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

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

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

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

(10) A certificate of attendance or instruction of an approved program of study or a certificate of successful completion of course work shall be filed as directed by the commissioner on a form prescribed by the commissioner and shall indicate the name and number of the course of study, the number of hours, dates of completion, and the name and number of schools attended or taught by the insurance producer or the evidence of successful completion of course work. A representative of the approved program of study shall file the form and a fee of $1.00 per hour for course credit for each insurance producer license renewal as directed by the commissioner within 30 days after the insurance producer completes the program. A copy of the form shall also be mailed first-class to the insurance producer who attended, taught, or successfully completed the program of study. The commissioner may enter into contracts to provide for the administrative functions of this subsection.

(11) The commissioner shall waive the continuing education requirements of this section for an insurance producer if the producer is unable to comply with the continuing education

requirements of this section due to military service or if the commissioner determines that enforcement of the requirements would cause a severe hardship. The commissioner shall waive the continuing education requirements of this section for the following insurance producers:

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

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

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

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

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

500.1204f Sale, solicitation, or negotiation of long-term care insurance; program of instruction required.

Sec. 1204f. (1) Each insurer that sells, solicits, or negotiates long-term care insurance shall ensure that each producer whose duties include selling, soliciting, or negotiating long-term care insurance completes a program of instruction as described in subsection (3) before selling, soliciting, or negotiating long-term care insurance.

(2) A program of instruction required under this section may be provided in conjunction with other producer training or separately. To satisfy subsection (1), a producer may document to an insurer that he or she has obtained training as described in subsection (3) from any of the following:

(a) Any insurer that sells, solicits, or negotiates long-term care insurance.

(b) A program of instruction qualified under section 1204a.

(c) A program of instruction qualified under section 1204c.

(3) A program of instruction required under this section shall consist of topics related to long-term care insurance and long-term care services, including, but not limited to, all of the following:

(a) State regulations and requirements, including, but not limited to, laws relating to adult financial exploitation.

(b) Available long-term care services and providers.

(c) Changes or improvements in long-term care services or providers.

(d) Alternatives to the purchase of private long-term care insurance.

(e) Differences in eligibility for benefits and tax treatment between policies intended to be federally qualified and those not intended to be federally qualified.

(f) The effect of inflation in eroding the value of benefits and the importance of inflation protection.

(g) Consumer suitability standards and guidelines.

(4) A program of instruction required under this section shall not include any training that is solely oriented to the sales or marketing of an insurer-specific long-term care product.

500.3906 Designation of person to receive notice of termination; reinstatement of coverage; effective date of section.

Sec. 3906. (1) An individual long-term care policy or certificate shall not be issued until the insurer has received from the applicant either a written designation of at least 1 person, in addition to the applicant, who is to receive notice of lapse or termination of the policy or certificate for nonpayment of premium, or a written waiver dated and signed by the applicant electing not to designate additional persons to receive notice. The applicant may designate at least 1 person who is to receive the notice of termination, in addition to the insured. A designation shall not constitute acceptance of any liability on the third party for services provided to the insured. The form used for the written designation shall provide space clearly designated for listing at least 1 person. The designation shall include each person's full name and home address. For an applicant who elects not to designate an additional person, the waiver shall state: "Protection against unintended lapse. I understand that I have the right to designate at least 1 person other than myself to receive notice of lapse or termination of this long-term care insurance policy for nonpayment of premium. I understand that notice will not be given until 30 days after a premium is due and unpaid. I elect NOT to designate a person to receive this notice." The insurer shall notify the insured of the right to change this written designation, no less often than once every 2 years.

(2) If the policyholder or certificateholder pays premium for a long-term care insurance policy or certificate through a payroll or pension deduction plan, subsection (1) does not apply until 60 days after the policyholder or certificateholder is no longer on such a payment plan. The application or enrollment form for such policies or certificates shall clearly indicate the payment plan selected by the applicant.

(3) An individual long-term care policy or certificate shall not lapse or be terminated for nonpayment of premium unless the insurer, at least 30 days before the effective date of the lapse or termination, has given notice to the insured and to those persons designated under subsection (1), at the address provided by the insured for purposes of receiving notice of lapse or termination. Notice shall be given by first-class United States mail, postage prepaid, and notice shall not be given until 30 days after a premium is due and unpaid. Notice shall be considered given 5 days after the date of mailing.

(4) A long-term care insurance policy or certificate shall provide for reinstatement of coverage if the insurer is provided proof that the policyholder or certificateholder was cognitively impaired or had a loss of functional capacity before the grace period contained in the policy expired. This option shall be available to the insured if requested within 5 months after termination and shall allow for the collection of past due premium, where appropriate. The standard of proof of cognitive impairment or loss of functional capacity shall not be more stringent than the benefit eligibility criteria on cognitive impairment or the loss of functional capacity contained in the policy and certificate.

(5) This section takes effect March 1, 2007 and applies to long-term care policies and certificates issued on or after March 1, 2007.

500.3910 Option of purchasing policy or certificate including nonforfeiture benefits; offer.

Sec. 3910. (1) This section does not apply to life insurance policies or riders containing accelerated benefits for long-term care.

(2) Except as provided in subsection (3), a long-term care insurance policy shall not be delivered or issued for delivery in this state unless the policyholder or certificateholder has been offered the option of purchasing a policy or certificate including a nonforfeiture benefit. An offer shall be in writing if the nonforfeiture benefit is not otherwise described in the outline of coverage or other materials given to the prospective policyholder or certificateholder. The offer of a nonforfeiture benefit may be in the form of a rider that is attached to the policy. If the policyholder or certificateholder declines the nonforfeiture benefit, the insurer shall provide a contingent benefit upon lapse that shall be available for a specified period of time following a substantial increase in premium rates.

(3) When a group long-term care insurance policy is issued, the offer required in subsection (2) shall be made to the group policyholder. However, if the policy is issued as group long-term care insurance as defined in section 3901(c)(*iv*), other than to a continuing care retirement community or other similar entity, the offering shall be made to each proposed certificateholder.

500.3910a Nonforfeiture benefits; coverage elements, eligibility, benefit triggers, and benefit length; contingent benefit; premium increase; notification; duties of insurer; limitation on maximum benefits; effective date of section; premiums subject to loss ratio requirements; conditions for offering nonforfeiture benefit.

Sec. 3910a. (1) This section does not apply to life insurance policies or riders containing accelerated benefits for long-term care.

(2) A policy or certificate offered with nonforfeiture benefits shall have coverage elements, eligibility, benefit triggers, and benefit length that are the same as coverage to be issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer shall be the benefits described in subsection (8).

(3) If the offer required to be made under section 3910 is rejected, the insurer shall provide a contingent benefit upon lapse as described in this section for individual and group policies without nonforfeiture benefits issued on and after June 1, 2007.

(4) If a group policyholder elects to make the nonforfeiture benefit an option to the certificateholder, a certificate shall provide either the nonforfeiture benefit or the contingent benefit upon lapse.

(5) Except as otherwise required, policyholders shall be notified not less than 45 days before the due date of a premium increase and of the amount of the increase.

(6) The contingent benefit on lapse is triggered every time an insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium as follows based on the insured's issue age, and the policy or certificate lapses within 120 days of the due date of the premium so increased:

TRIGGERS FOR A SUBSTANTIAL PREMIUM INCREASE

Issue Age	Percent Increase Over Initial Premium
29 and under	200%
30-34	190%
35-39	170%
40-44	150%
45-49	130%
50-54	110%
55-59	90%
60	70%
61	66%
62	62%
63	58%
64	54%
65	50%
66	48%
67	46%
68	44%
69	42%
70	40%
71	38%
72	36%
73	34%
74	32%
75	30%
76	28%
77	26%
78	24%
79	22%
80	20%
81	19%
82	18%
83	17%
84	16%
85	15%
86	14%
87	13%
88	12%
89	11%
90 and over	10%

(7) On or before the effective date of a substantial premium increase as defined in subsection (6), the insurer shall do all of the following:

(a) Offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased.

(b) Offer to convert the coverage to a paid-up status with a shortened benefit period as provided in subsection (8). This option may be elected at any time during the 120-day period under subsection (6).

(c) Notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period under subsection (6) is considered to be the election of the offer to convert under subdivision (b).

(8) Benefits continued as nonforfeiture benefits, including contingent benefits upon lapse, are as follows:

(a) For purposes of this subsection, attained age rating is defined as a schedule of premiums starting from the issue date that increases age at least 1% per year prior to age 50 and at least 3% per year beyond age 50.

