 20-year period immediately preceding the date of filing a petition for foreclosure under section 78h of the general property tax act, 1893 PA 206, MCL 211.78h.

554.292 Preservation of oil or gas interest; recording of interest notice claimed; applicability of act.

Sec. 2. (1) Any interest in oil or gas referred to in this act may be preserved by recording within the period specified in this act a written notice in the register of deeds office for the county in which the land is located. The notice shall be verified by oath and shall describe the land and the nature of the interest claimed, give the name and address of the person or persons claiming the interest, and state that the person or persons desire to preserve the interest and do not intend to abandon the interest.

(2) A person other than the owner of the surface holding interests in oil or gas in any land for use in underground gas storage operations may preserve the oil or gas interests, and the rights of any lessor of the oil or gas interests, by recording a single written notice defining the boundaries of and the formations included in the underground gas storage field or pool within which the oil or gas interests are located, without the necessity of describing each separate oil or gas interest claimed in that underground gas storage field or pool by that person.

(3) Recording a written notice under this section shall operate to preserve the oil or gas interest included in the written notice from abandonment under this act for a period of 20 years after recording. At the conclusion of that 20-year period, that interest in oil or gas shall be deemed abandoned if, during that 20-year period, the nondormant character of the oil or gas interest has not been evidenced by sale, lease, mortgage, or transfer by instrument recorded in the register of deeds office for the county in which that oil or gas interest is located, a drilling permit issued, oil or gas actually produced or withdrawn from said lands, or from lands covered by a lease to which that interest in oil or gas is subject, or from lands pooled, unitized, or included in unit operations therewith, or the use of that interest in oil or gas in underground gas storage operations, or a like notice filed.

(4) In the absence of prior abandonment, an interest in oil or gas in any land owned by any person other than the owner of the surface may be preserved indefinitely from abandonment under this act by filing written notices as provided in this act or the performance of any of the acts specified in this act evidencing nondormancy of the interest in oil or gas within each succeeding 20-year period.

(5) This act shall not apply to any interest in oil or gas owned by any governmental body or agency.

554.294 "Person" defined.

Sec. 4. As used in this act, "person" means an individual, partnership, corporation, association, or other legal entity.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

[No. 520]

(SB 1418)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 16901 and 16909 (MCL 324.16901 and 324.16909), as amended by 2002 PA 496.

The People of the State of Michigan enact:

324.16901 Definitions.

Sec. 16901. (1) As used in this part:

(a) "Abandoned scrap tires" means an accumulation of scrap tires on property where the property owner is not responsible in whole or in part for the accumulation of the scrap tires. For the purposes of this subdivision, an owner who purchased or willingly took possession of an existing scrap tire collection site shall be considered by the department to be responsible in whole or in part for the accumulation of the scrap tires.

(b) "Automotive recycler" means that term as defined in section 2a of the Michigan vehicle code, 1949 PA 300, MCL 257.2a.

(c) "Bond" means a performance bond from a surety company authorized to transact business in this state, a certificate of deposit, a cash bond, or an irrevocable letter of credit, in favor of the department.

(d) "Collection site" means a site, other than a disposal area licensed under part 115, a racecourse, or a feed storage location, consisting of a parcel or adjacent parcels of real property where any of the following are accumulated:

(*i*) 500 or more scrap tires. This subparagraph does not apply if that property is owned or leased by and associated with the operations of a retailer or automotive recycler or a commercial contractor as described in subparagraph (*iv*).

(*ii*) 1,500 or more scrap tires if that property is owned or leased by and associated with the operations of a retailer. This subparagraph does not apply if the site is owned or leased by and associated with the operations of an automotive recycler.

(*iii*) 2,500 or more scrap tires if that property is owned or leased by and associated with the operations of an automotive recycler.

(*iv*) More than 150 cubic yards of tire chips if that property is owned or leased by and associated with the operations of a commercial contractor that is authorized to use the tire chips as an aggregate replacement in a manner approved by a designation of inertness for scrap tires or is otherwise authorized for such use by the department under part 115.