(b) For purposes of this subsection, the nonforfeiture benefit shall be of a shortened benefit period providing paid-up long-term care insurance coverage after lapse. The same benefits shall be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits shall be determined as provided in subdivision (c). As used in this subdivision, "same benefits" means amounts and frequency in effect at the time of lapse but not increased thereafter.

(c) The standard nonforfeiture credit will be equal to 100% of the sum of all premiums paid, including the premiums paid prior to any changes in benefits. The insurer may offer additional shortened benefit period options, as long as the benefits for each duration equal or exceed the standard nonforfeiture credit for that duration. However, the minimum nonforfeiture credit shall not be less than 30 times the daily nursing home benefit at the time of lapse. In either event, the calculation of the nonforfeiture credit is subject to the limitation of subsection (9).

(d) The nonforfeiture benefit shall begin not later than the end of the third year following the policy or certificate issue date. The contingent benefit upon lapse shall be effective during the first 3 years as well as thereafter. However, for a policy or certificate with attained age rating, the nonforfeiture benefit shall begin on the earlier of the end of the tenth year following the policy or certificate issue date or the end of the second year following the date the policy or certificate is no longer subject to attained age rating.

(e) Nonforfeiture credits may be used for all care and services qualifying for benefits under the terms of the policy or certificate, up to the limits specified in the policy or certificate.

(9) All benefits paid by the insurer while the policy or certificate is in premium paying status and in the paid-up status shall not exceed the maximum benefits that would be payable if the policy or certificate had remained in premium paying status.

(10) There shall be no difference in the minimum nonforfeiture benefits as required under this section for group and individual policies.

(11) This section is effective June 1, 2007 and shall apply as follows:

(a) Except as otherwise provided in subdivision (b), this section applies to any long-term care policy issued in this state on or after June 1, 2007.

(b) This section does not apply to certificates issued on or after June 1, 2007, under a group long-term care insurance policy as defined in section 3901(c)(*i*), which policy was in force at the time this section became effective.

(12) Premiums charged for a policy or certificate containing nonforfeiture benefits or a contingent benefit on lapse are subject to the loss ratio requirements of section 3926a treating the policy as a whole.

(13) To determine whether contingent nonforfeiture upon lapse provisions are triggered under subsection (6), a replacing insurer that purchased or otherwise assumed a block or blocks of long-term care insurance policies from another insurer shall calculate the percentage increase based on the initial annual premium paid by the insured when the policy was first purchased from the original insurer.

(14) For qualified long-term care insurance contracts that are level premium contracts, an insurer shall offer a nonforfeiture benefit that meets all of the following:

(a) Is appropriately captioned.

(b) Provides a benefit available in the event of a default in the payment of any premiums and states that the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying contracts approved by the commissioner for the same contract form.

(c) Provides at least 1 of the following:

(*i*) Reduced paid-up insurance.

(*ii*) Extended term insurance.

(*iii*) Shortened benefit period.

(*iv*) Other offerings approved by the commissioner that are similar to subparagraphs (*i*) to (*iii*).

500.3910b Reduction options; applicability of section to long-term care policies and certificates issued on or after June 1, 2007.

Sec. 3910b. (1) A long-term care insurance policy or certificate shall provide that a policyholder or certificateholder who wishes to reduce coverage and lower the policy or certificate premium may choose at least 1 of the following options:

(a) Reducing the lifetime maximum benefit.

(b) Reducing the daily, weekly, or monthly benefit amount.

(2) In addition to the reduction options listed in subsection (1), a long-term care insurer may offer additional reduction options that are consistent with the policy or certificate design or the insurer's administrative processes.

(3) A long-term care insurer shall include in the long-term care insurance policy or certificate a description of the ways in which coverage may be reduced and the process for requesting and implementing a reduction in coverage.

(4) The age to determine the premium for reduced coverage shall be based on the age used to determine the premiums for the coverage currently in force.

(5) A long-term care insurer may limit any reduction in coverage to plans available for that policy form and to those for which benefits will be available after consideration of claims paid or payable.

(6) If a long-term care insurance policy or certificate is about to lapse, the insurer shall provide written notice to the insured of the options in subsection (1) to lower the premium by reducing coverage and of the premiums applicable to the reduced coverage options. The insurer may include in the notice additional options to those required in subsection (1). The notice shall provide the insured at least 30 days in which to elect to reduce coverage, and the policy or certificate shall be reinstated without underwriting if the insured elects the reduced coverage.

(7) This section applies to long-term care policies and certificates issued on or after June 1, 2007.

500.3915 Certain conditions prohibited.

Sec. 3915. A long-term care insurance policy sold before, on, or after June 2, 1992 shall not condition benefits on any of the following:

(a) The prior institutionalization of the insured.

(b) Prior receipt of a higher level of institutional care.

500.3925 Applicability of section to long-term care policy or certificate issued on or after June 1, 2007; information to be provided on forms; acknowledgement of disclosure; notice of premium rate schedule increase; personal worksheet; availability of free and independent insurance purchasing and public benefits counseling.

Sec. 3925. (1) Except as provided in subsection (2), this section applies to any long-term care policy or certificate issued in this state on or after June 1, 2007.

(2) For a long-term care certificate issued on or after June 1, 2007 under a group long-term care insurance policy described in section 3901(c)(*i*), which policy was in force on June 1, 2007, this section applies on the policy anniversary date following June 1, 2007.

(3) Other than long-term care policies or certificates for which no applicable premium rate or rate schedule increases can be made, an insurer shall provide on forms approved by the commissioner all of the following information to the applicant at the time of application or enrollment or, if the method of application does not allow for delivery at that time, an insurer shall provide on forms approved by the commissioner all of the following information to the applicant no later than at the time of delivery of the policy or certificate:

(a) A statement that the policy may be subject to rate increases in the future.

(b) An explanation of potential future premium rate revisions, and the policyholder's or certificateholder's option in the event of a premium rate revision.

(c) The premium rate or rate schedules applicable to the applicant that will be in effect until a request is made for an increase.

(d) A general explanation for applying premium rate or rate schedule adjustments that shall include a description of when premium rate or rate schedule adjustments will be effective and the right to a revised premium rate or rate schedule if the premium rate or rate schedule is changed.

(e) Information concerning each premium rate increase on the policy or certificate or similar policies or certificates over the past 10 years for this state or any other state that, at a minimum, identifies all of the following:

(*i*) The policies or certificates for which premium rates have been increased.

(*ii*) The calendar years when the policy or certificate was available for purchase.

(*iii*) The amount or percent of each increase. The percentage may be expressed as a percentage of the premium rate prior to the increase and may also be expressed as minimum and maximum percentages if the rate increase is variable by rating characteristics. An insurer may exclude from this disclosure premium rate increases that only apply to blocks of business acquired from another nonaffiliated insurer or the long-term care policies or certificates acquired from another nonaffiliated insurer when those increases occurred prior to the acquisition. If an acquiring insurer files for a rate increase on a long-term care policy or certificate acquired from a nonaffiliated insurer or a block of policies or certificates acquired from a nonaffiliated insurer before the later of June 1, 2007 or the end of a 24-month period following the acquisition of the block of policies or certificates, the acquiring insurer may exclude that rate increase from this disclosure. However, the nonaffiliated selling company shall include the disclosure of that rate increase as provided in subparagraph (*i*). If the

acquiring insurer files for a subsequent rate increase, even within the 24-month period, on the same policy or certificate acquired from a nonaffiliated insurer or block of policies or certificates acquired from a nonaffiliated insurer, the acquiring insurer shall make all disclosures required by this subdivision, including disclosure of the earlier rate increase.

(4) The insurer may, in a fair manner, provide explanatory information related to the rate increases in addition to that required under subsection (3).

(5) Except as otherwise provided in this subsection, an applicant shall sign an acknowledgment at the time of application that the insurer made the disclosure required under subsection (3). If due to the method of application the applicant cannot sign an acknowledgment at the time of application, the applicant shall sign an acknowledgment that the insurer made the disclosure required under subsection (3) no later than at the time of delivery of the policy or certificate.

(6) An insurer shall provide notice of an upcoming premium rate schedule increase to all policyholders or certificateholders, if applicable, at least 45 days prior to the implementation of the premium rate schedule increase by the insurer. The notice shall include the information required by subsection (3) when the rate increase is implemented.

(7) A long-term care insurer shall provide to an applicant a long-term care insurance personal worksheet approved by the commissioner that the applicant can use for help in determining whether long-term care insurance should be purchased.

(8) A long-term care insurer shall provide to an applicant who is 60 years of age or older or who is disabled a current brochure, or the web address where the brochure can be obtained and the telephone number for the agency that can provide the brochure, from the state's medicare medicaid assistance program that contains information on the availability of free and independent insurance purchasing and public benefits counseling.

500.3926 Applicability of section to long-term care policy or certificate issued on or after June 1, 2007; information to be provided to commissioner; premium rate schedule; statement; request by commissioner for actuarial demonstration; additional information.

Sec. 3926. (1) This section applies to any long-term care policy or certificate issued in this state on or after June 1, 2007.

(2) An insurer shall provide all of the following information to the commissioner 30 days prior to making a long-term care insurance policy or certificate available for sale:

(a) A copy of the disclosure documents required in section 3925.

(b) An actuarial certification consisting of at least all of the following:

(*i*) A statement that the initial premium rate schedule is sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the policy or certificate with no future premium increases anticipated.

(*ii*) A statement that the policy or certificate design and coverage provided have been reviewed and taken into consideration.

(*iii*) A statement that the underwriting and claims adjudication processes have been reviewed and taken into consideration.

(*iv*) A complete description of the basis for contract reserves that are anticipated to be held under the policy or certificate, with sufficient detail or sample calculations provided so as to have a complete depiction of the reserve amounts to be held, a statement that the assumptions used for reserves contain reasonable margins for adverse experience, a statement that the net valuation premium for renewal years does not increase except for attained-age

rating where permitted, and a statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses or if such a statement cannot be made, a complete description of the situations where this does not occur. An aggregate distribution of anticipated issues may be used as long as the underlying gross premiums maintain a reasonably consistent relationship. If the gross premiums for certain age groups appear to be inconsistent with this requirement, the commissioner may request a demonstration under subsection (3) based on a standard age distribution.

(*v*) A statement that the premium rate schedule is not less than the premium rate schedule for existing similar policies or certificates also available from the insurer except for reasonable differences attributable to benefits or a comparison of the premium schedules for similar policies or certificates that are currently available from the insurer with an explanation of the differences.

(3) Prior to the expiration of the 30 days under subsection (2), the commissioner may request an actuarial demonstration that benefits are reasonable in relation to premiums. The actuarial demonstration shall include either premium and claim experience on similar policies or certificates, adjusted for any premium or benefit differences, or relevant and credible data from other studies, or both. If the commissioner asks for this additional information, the 30-day time period under subsection (2) is tolled until the commissioner receives the requested information.

500.3926a Applicability of section to long-term care policy or certificate issued on or after June 1, 2007; notice of pending premium rate schedule increase; requirements; review and approval by commissioner; eligibility for contingent benefit upon lapse; applicability of subsections to certain policies or certificates; exceptional increases; definitions.

Sec. 3926a. (1) Except as provided in subsection (2), this section applies to any long-term care policy or certificate issued in this state on or after June 1, 2007.

(2) For certificates issued on or after June 1, 2007 under a group long-term care insurance policy described in section 3901(c)(*i*), which policy was in force on June 1, 2007, this section applies on the policy anniversary date following June 1, 2007.

(3) An insurer shall provide notice of a pending premium rate schedule increase, including an exceptional increase, to the commissioner at least 30 days prior to the notice to the policyholders. This notice to the commissioner shall include all of the following:

(a) Information required by section 3925.

(b) Certification by a qualified actuary that if the requested premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately adverse conditions, are realized, no further premium rate schedule increases are anticipated and that the premium rate filing is in compliance with the provisions of this section.

(c) An actuarial memorandum justifying the rate schedule change request that includes all of the following:

(*i*) Lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase and the method and assumptions used in determining the projected values, including reflection of any assumptions that deviate from those used for pricing other policies or certificates currently available for sale. Annual values for the 5 years preceding and the 3 years following the valuation date shall be provided separately. The projections shall include the development of the lifetime loss ratio, unless the rate increase is an exceptional increase. The projections shall demonstrate compliance with subsection (4).

For exceptional increases, the projected experience shall be limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase and if the commissioner determines that offsets may exist, the insurer shall use appropriate net projected experience.

(*ii*) If the rate increase will trigger contingent benefit upon lapse, disclosure of how reserves have been incorporated in this rate increase.

(*iii*) Disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and what other actions taken by the insurer have been relied on by the actuary.

(*iv*) A statement that policy design, underwriting, and claims adjudication practices have been taken into consideration.

(*v*) If it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase, the insurer will need to file composite rates reflecting projections of new certificates.

(d) A statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless sufficient justification is provided to the commissioner.

(e) Sufficient information for review and approval of the premium rate schedule increase by the commissioner.

(4) All premium rate schedule increases shall be determined in accordance with the following requirements:

(a) Exceptional increases shall provide that 70% of the present value of projected additional premiums from the exceptional increase will be returned to policyholders in benefits.

(b) Premium rate schedule increases shall be calculated such that the sum of the accumulated value of incurred claims, without the inclusion of active life reserves, and the present value of future projected incurred claims, without the inclusion of active life reserves, will not be less than the sum of the following:

(*i*) The accumulated value of the initial earned premium times 58%.

(*ii*) Eighty-five percent of the accumulated value of prior premium rate schedule increases on an earned basis.

(*iii*) The present value of future projected initial earned premiums times 58%.

(*iv*) Eighty-five percent of the present value of future projected premiums not in subparagraph (*iii*) on an earned basis.

(c) If a policy or certificate has both exceptional and other increases, the values in subdivision (b)(*ii*) and (*iv*) shall also include 70% for exceptional rate increase amounts.

(d) All present and accumulated values used to determine rate increases shall use the maximum valuation interest rate for contract reserves as specified in section 733(1). The actuary shall disclose as part of the actuarial memorandum the use of any appropriate averages.

(5) For each rate increase that is implemented, the insurer shall file for review and approval by the commissioner updated projections, as described in subsection (3)(c)(*i*), annually for the next 3 years and include a comparison of actual results to projected values. The commissioner may extend the period to greater than 3 years if actual results are not consistent with projected values from prior projections. For group insurance certificates that meet the conditions in subsection (13), the projection required by this subsection shall be provided to the policyholder in lieu of filing with the commissioner.

(6) If any premium rate in the revised premium rate schedule is greater than 200% of the comparable rate in the initial premium schedule, lifetime projections, as described in subsection (3)(c)(*i*), shall be filed for review and approval by the commissioner every 5 years following the end of the required period in subsection (5). For group insurance certificates that meet the conditions in subsection (13), the projections required by this subsection shall be provided to the policyholder in lieu of filing with the commissioner.

(7) If the commissioner has determined that the actual experience following a rate increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed proportions of premiums specified in subsection (4), the commissioner may require the insurer to implement premium rate schedule adjustments or other measures to reduce the difference between the projected and actual experience. In determining whether the actual experience adequately matches the projected experience, consideration should be given to subsection (3)(c)(*iii*), if applicable.

(8) If the majority of the policies or certificates to which an increase is applicable are eligible for the contingent benefit upon lapse, the insurer shall file both of the following with the commissioner:

(a) A plan, subject to commissioner approval, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy or certificate requiring further premium rate schedule increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect.

(b) The original anticipated lifetime loss ratio, and the premium rate schedule increase that would have been calculated according to subsection (4) had the greater of the original anticipated lifetime loss ratio or 58% been used in the calculations described in subsection (4)(b)(*i*) and (*iii*).

(9) The commissioner shall review, for all policies and certificates included in a filing, the projected lapse rates and past lapse rates during the 12 months following each increase to determine if significant adverse lapsation has occurred or is anticipated for any rate increase filing meeting the following criteria:

(a) The rate increase is not the first rate increase requested for the specific policy or certificate.

(b) The rate increase is not an exceptional increase.

(c) The majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse.