(e) "Commodity" means crumb rubber, tire chips, a ring or slab cut from a tire for use as a weight, or a product die-cut or punched from a tire, or any other product that, as determined by the department based on the product's production cost and value, is not likely to result in an accumulation, at the site of production or use, that poses a threat to public health or the environment. A product is not a commodity unless it meets published national standards or specifications that the department determines are relevant to accomplishing the purposes of this part.

(f) "Commodity storage area" means 1 or more locations within a collection site where a commodity is stored.

(g) "Crumb rubber" means rubber material derived from tires that is less than 1/8 inch by 1/8 inch in size and is free of steel and fiber.

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

(i) "End-user" means any of the following:

(*i*) A person who possesses a permit to burn tires under part 55.

(*ii*) The owner or operator of a landfill that is authorized under the landfill's operating license to use scrap tires.

(*iii*) A person who uses a commodity to make a product that is sold in the market.

(*iv*) A person who is authorized by this part to accumulate scrap tires, who acquires scrap tires, and who converts scrap tires into a product that is sold in the market or reused in a manner authorized by this part.

(j) "Farm" means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(k) "Farm operation" means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(*l*) "Feed storage location" means a location on 1 or more parcels of adjacent real property containing a farm operation where not more than 3,000 scrap tires are used to secure stored feed.

(m) "Fund" means the scrap tire regulatory fund created in section 16908.

(n) "Landfill" means a landfill as defined in section 11504 that is licensed under part 115.

(o) "Outdoor" or "outdoors" means in a place other than a building or covered vehicle.

(p) "Portable shredding operation" means a person who operates scrap tire shredding equipment, which produces a commodity or tire shreds, if the shredding equipment can be moved from site to site.

(q) "Racecourse" means a commercially operated track for go-carts, vehicles, off-road recreational vehicles, or motorcycles that uses not more than 3,000 scrap tires for bumpers along the track for safety purposes.

(r) "Retailer" means a person who sells or offers for sale new, retreaded, or remanufactured tires to consumers in this state.

(s) "Retreader" means a person who retreads, recases, or recaps tire casings for reuse.

(t) "Scrap tire" means a tire that is no longer being used for its original intended purpose including, but not limited to, a used tire, a reusable tire casing, or portions of a tire. Scrap tire does not include a vehicle support stand.

(u) "Scrap tire hauler" means a person who transports more than 7 scrap tires at once in a vehicle on a public road or street. Scrap tire hauler does not include any of the following:

(*i*) A person who is transporting his or her own tires to a location authorized in section 16902(1).

(*ii*) A member of a nonprofit service organization who is participating in a community service project and is transporting scrap tires to a location authorized in section 16902(1).

(*iii*) The owner of a farm who is transporting only scrap tires that originated from his or her farm operation, to a location authorized in section 16902(1), or that are intended for use in a feed storage location.

(*iv*) A solid waste hauler that is transporting solid waste to a disposal area licensed under part 115.

(*v*) A person who is transporting only a commodity.

(*vi*) A retreader.

(v) "Scrap tire processor" means either of the following:

(*i*) A person who is authorized by this part to accumulate scrap tires and is engaged in the business of buying or otherwise acquiring scrap tires and reducing their volume by shredding or otherwise facilitating recycling or resource recovery techniques for scrap tires.

(*ii*) A portable shredding operation.

(w) "Solid waste hauler" means a solid waste hauler as defined in part 115 who transports less than 25% by weight or volume of scrap tires along with other solid waste in any truckload to a disposal area licensed under part 115.

(x) "Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a tractor or other farm machinery or of a vehicle.

(y) "Tire chip" means a portion of a tire that is any of the following:

(*i*) Not more than 2 inches by 2 inches in size and meets requirements for size, metal content, and cleanliness as specified in an executed contract for delivery of the material by the scrap tire processor.