(10) If significant adverse lapsation has occurred, is anticipated in the filing, or is evidenced in the actual results as presented in the updated projections provided by the insurer following the requested rate increase, the commissioner may determine that a rate spiral exists. Following the determination that a rate spiral exists, the commissioner may require the insurer to offer, without underwriting, to all in force insureds subject to the rate increase the option to replace existing coverage with 1 or more reasonably comparable products being offered by the insurer or its affiliates. An offer under this subsection is subject to the commissioner's approval, shall be based on actuarially sound principles, but shall not be based on attained age, and shall provide that maximum benefits under any new policy or certificate accepted by an insured shall be reduced by comparable benefits already paid under the existing policy or certificate. The insurer shall maintain the experience of all the replacement insureds separate from the experience of insureds originally issued the policy or certificate. If a rate increase is requested on the policy or certificate, the rate increase shall be limited to the lesser of the maximum rate increase determined based on the combined

experience and the maximum rate increase determined based only on the experience of the insureds originally issued the policy or certificate plus 10%.

(11) If the commissioner determines that an insurer has exhibited a persistent practice of filing inadequate initial premium rates for long-term care insurance, the commissioner, in addition to the provisions of subsections (9) and (10), may prohibit the insurer from either of the following:

(a) Filing and marketing comparable coverage for a period of up to 5 years.

(b) Offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases.

(12) Subsections (1) to (11) do not apply to policies or certificates for which the long-term care benefits provided by the policy or certificate are incidental, if the policy or certificate complies with all of the following:

(a) For any plan that may have a cash value, the interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy or certificate.

(b) The portion of the policy or certificate that provides insurance benefits other than long-term care coverage meets the nonforfeiture requirements as applicable in section 4060 or 4072.

(c) The policy or certificate meets sections 3928, 3933, 3951, and 3953.

(d) The portion of the policy or certificate that provides insurance benefits other than long-term care coverage meets, as applicable, the policy illustrations and disclosure requirements under section 4038.

(e) An actuarial memorandum is filed with the office of financial and insurance services that includes all of the following:

(*i*) A description of the basis on which the long-term care rates were determined.

(*ii*) A description of the basis for the reserves.

(*iii*) A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance.

(*iv*) A description and a table of each actuarial assumption used. For expenses, an insurer shall include percent of premium dollars per policy or certificate and dollars per unit of benefits, if any.

(*v*) A description and a table of the anticipated policy or certificate reserves and additional reserves to be held in each future year for active lives.

(*vi*) The estimated average annual premium per policy or certificate and the average issue age.

(*vii*) A statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used and, if used, shall include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. For a group certificate, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs.

(*viii*) A description of the effect of the long-term care policy or certificate provision on the required premiums, nonforfeiture values, and reserves on the underlying insurance policy or certificate, both for active lives and those in long-term care claim status.

(13) Subsections (7), (8), and (9) do not apply to a group insurance policy described in section 3901(c)(*i*) if the policy insures 250 or more persons and the policyholder has 5,000 or

more eligible employees of a single employer or the policyholder, and not the certificate holders, pays a material portion of the premium, which shall not be less than 20% of the total premium for the group in the calendar year prior to the year a rate increase is filed.

(14) Except as otherwise provided in this section, exceptional increases are subject to the same requirements as other premium rate schedule increases. The commissioner may request a review by an independent qualified actuary or a professional qualified actuarial body of the basis for a request that an increase be considered an exceptional increase. The commissioner, in determining that the necessary basis for an exceptional increase exists, shall also determine any potential offsets to higher claims costs.

(15) As used in this section:

(a) "Exceptional increase" means only those increases filed by an insurer as exceptional for which the commissioner determines the need for the premium rate increase is justified due to changes in laws or regulations applicable to long-term care coverage in this state or due to increased and unexpected utilization that affects the majority of insurers of similar products.

(b) "Incidental" means that the value of the long-term care benefits provided is less than 10% of the total value of the benefits provided over the life of the policy or certificate as measured on the date of issue.

(c) "Qualified actuary" means a member in good standing of the American academy of actuaries.

(d) "Similar policies" means all of the long-term care insurance policies and certificates issued by an insurer in the same long-term care benefit classification as the policy or certificate being considered. Certificates of groups described in section 3901(c)(*i*) are not considered similar to policies or certificates otherwise issued as long-term care insurance, but are similar to other comparable certificates with the same long-term care benefit classifications. For purposes of determining similar policies, long-term care benefit classifications are defined as follows: institutional long-term care benefits only, noninstitutional long-term care benefits only, or comprehensive long-term care benefits.

500.3927 Reasonableness of benefits relative to premiums; expected loss ratio; evaluation of factors; applicability of section.

Sec. 3927. (1) Benefits under individual long-term care insurance policies shall be considered reasonable in relation to premiums provided the expected loss ratio is at least 60%, calculated in a manner that provides for adequate reserving of the long-term care insurance risk. In evaluating the expected loss ratio, due consideration shall be given to all relevant factors, including:

(a) Statistical credibility of incurred claims experience and earned premiums.

(b) The period for which rates are computed to provide coverage.

(c) Experienced and projected trends.

(d) Concentration of experience within early policy duration.

(e) Expected claim fluctuation.

(f) Experience refunds, adjustments, or dividends.

(g) Renewability features.

(h) All appropriate expense factors.

(i) Interest.

(j) Experimental nature of the coverage.

(k) Policy reserves.

(*l*) Mix of business by risk classification.

(m) Product features such as long elimination periods, high deductibles, and high maximum limits.

(n) Premiums charged and losses incurred for other similar policies.

(2) This section does not apply to fixed indivisible premium life insurance policies that fund long-term care benefits entirely by accelerating the death benefit.

(3) This section applies to all long-term care insurance policies or certificates except those described in sections 3926(1) and 3926a(1) and (2).

500.3935 Statement relating to request for additional information.

Sec. 3935. An application for a long-term care policy shall contain the following statement printed, stamped, or as part of a sticker permanently affixed to the application in capital letters on the first page:

"For additional information about long-term care coverage write to the office of financial and insurance services, P.O. Box 30220, Lansing, MI 48909 or call the area agency on aging in your community.".

500.3941a Inapplicability of section to life insurance policies or riders containing accelerated benefits; development of suitability standards.

Sec. 3941a. (1) This section does not apply to life insurance policies or riders containing accelerated benefits for long-term care.

(2) Every insurer or other entity marketing long-term care insurance shall do all of the following:

(a) Develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant.

(b) Train its producers in the use of and require producers to use its suitability standards.

(c) Maintain a copy of its suitability standards and make them available for inspection upon request by the commissioner.

(d) To determine whether the applicant meets the developed suitability standards, the insurer shall make reasonable efforts to obtain all of the following information:

(*i*) The applicant's ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage.

(*ii*) The applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs.

(*iii*) The values, benefits, and costs of the applicant's existing insurance, if any, when compared to the values, benefits, and costs of the recommended purchase or replacement.

(3) If the insurer determines that the applicant does not meet its suitability standards, or if the applicant has declined to provide the necessary information, the insurer may reject the application for long-term care insurance.

500.3942 Marketing; duties of insurer; use of "level premium" or "noncancelable" prohibited; exception.

Sec. 3942. (1) Every insurer marketing long-term care insurance coverage in this state, directly or through its producers, shall do all of the following:

(a) Establish marketing procedures to assure that any comparison of policies by its producers or other producers are fair and accurate.

(b) Establish marketing procedures to assure excessive insurance is not sold or issued.

(c) Display prominently by type, stamp, or other appropriate means, on the first page of the outline of coverage and policy the following:

"Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations.".

(d) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has accident and sickness or long-term care insurance and the types and amounts of such insurance.

(e) Establish auditable procedures for verifying compliance with this section.

(2) An insurer marketing long-term care insurance coverage in this state shall not use the term "level premium" or "noncancelable" unless the insurer does not have the right to change the premium for the product being marketed.

This act is ordered to take immediate effect.
Approved October 18, 2006.
Filed with Secretary of State October 19, 2006.

[No. 443]

(SB 1226)

AN ACT to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to prohibit the use of certain devices for the dispensing of alcoholic vapor; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," by amending section 703 (MCL 436.1703), as amended by 2004 PA 63.

The People of the State of Michigan enact:

436.1703 Purchase, consumption, or possession of alcoholic liquor by minor; attempt; violation; fines; sanctions; furnishing fraudulent identification to minor; screening and assessment; chemical breath analysis; notice to parent, custodian, or guardian; construction of section; exceptions; "any bodily alcohol content" defined.

Sec. 703. (1) A minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or

have any bodily alcohol content, except as provided in this section. A minor who violates this subsection is guilty of a misdemeanor punishable by the following fines and sanctions and is not subject to the penalties prescribed in section 909:

(a) For the first violation a fine of not more than $100.00, and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and designated by the administrator of substance abuse services, and may be ordered to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (4).

(b) For a violation of this subsection following a prior conviction or juvenile adjudication for a violation of this subsection, section 33b(1) of former 1933 (Ex Sess) PA 8, or a local ordinance substantially corresponding to this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, by imprisonment for not more than 30 days but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, a fine of not more than $200.00, or both, and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and designated by the administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (4).

(c) For a violation of this subsection following 2 or more prior convictions or juvenile adjudications for a violation of this subsection, section 33b(1) of former 1933 (Ex Sess) PA 8, or a local ordinance substantially corresponding to this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, by imprisonment for not more than 60 days but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, a fine of not more than $500.00, or both, and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and designated by the administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (4).

(2) A person who furnishes fraudulent identification to a minor, or notwithstanding subsection (1) a minor who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both.

(3) When an individual who has not previously been convicted of or received a juvenile adjudication for a violation of subsection (1) pleads guilty to a violation of subsection (1) or offers a plea of admission in a juvenile delinquency proceeding for a violation of subsection (1), the court, without entering a judgment of guilt in a criminal proceeding or a determination in a juvenile delinquency proceeding that the juvenile has committed the offense and with the consent of the accused, may defer further proceedings and place the individual on probation upon terms and conditions that include, but are not limited to, the sanctions set forth in subsection (1)(a), payment of the costs including minimum state cost as provided for in section 18m of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18m, and section 1j of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1j, and the costs of probation as prescribed in section 3 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.3. Upon violation of a term or condition of probation or upon a finding that the individual is utilizing this subsection in another court, the court may enter an adjudication of guilt, or a determination in a juvenile delinquency proceeding that

the individual has committed the offense, and proceed as otherwise provided by law. Upon fulfillment of the terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal under this section shall be without adjudication of guilt or without a determination in a juvenile delinquency proceeding that the individual has committed the offense and is not a conviction or juvenile adjudication for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions or juvenile adjudications under subsection (1)(b) and (c). There may be only 1 discharge and dismissal under this subsection as to an individual. The court shall maintain a nonpublic record of the matter while proceedings are deferred and the individual is on probation and if there is a discharge and dismissal under this subsection. The secretary of state shall retain a nonpublic record of a plea and of the discharge and dismissal under this subsection. These records shall be furnished to any of the following:

(a) To a court, prosecutor, or police agency upon request for the purpose of determining if an individual has already utilized this subsection.

(b) To the department of corrections, a prosecutor, or a law enforcement agency, upon the department's, a prosecutor's, or a law enforcement agency's request, subject to all of the following conditions:

(*i*) At the time of the request, the individual is an employee of the department of corrections, the prosecutor, or the law enforcement agency, or an applicant for employment with the department of corrections, the prosecutor, or the law enforcement agency.

(*ii*) The record is used by the department of corrections, the prosecutor, or the law enforcement agency only to determine whether an employee has violated his or her conditions of employment or whether an applicant meets criteria for employment.

(4) The court may order the person convicted of violating subsection (1) to undergo screening and assessment by a person or agency as designated by the substance abuse coordinating agency as defined in section 6103 of the public health code, 1978 PA 368, MCL 333.6103, in order to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. The court may order a person subject to a conviction or juvenile adjudication of, or placed on probation regarding, a violation of subsection (1) to submit to a random or regular preliminary chemical breath analysis. In the case of a minor under 18 years of age not emancipated under 1968 PA 293, MCL 722.1 to 722.6, the parent, guardian, or custodian may request a random or regular preliminary chemical breath analysis as part of the probation.

(5) The secretary of state shall suspend the operator's or chauffeur's license of an individual convicted of violating subsection (1) or (2) as provided in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319.

(6) A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content may require the person to submit to a preliminary chemical breath analysis. A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a criminal prosecution to determine whether the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content. A minor who refuses to submit to a preliminary chemical breath test analysis as required in this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $100.00.

(7) A law enforcement agency, upon determining that a person less than 18 years of age who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6, allegedly consumed, possessed, purchased alcoholic liquor, attempted to consume, possess, or purchase alcoholic

liquor, or had any bodily alcohol content in violation of subsection (1) shall notify the parent or parents, custodian, or guardian of the person as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated subsection (1) is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6. The notice may be made by any means reasonably calculated to give prompt actual notice including, but not limited to, notice in person, by telephone, or by first-class mail. If an individual less than 17 years of age is incarcerated for violating subsection (1), his or her parents or legal guardian shall be notified immediately as provided in this subsection.

(8) This section does not prohibit a minor from possessing alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed by this act, by the commission, or by an agent of the commission, if the alcoholic liquor is not possessed for his or her personal consumption.

(9) This section does not limit the civil or criminal liability of the vendor or the vendor's clerk, servant, agent, or employee for a violation of this act.

(10) The consumption of alcoholic liquor by a minor who is enrolled in a course offered by an accredited postsecondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this act if the purpose of the consumption is solely educational and is a requirement of the course.

(11) The consumption by a minor of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this act.

(12) Subsection (1) does not apply to a minor who participates in either or both of the following:

(a) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

(b) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action unless the initial or contemporaneous purchase or receipt of alcoholic liquor by the minor was not under the direction of the state police, the commission, or the local police agency and was not part of the undercover operation.

(13) The state police, the commission, or a local police agency shall not recruit or attempt to recruit a minor for participation in an undercover operation at the scene of a violation of subsection (1), section 801(2), or section 701(1).

(14) In a criminal prosecution for the violation of subsection (1) concerning a minor having any bodily alcohol content, it is an affirmative defense that the minor consumed the alcoholic liquor in a venue or location where that consumption is legal.

(15) As used in this section, "any bodily alcohol content" means either of the following:

(a) An alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

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

This act is ordered to take immediate effect.
Approved November 27, 2006.
Filed with Secretary of State November 27, 2006.

[No. 444]

(SB 1371)

AN ACT to amend 2002 PA 591, entitled "An act to establish an educational scholarship program for eligible resident students enrolled in certain nursing programs; to prescribe conditions for repayment of the scholarships; to provide for the administration of the Michigan nursing scholarship program; and to prescribe certain powers and duties of certain state officers, agencies, and departments," by amending section 2 (MCL 390.1182).

The People of the State of Michigan enact:

390.1182 Definitions.

Sec. 2. As used in this act:

(a) "Authority" means the Michigan higher education assistance authority created by 1960 PA 77, MCL 390.951 to 390.961.

(b) "Eligible costs" means tuition and fees charged by an eligible institution; related costs for room, board, books, supplies, transportation, or day care; and other costs determined by the authority.

(c) "Eligible employment" means either of the following:

(*i*) Teaching in a nursing program.

(*ii*) A registered nurse or licensed practical nurse providing full-time nursing care, or part-time nursing care if section 7 applies, in a ward, emergency department, emergency room, operating room, or trauma center of a hospital licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260, in a nursing home or hospice licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260, in a health facility or agency licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260, that provides nonemergency health care to patients without receiving compensation for providing that nonemergency health care, or in a clinic or other health care program operated by a local health department that provides 1 or more required services under part 24 of the public health code, 1978 PA 368, MCL 333.2401 to 333.2498, or as an employee of a home health care agency providing home patient care.

(d) "Eligible institution" means a degree or certificate granting public or independent nonprofit college or university, junior college, or community college in this state.

(e) "Licensed practical nurse" means an individual licensed to engage in the practice of nursing as a licensed practical nurse as defined in section 17201 of the public health code, 1978 PA 368, MCL 333.17201.

(f) "Nursing program" means either of the following:

(*i*) A program for the training of individuals to become registered nurses or licensed practical nurses operated in this state by an eligible institution and approved by the Michigan board of nursing.

(*ii*) A master's degree in nursing program operated in this state by an eligible institution and approved by the Michigan board of nursing.

(g) "Registered professional nurse" means that term as defined in section 17201 of the public health code, 1978 PA 368, MCL 333.17201.

This act is ordered to take immediate effect.

Approved November 27, 2006.

Filed with Secretary of State November 27, 2006.

[No. 445]

(SB 1052)

AN ACT to amend 1995 PA 279, entitled "An act to license and regulate the conducting of horse race meetings in this state with pari-mutuel wagering on the results of horse races and persons involved in horse racing and pari-mutuel gaming activities at such race meetings; to create the office of racing commissioner; to prescribe the powers and duties of the racing commissioner; to prescribe certain powers and duties of the department of agriculture and the director of the department of agriculture; to provide for the promulgation of rules; to provide for the imposition of taxes and fees and the disposition of revenues; to impose certain taxes; to create funds; to legalize and permit the pari-mutuel method of wagering on the results of live and simulcast races at licensed race meetings in this state; to appropriate the funds derived from pari-mutuel wagering on the results of horse races at licensed race meetings in this state; to prescribe remedies and penalties; and to repeal acts and parts of acts," by amending sections 2 and 4 (MCL 431.302 and 431.304).