(*ii*) Not more than 3/8 inch by 3/8 inch in size and sufficiently free from steel to be used in the construction and modification of sports surfaces such as golf course turf, athletic field turf, athletic tracks, hiking surfaces, livestock show arena surfaces, and playgrounds.

(*iii*) To be used in a drain field approved under a district or county sanitary code.

(*iv*) To be used as ground cover or mulch, if, in aggregate, 95% of the material is equal to or less than 3/4 inch in size in any dimension and the material contains less than 1% by weight or volume of steel and fiber.

(*v*) Approved by the department for use at a landfill as daily cover or a leachate collection system protective layer or for access road construction within a lined cell.

(z) "Tire shred" means a portion of a tire that is not a commodity.

(aa) "Tire storage area" means a location within a collection site where tires are accumulated.

(bb) "Vehicle" means a device in, upon, or by which a person or property is or may be transported or drawn upon a highway. Vehicle does not include a device that is exclusively moved by human power or used exclusively upon stationary rails or tracks or a mobile home as defined in section 2 of the mobile home commission act, 1987 PA 96, MCL 125.2302.

(cc) "Vehicle support stand" means equipment used to support a stationary vehicle consisting of an inflated tire and wheel that is attached to another wheel.

(2) A reference in this part to a number of scrap tires means either of the following, or an equivalent combination thereof:

(a) That number of whole tires or reusable tire casings.

(b) A quantity of a commodity or tire shreds equivalent in weight to that number of whole tires.

324.16909 Violation as misdemeanor; penalties; separate violations; authority of officer; penalties inapplicable; conditions.

Sec. 16909. (1) A person who violates this part when fewer than 50 scrap tires are involved is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than $200.00 or more than $500.00, or both, for each violation.

(2) A person who violates this part when 50 or more scrap tires are involved is guilty of a misdemeanor punishable by imprisonment for not more than 180 days or a fine of not less than $500.00 or more than $10,000.00, or both, for each violation.

(3) A person convicted of a second or subsequent violation of this part is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not less than $1,000.00 or more than $25,000.00, or both, for each violation.

(4) In addition to any other penalty provided for in this section, the court may order a person who violates this part to perform not more than 100 hours of community service.

(5) For any violation of this part, each day that a violation continues constitutes a separate violation.

(6) A peace officer may issue an appearance ticket as described and authorized by sections 9c to 9g of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9c to 764.9g, to a person who violates this part.

(7) This section does not apply to a violation of section 16903c.

(8) The penalties provided for in this section shall not be applied against a person in violation of section 16903(1)(a), (b), (c), (d), (e), (g), or (j) or 16903(4) before September 1, 2002 if the person is in compliance with these provisions by September 1, 2002 and the person maintains compliance with those provisions. This subsection does not apply to a person who, before July 3, 2002, was convicted under this section.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) Senate Bill No. 1423.

(b) House Bill No. 6477.

(c) Senate Bill No. 1424.

(d) Senate Bill No. 1419.

(e) Senate Bill No. 1420.

(f) House Bill No. 6474.

(g) Senate Bill No. 1422.

(h) Senate Bill No. 1421.

(i) House Bill No. 6476.