The People of the State of Michigan enact:

431.302 Definitions.

Sec. 2. As used in this act:

(a) "Affiliate" means a person who, directly or indirectly, controls, is controlled by, or is under common control with; is in a partnership or joint venture relationship with; or is a co-shareholder of a corporation, co-member of a limited liability company, or co-partner in a limited liability partnership with a person who holds or applies for a race meeting or track license under this act. For purposes of this subdivision, a controlling interest is a pecuniary interest of more than 15%.

(b) "Breaks" means the cents over any multiple of 10 otherwise payable to a patron on a wager of $1.00.

(c) "Certified horsemen's organization" means an organization registered with the office of racing commissioner in a manner and form required by the racing commissioner, that can demonstrate all of the following:

(*i*) The organization's capacity to supply horses.

(*ii*) The organization's ability to assist a race meeting licensee in conducting the licensee's racing program.

(*iii*) The organization's ability to monitor and improve physical conditions and controls for individuals and horses participating at licensed race meetings.

(*iv*) The organization's ability to protect the financial interests of the individuals participating at licensed race meetings.

(d) "City area" means a city with a population of 750,000 or more and every county located wholly or partly within 30 miles of the city limits of the city.

(e) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(f) "Day of operation" means a period of 24 hours beginning at 12 noon and ending at 11:59 a.m. the following day.

(g) "Drug" means any of the following:

(*i*) A substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals.

(*ii*) A substance, other than food, intended to affect the structure, condition, or any function of the body of humans or other animals.

(*iii*) A substance intended for use as a component of a substance specified in subparagraph (*i*) or (*ii*).

(h) "Fair" means any county, district, or community fair and any state fair.

(i) "Foreign substance" means a substance, or its metabolites, that does not exist naturally in an untreated horse or, if natural to an untreated horse, exists at an unnaturally high physiological concentration as a result of having been administered to the horse.

(j) "Full card simulcast" means an entire simulcast racing program of 1 or more race meeting licensees located in this state, or an entire simulcast racing program of 1 or more races simulcasted from 1 or more racetracks located outside of this state.

(k) "Member of the immediate family" means the spouse, child, parent, or sibling.

(*l*) "Person" means an individual, firm, partnership, corporation, association, or other legal entity.

(m) "Purse pool" means an amount of money allocated or apportioned to pay prizes for horse races and from which payments may be made to certified horsemen's organizations pursuant to this act.

(n) "Veterinarian" means a person licensed to practice veterinary medicine under part 188 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, or under a state or federal law applicable to that person.

431.304 Racing commissioner; appointment; qualifications; individuals prohibited from wagering.

Sec. 4. (1) The racing commissioner shall be appointed for a term of 4 years by the governor by and with the advice and consent of the senate.

(2) The racing commissioner shall be a resident of this state and during his or her term of office shall not be a stockholder of, or be directly or indirectly connected with the conduct or management of, or have any other legal or beneficial interest in, any of the following:

(a) A racetrack, race meeting, or a racing interest, including, but not limited to, the ownership, breeding, training, or racing of horses or any vendor, supplier, or distributor of goods or services to a racetrack, race meeting, or racing participant licensed under this act.

(b) Any gaming activity conducted at any licensed race meeting in this state.

(3) The racing commissioner, an employee of the office of the racing commissioner, or a member of the immediate family of the racing commissioner or of an employee of the office of the racing commissioner shall not participate in wagering permitted under this act or conducted by a person or an affiliate of a person licensed or applying for a license under this act. This subsection does not apply to wagering that is part of surveillance, security, or other official duties for the office of the racing commissioner.

This act is ordered to take immediate effect.
Approved November 27, 2006.
Filed with Secretary of State November 27, 2006.

[No. 446]

(SB 1004)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection

of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 27a (MCL 211.27a), as amended by 2006 PA 378.

The People of the State of Michigan enact:

211.27a Property tax assessment; determining taxable value; adjustment; exception; "transfer of ownership" defined; qualified agricultural property; notice of transfer of property; applicability of subsection (10); definitions.

Sec. 27a. (1) Except as otherwise provided in this section, property shall be assessed at 50% of its true cash value under section 3 of article IX of the state constitution of 1963.

(2) Except as otherwise provided in subsection (3), for taxes levied in 1995 and for each year after 1995, the taxable value of each parcel of property is the lesser of the following:

(a) The property's taxable value in the immediately preceding year minus any losses, multiplied by the lesser of 1.05 or the inflation rate, plus all additions. For taxes levied in 1995, the property's taxable value in the immediately preceding year is the property's state equalized valuation in 1994.

(b) The property's current state equalized valuation.

(3) Upon a transfer of ownership of property after 1994, the property's taxable value for the calendar year following the year of the transfer is the property's state equalized valuation for the calendar year following the transfer.

(4) If the taxable value of property is adjusted under subsection (3), a subsequent increase in the property's taxable value is subject to the limitation set forth in subsection (2) until a subsequent transfer of ownership occurs. If the taxable value of property is adjusted under subsection (3) and the assessor determines that there had not been a transfer of ownership, the taxable value of the property shall be adjusted at the July or December board of review. Notwithstanding the limitation provided in section 53b(1) on the number of years for which a correction may be made, the July or December board of review may adjust the taxable value of property under this subsection for the current year and for the 3 immediately preceding calendar years. A corrected tax bill shall be issued for each tax year for which the taxable value is adjusted by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll. For purposes of section 53b, an adjustment under this subsection shall be considered the correction of a clerical error.

(5) Assessment of property, as required in this section and section 27, is inapplicable to the assessment of property subject to the levy of ad valorem taxes within voted tax limitation increases to pay principal and interest on limited tax bonds issued by any governmental unit, including a county, township, community college district, or school district, before January 1, 1964, if the assessment required to be made under this act would be less than the

assessment as state equalized prevailing on the property at the time of the issuance of the bonds. This inapplicability shall continue until levy of taxes to pay principal and interest on the bonds is no longer required. The assessment of property required by this act shall be applicable for all other purposes.

(6) As used in this act, "transfer of ownership" means the conveyance of title to or a present interest in property, including the beneficial use of the property, the value of which is substantially equal to the value of the fee interest. Transfer of ownership of property includes, but is not limited to, the following:

(a) A conveyance by deed.

(b) A conveyance by land contract. The taxable value of property conveyed by a land contract executed after December 31, 1994 shall be adjusted under subsection (3) for the calendar year following the year in which the contract is entered into and shall not be subsequently adjusted under subsection (3) when the deed conveying title to the property is recorded in the office of the register of deeds in the county in which the property is located.

(c) A conveyance to a trust after December 31, 1994, except if the settlor or the settlor's spouse, or both, conveys the property to the trust and the sole present beneficiary or beneficiaries are the settlor or the settlor's spouse, or both.

(d) A conveyance by distribution from a trust, except if the distributee is the sole present beneficiary or the spouse of the sole present beneficiary, or both.

(e) A change in the sole present beneficiary or beneficiaries of a trust, except a change that adds or substitutes the spouse of the sole present beneficiary.

(f) A conveyance by distribution under a will or by intestate succession, except if the distributee is the decedent's spouse.

(g) A conveyance by lease if the total duration of the lease, including the initial term and all options for renewal, is more than 35 years or the lease grants the lessee a bargain purchase option. As used in this subdivision, "bargain purchase option" means the right to purchase the property at the termination of the lease for not more than 80% of the property's projected true cash value at the termination of the lease. After December 31, 1994, the taxable value of property conveyed by a lease with a total duration of more than 35 years or with a bargain purchase option shall be adjusted under subsection (3) for the calendar year following the year in which the lease is entered into. This subdivision does not apply to personal property except buildings described in section 14(6) and personal property described in section 8(h), (i), and (j). This subdivision does not apply to that portion of the property not subject to the leasehold interest conveyed.

(h) A conveyance of an ownership interest in a corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity if the ownership interest conveyed is more than 50% of the corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity. Unless notification is provided under subsection (10), the corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity shall notify the assessing officer on a form provided by the state tax commission not more than 45 days after a conveyance of an ownership interest that constitutes a transfer of ownership under this subdivision.