(j) House Bill No. 6475.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
Senate Bill No. 1423 was filed with the Secretary of State December 29, 2006, and became 2006 PA 525, Imd. Eff. Dec. 29, 2006.
House Bill No. 6477 was filed with the Secretary of State December 29, 2006, and became 2006 PA 530, Imd. Eff. Dec. 29, 2006.
Senate Bill No. 1424 was filed with the Secretary of State December 29, 2006, and became 2006 PA 526, Imd. Eff. Dec. 29, 2006.
Senate Bill No. 1419 was filed with the Secretary of State December 29, 2006, and became 2006 PA 521, Imd. Eff. Dec. 29, 2006.
Senate Bill No. 1420 was filed with the Secretary of State December 29, 2006, and became 2006 PA 522, Imd. Eff. Dec. 29, 2006.
House Bill No. 6474 was filed with the Secretary of State December 29, 2006, and became 2006 PA 527, Imd. Eff. Dec. 29, 2006.
Senate Bill No. 1422 was filed with the Secretary of State December 29, 2006, and became 2006 PA 524, Imd. Eff. Dec. 29, 2006.
Senate Bill No. 1421 was filed with the Secretary of State December 29, 2006, and became 2006 PA 523, Imd. Eff. Dec. 29, 2006.
House Bill No. 6476 was filed with the Secretary of State December 29, 2006, and became 2006 PA 529, Imd. Eff. Dec. 29, 2006.
House Bill No. 6475 was filed with the Secretary of State December 29, 2006, and became 2006 PA 528, Imd. Eff. Dec. 29, 2006.

[No. 521]

(SB 1419)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 16902 (MCL 324.16902), as amended by 2002 PA 496.

The People of the State of Michigan enact:

324.16902 Delivery of scrap tire; limitations; removal; scope of subsection (2).

Sec. 16902. (1) A person shall deliver a scrap tire only to 1 of the following that is in compliance with this part:

(a) A collection site registered under section 16904.

(b) A location that has legally accumulated scrap tires below the regulatory threshold for qualifying as a collection site as specified in section 16901(d).

(c) A disposal area licensed under part 115.

(d) An end-user.

(e) A scrap tire processor.

(f) A tire retailer.

(2) A person shall not by contract, agreement, or otherwise arrange for the removal of scrap tires except with 1 of the following:

(a) A scrap tire hauler who is registered pursuant to section 16905(1) and who by contract, agreement, or otherwise is obligated to deliver the scrap tires to the destination as identified under section 16905(3)(c).

(b) A person hauling only a commodity.

(c) A retreader hauling only tire casings.

(d) A solid waste hauler.

(3) Subsection (2) does not do any of the following:

(a) Prohibit a person from transporting his or her scrap tires to a site authorized by subsection (1).

(b) Prohibit a member of a nonprofit service organization who is participating in a community service project from transporting scrap tires to a site authorized by subsection (1).

(c) Prohibit the owner of a farm from transporting scrap tires that originated from his or her farm operation to a location authorized by subsection (1).

(d) Prohibit a solid waste hauler from transporting solid waste to a disposal area licensed under part 115.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) Senate Bill No. 1423.

(b) House Bill No. 6477.

(c) Senate Bill No. 1424.

(d) Senate Bill No. 1418.

(e) Senate Bill No. 1420.

(f) House Bill No. 6474.

(g) Senate Bill No. 1422.

(h) Senate Bill No. 1421.

(i) House Bill No. 6476.

(j) House Bill No. 6475.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
Senate Bill No. 1423 was filed with the Secretary of State December 29, 2006, and became 2006 PA 525, Imd. Eff. Dec. 29, 2006.
House Bill No. 6477 was filed with the Secretary of State December 29, 2006, and became 2006 PA 530, Imd. Eff. Dec. 29, 2006.
Senate Bill No. 1424 was filed with the Secretary of State December 29, 2006, and became 2006 PA 526, Imd. Eff. Dec. 29, 2006.
Senate Bill No. 1418 was filed with the Secretary of State December 29, 2006, and became 2006 PA 520, Imd. Eff. Dec. 29, 2006.
Senate Bill No. 1420 was filed with the Secretary of State December 29, 2006, and became 2006 PA 522, Imd. Eff. Dec. 29, 2006.
House Bill No. 6474 was filed with the Secretary of State December 29, 2006, and became 2006 PA 527, Imd. Eff. Dec. 29, 2006.
Senate Bill No. 1422 was filed with the Secretary of State December 29, 2006, and became 2006 PA 524, Imd. Eff. Dec. 29, 2006.
Senate Bill No. 1421 was filed with the Secretary of State December 29, 2006, and became 2006 PA 523, Imd. Eff. Dec. 29, 2006.
House Bill No. 6476 was filed with the Secretary of State December 29, 2006, and became 2006 PA 529, Imd. Eff. Dec. 29, 2006.
House Bill No. 6475 was filed with the Secretary of State December 29, 2006, and became 2006 PA 528, Imd. Eff. Dec. 29, 2006.