(i) A transfer of property held as a tenancy in common, except that portion of the property not subject to the ownership interest conveyed.

(j) A conveyance of an ownership interest in a cooperative housing corporation, except that portion of the property not subject to the ownership interest conveyed.

(7) Transfer of ownership does not include the following:

(a) The transfer of property from 1 spouse to the other spouse or from a decedent to a surviving spouse.

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

(c) A transfer of that portion of property subject to a life estate or life lease retained by the transferor, until expiration or termination of the life estate or life lease. That portion of property transferred that is not subject to a life lease shall be adjusted under subsection (3).

(d) A transfer through foreclosure or forfeiture of a recorded instrument under chapter 31, 32, or 57 of the revised judicature act of 1961, 1961 PA 236, MCL 600.3101 to 600.3280 and MCL 600.5701 to 600.5759, or through deed or conveyance in lieu of a foreclosure or forfeiture, until the mortgagee or land contract vendor subsequently transfers the property. If a mortgagee does not transfer the property within 1 year of the expiration of any applicable redemption period, the property shall be adjusted under subsection (3).

(e) A transfer by redemption by the person to whom taxes are assessed of property previously sold for delinquent taxes.

(f) A conveyance to a trust if the settlor or the settlor's spouse, or both, conveys the property to the trust and the sole present beneficiary of the trust is the settlor or the settlor's spouse, or both.

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

(h) A transfer creating or terminating a joint tenancy between 2 or more persons if at least 1 of the persons was an original owner of the property before the joint tenancy was initially created and, if the property is held as a joint tenancy at the time of conveyance, at least 1 of the persons was a joint tenant when the joint tenancy was initially created and that person has remained a joint tenant since the joint tenancy was initially created. A joint owner at the time of the last transfer of ownership of the property is an original owner of the property. For purposes of this subdivision, a person is an original owner of property owned by that person's spouse.

(i) A transfer for security or an assignment or discharge of a security interest.

(j) A transfer of real property or other ownership interests among members of an affiliated group. As used in this subsection, "affiliated group" means 1 or more corporations connected by stock ownership to a common parent corporation. Upon request by the state tax commission, a corporation shall furnish proof within 45 days that a transfer meets the requirements of this subdivision. A corporation that fails to comply with a request by the state tax commission under this subdivision is subject to a fine of $200.00.

(k) Normal public trading of shares of stock or other ownership interests that, over any period of time, cumulatively represent more than 50% of the total ownership interest in a corporation or other legal entity and are traded in multiple transactions involving unrelated individuals, institutions, or other legal entities.

(*l*) A transfer of real property or other ownership interests among corporations, partnerships, limited liability companies, limited liability partnerships, or other legal entities if the entities involved are commonly controlled. Upon request by the state tax commission, a corporation, partnership, limited liability company, limited liability partnership, or other legal entity shall furnish proof within 45 days that a transfer meets the requirements of this subdivision. A corporation, partnership, limited liability company, limited liability partnership,

or other legal entity that fails to comply with a request by the state tax commission under this subdivision is subject to a fine of $200.00.

(m) A direct or indirect transfer of real property or other ownership interests resulting from a transaction that qualifies as a tax-free reorganization under section 368 of the internal revenue code, 26 USC 368. Upon request by the state tax commission, a property owner shall furnish proof within 45 days that a transfer meets the requirements of this subdivision. A property owner who fails to comply with a request by the state tax commission under this subdivision is subject to a fine of $200.00.

(n) A transfer of qualified agricultural property, if the person to whom the qualified agricultural property is transferred files an affidavit with the assessor of the local tax collecting unit in which the qualified agricultural property is located and with the register of deeds for the county in which the qualified agricultural property is located attesting that the qualified agricultural property shall remain qualified agricultural property. The affidavit under this subdivision shall be in a form prescribed by the department of treasury. An owner of qualified agricultural property shall inform a prospective buyer of that qualified agricultural property that the qualified agricultural property is subject to the recapture tax provided in the agricultural property recapture act, 2000 PA 261, MCL 211.1001 to 211.1007, if the qualified agricultural property is converted by a change in use. If property ceases to be qualified agricultural property at any time after being transferred, all of the following shall occur:

(*i*) The taxable value of that property shall be adjusted under subsection (3) as of the December 31 in the year that the property ceases to be qualified agricultural property.

(*ii*) The property is subject to the recapture tax provided for under the agricultural property recapture act, 2000 PA 261, MCL 211.1001 to 211.1007.

(o) A transfer of qualified forest property, if the person to whom the qualified forest property is transferred files an affidavit with the assessor of the local tax collecting unit in which the qualified forest property is located and with the register of deeds for the county in which the qualified forest property is located attesting that the qualified forest property shall remain qualified forest property. The affidavit under this subdivision shall be in a form prescribed by the department of treasury. An owner of qualified forest property shall inform a prospective buyer of that qualified forest property that the qualified forest property is subject to the recapture tax provided in the qualified forest property recapture tax act, 2006 PA 379, MCL 211.1031 to 211.1036, if the qualified forest property is converted by a change in use. If property ceases to be qualified forest property at any time after being transferred, all of the following shall occur:

(*i*) The taxable value of that property shall be adjusted under subsection (3) as of the December 31 in the year that the property ceases to be qualified forest property.

(*ii*) The property is subject to the recapture tax provided for under the qualified forest property recapture tax act, 2006 PA 379, MCL 211.1031 to 211.1036.

(p) Beginning on the effective date of the amendatory act that added this subdivision, a transfer of land, but not buildings or structures located on the land, which meets 1 or more of the following requirements:

(*i*) The land is subject to a conservation easement under subpart 11 of part 21 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2140 to 324.2144. As used in this subparagraph, "conservation easement" means that term as defined in section 2140 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2140.

(*ii*) A transfer of ownership of the land or a transfer of an interest in the land is eligible for a deduction as a qualified conservation contribution under section 170(h) of the internal revenue code, 26 USC 170.

(8) If all of the following conditions are satisfied, the local tax collecting unit shall revise the taxable value of qualified agricultural property taxable on the tax roll in the possession of that local tax collecting unit to the taxable value that qualified agricultural property would have had if there had been no transfer of ownership of that qualified agricultural property since December 31, 1999 and there had been no adjustment of that qualified agricultural property's taxable value under subsection (3) since December 31, 1999:

(a) The qualified agricultural property was qualified agricultural property for taxes levied in 1999 and each year after 1999.

(b) The owner of the qualified agricultural property files an affidavit with the assessor of the local tax collecting unit under subsection (7)(n).

(9) If the taxable value of qualified agricultural property is adjusted under subsection (8), the owner of that qualified agricultural property shall not be entitled to a refund for any property taxes collected under this act on that qualified agricultural property before the adjustment under subsection (8).

(10) The register of deeds of the county where deeds or other title documents are recorded shall notify the assessing officer of the appropriate local taxing unit not less than once each month of any recorded transaction involving the ownership of property and shall make any recorded deeds or other title documents available to that county's tax or equalization department. Unless notification is provided under subsection (6), the buyer, grantee, or other transferee of the property shall notify the appropriate assessing office in the local unit of government in which the property is located of the transfer of ownership of the property within 45 days of the transfer of ownership, on a form prescribed by the state tax commission that states the parties to the transfer, the date of the transfer, the actual consideration for the transfer, and the property's parcel identification number or legal description. Forms filed in the assessing office of a local unit of government under this subsection shall be made available to the county tax or equalization department for the county in which that local unit of government is located. This subsection does not apply to personal property except buildings described in section 14(6) and personal property described in section 8(h), (i), and (j).

(11) As used in this section:

(a) "Additions" means that term as defined in section 34d.

(b) "Beneficial use" means the right to possession, use, and enjoyment of property, limited only by encumbrances, easements, and restrictions of record.

(c) "Converted by a change in use" means that term as defined in the agricultural property recapture act, 2000 PA 261, MCL 211.1001 to 211.1007.

(d) "Inflation rate" means that term as defined in section 34d.

(e) "Losses" means that term as defined in section 34d.

(f) "Qualified agricultural property" means that term as defined in section 7dd.

(g) "Qualified forest property" means that term as defined in section 7jj[1].

This act is ordered to take immediate effect.
Approved December 7, 2006.
Filed with Secretary of State December 8, 2006.