[No. 522]

(SB 1420)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 16903 (MCL 324.16903), as amended by 2002 PA 496.

The People of the State of Michigan enact:

324.16903 Accumulation of scrap tires outdoors by owner or operator of collection site; compliance; bond required; exception.

Sec. 16903. (1) A person who owns or operates a collection site where less than 2,500 scrap tires are accumulated outdoors shall comply with all of the following:

(a) Scrap tires shall be stored in the tire storage area identified on the scrap tire collection site registration application map and approved by the department.

(b) Only scrap tires shall be accumulated in the tire storage area.

(c) Subject to subdivision (f), the scrap tires shall be accumulated in piles no greater than 15 feet in height with horizontal dimensions no greater than 200 by 40 feet.

(d) Subject to subdivision (f), the scrap tires shall not be within 20 feet of the property line or within 60 feet of a building or structure.

(e) Subject to subdivision (f), there shall be a minimum separation of 30 feet between scrap tire piles. The open space between the piles shall at all times be free of rubbish, equipment, and other materials.

(f) Scrap tire piles shall be accessible to fire fighting equipment. If the requirement of this subdivision is met, the local fire department that serves the jurisdiction in which the collection site is located may grant a variance from the requirements of subdivisions (c), (d), and (e). A variance under this subsection shall be in writing.

(g) Scrap tires shall be isolated from other stored materials that may create hazardous products if there is a fire, including, but not limited to, lead acid batteries, fuel tanks, solvent barrels, and pesticide containers.

(h) Except for scrap tires that are a commodity used to create a storage pad for, or a roadway for access to, other scrap tires that are also a commodity, scrap tires shall not be placed in the open spaces between tire piles or used to construct on-site roads.

(i) The owner or operator of the collection site shall allow the local fire department that serves the jurisdiction in which the collection site is located to inspect the collection site at any reasonable time.

(j) All persons employed to work at the collection site shall be trained in emergency response operations. The owner or operator of the collection site shall maintain training records and shall make these records available to the local fire department that serves the jurisdiction in which the collection site is located.

(2) A person who owns or operates a collection site where at least 2,500 but less than 100,000 scrap tires are accumulated outdoors shall comply with all of the following:

(a) All of the requirements of subsection (1).

(b) The tire storage area shall be completely enclosed with a fence that is at least 6 feet tall with lockable gates and that is designed to prevent easy access.

(c) An earthen berm not less than 5 feet in height shall completely enclose the tire storage area except to allow for necessary ingress and egress from roadways and buildings.

(d) The collection site shall contain sufficient drainage so that water does not pool or collect on the property.

(e) The approach road to the tire storage area and on-site access roads to the tire storage area shall be of all-weather construction and maintained in good condition and free of debris and equipment so that it is passable at all times for fire fighting and other emergency vehicles. If the local fire department for the jurisdiction where the collection site is located submits to the department a written determination that the on-site access roads do not ensure that the site is accessible to emergency vehicles at all times during the year, the department of environmental quality shall consider the on-site access roads to be in violation of this requirement.

(f) Tire storage areas shall be mowed regularly or otherwise kept free of weeds, vegetation, and other growth at all times.

(g) An emergency procedures plan shall be prepared and displayed at the collection site. The plan shall include telephone numbers of the local fire and police departments. The plan shall be reviewed by the local fire department prior to being posted.

(h) Scrap tires shall not be accumulated in excess of 10,000 cubic yards of scrap tires per acre.