[No. 447]

(SB 567)

AN ACT to amend 1972 PA 106, entitled "An act to provide for the licensing, regulation, control, and prohibition of outdoor advertising adjacent to certain roads and highways; to prescribe powers and duties of certain state agencies and officials; to promulgate rules; to provide remedies and prescribe penalties for violations; and to repeal acts and parts of acts," (MCL 252.301 to 252.325) by adding section 7a.

The People of the State of Michigan enact:

252.307a Issuance of annual permits for new signs on or after January 1, 2007; interim permits; construction of sign structure; renewable permit.

Sec. 7a. (1) Except as otherwise provided in this section, the department shall not issue annual permits for new signs on or after January 1, 2007.

(2) Permits issued by the department before the effective date of the amendatory act that added this section remain in force and valid.

(3) On and after January 1, 2007, the department shall issue an interim permit or permits to a holder of a valid permit or permits if all of the following conditions are met:

(a) The holder of the valid permit or permits is otherwise in compliance with this act.

(b) The holder of the permit or permits surrenders the permit or permits to the department upon the removal of a sign structure or sign structures that have a valid permit under this act.

(c) The holder of the permit or permits verifies the removal of the sign structure or sign structures in writing to the department.

(d) The department verifies that the sign structure or structures have been removed or the removal has been deemed effective under this section.

(e) If a permit holder has a valid annual permit or permits for a site or sites where no sign structure exists or no construction has begun to build a sign structure on January 1, 2007, the permit holder may exchange the permit or permits for an interim permit under this section or begin construction under the valid permit or permits no later than 1 year after January 1, 2007. The number of permits that can be received in an exchange shall be determined under subsection (4).

(3) An interim permit that is issued under this section shall only be utilized for the construction of a new sign structure and shall remain in effect without expiration with fees renewed on an annual basis.

(4) Subject to subsections (2) and (8), a permit holder who is exchanging a permit or permits under subsection (2)(e) shall be issued 1 interim permit for each of the first 3 permits surrendered. For each permit surrendered under subsection (2)(e) after the first 3 permits surrendered, a permit holder under subsection (2)(e) shall receive 1 interim permit for each 3 permits surrendered. A permit holder shall have 1 year from January 1, 2007 to exchange permits pursuant to subsection (2)(e) and this subsection. A permit that is not exchanged pursuant to subsection (2)(e) and this subsection cannot be exchanged and shall expire no later than 1 year after January 1, 2007.

(5) The department shall verify that an existing sign structure has been removed no later than 30 days after the department receives written notice from the permit holder that the sign structure has been removed. If the department does not respond to the written notice

within 30 days after receipt of the written notice, then the permit holder shall be deemed to have removed the sign structure in compliance with this section.

(6) A holder of 2 valid permits for a sign structure with 2 faces who complies with this section shall receive 2 interim permits for the construction of a sign structure with 2 faces. A permit holder under this subsection shall not receive 2 interim permits to construct 2 single-face sign structures.

(7) A holder of a valid permit for a sign structure with a single face is entitled to exchange that permit under this section for an interim permit with a single face. A holder of valid permits for 2 different single-face structures may exchange the 2 permits under this section for 2 interim permits to construct 2 single-face sign structures or 2 interim permits to construct 1 sign structure with 2 faces.

(8) A holder of more than 2 valid permits for a sign structure with more than 2 faces may exchange the permits under this section for a maximum of 2 interim permits. The 2 interim permits received under this section shall only be used to construct 1 sign structure with no more than 2 faces.

(9) After construction of a sign structure under an interim permit is complete, the department shall issue renewable permits annually for the completed sign structure.

(10) If a permit holder for a sign structure that exists on January 1, 2007 requires additional permits for any reason, the department may issue a valid renewable permit renewable on an annual basis without complying with subsection (2) even if the permit holder has more than 2 valid permits as a result.

Effective date.

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

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 568 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 14, 2006.
Filed with Secretary of State December 14, 2006.

Compiler's note: Senate Bill No. 568, referred to in enacting section 2, was filed with the Secretary of State December 14, 2006, and became 2006 PA 448, Eff. Jan. 1, 2007.

[No. 448]

(SB 568)

AN ACT to amend 1972 PA 106, entitled "An act to provide for the licensing, regulation, control, and prohibition of outdoor advertising adjacent to certain roads and highways; to prescribe powers and duties of certain state agencies and officials; to promulgate rules; to provide remedies and prescribe penalties for violations; and to repeal acts and parts of acts," by amending sections 2, 3, 4, 6, 7, 9, 11, 12, 15, 16, 17, 18, 18a, and 19 (MCL 252.302, 252.303, 252.304, 252.306, 252.307, 252.309, 252.311, 252.312, 252.315, 252.316, 252.317, 252.318, 252.318a, and 252.319), sections 2, 3, 4, 6, 7, 9, 15, 17, and 19 as amended and section 11 as added by 1998 PA 533 and section 18a as added by 1998 PA 464, and by adding section 11a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

252.302 Definitions.

Sec. 2. As used in this act:

(a) "Business area" means an adjacent area which is zoned under authority of state, county, township, or municipal zoning authority for industrial or commercial purposes, customarily referred to as "b" or business, "c" or commercial, "i" or industrial, "m" or manufacturing, and "s" or service, and all other similar classifications and which is within a city, village, or charter township or is within 1 mile of the corporate limits of a city, village, or charter township or is beyond 1 mile of the corporate limits of a city, village, or charter township and contains 1 or more permanent structures devoted to the industrial or commercial purposes described in this subdivision and which extends along the highway a distance of 800 feet beyond each edge of the activity. Each side of the highway is considered separately in applying this definition except where it is not topographically feasible for a sign or sign structure to be erected or maintained on the same side of the highway as the permanent structure devoted to industrial or commercial purposes, a business area may be established on the opposite side of a primary highway in an area zoned commercial or industrial or in an unzoned area with the approval of the state highway commission. A permanent structure devoted to industrial or commercial purposes does not result in the establishment of a business area on both sides of the highway. All measurements shall be from the outer edge of the regularly used building, parking lot or storage or processing area of the commercial or industrial activity and not from the property lines of the activities and shall be along or parallel to the edge or pavement of the highway. Commercial or industrial purposes are those activities generally restricted to commercial or industrial zones in jurisdictions that have zoning. In addition, the following activities shall not be considered commercial or industrial:

(*i*) Agricultural, animal husbandry, forestry, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.

(*ii*) Transient or temporary activities.

(*iii*) Activities not visible from the main-traveled way.

(*iv*) Activities conducted in a building principally used as a residence, or in a building located on property that is used principally for residential purposes or for activities recited in subparagraph (*i*).

(*v*) Railroad tracks and minor sidings.

(*vi*) Outdoor advertising.

(*vii*) Activities more than 660 feet from the main-traveled way.

(*viii*) Activities that have not been in continuous operation of a business or commercial nature for at least 2 years.

(*ix*) Public utility facilities, whether regularly staffed or not.

(*x*) Structures associated with on-site outdoor recreational activities such as riding stables, golf course shops, and campground offices.

(*xi*) Activities conducted in a structure for which an occupancy permit has not been issued or which is not a fully enclosed building, having all necessary utility service and sanitary facilities required for its intended commercial or industrial use.

(*xii*) A storage facility for a business or other activity not located on the same property, except a storage building having at least 10 separate units that are available to be rented by the public.

(*xiii*) A temporary business solely established to qualify as commercial or industrial activity under this act.

(b) "Unzoned commercial or industrial area" means an area which is within an adjacent area, which is not zoned by state or local law, regulation or ordinance, which contains 1 or more permanent structures devoted to the industrial or commercial purposes described in subdivision (a), and which extends along the highway a distance of 800 feet beyond each edge of the activity. Each side of the highway is considered separately in applying this definition except where it is not topographically feasible for a sign or sign structure to be erected or maintained on the same side of the highway as the permanent structure devoted to industrial or commercial purposes, an unzoned commercial or industrial area may be established on the opposite side of a primary highway in an area zoned commercial or industrial or in an unzoned area with the approval of the state highway commission. A permanent structure devoted to industrial or commercial purposes does not result in the establishment of an unzoned commercial or industrial area on both sides of the highway. All measurements shall be from the outer edge of the regularly used building, parking lot or storage or processing area of the commercial or industrial activity and not from the property lines of the activities and shall be along or parallel to the edge or pavement of the highway. Commercial or industrial purposes are those activities generally restricted to commercial or industrial zones in jurisdictions that have zoning. In addition, the following activities shall not be considered commercial or industrial:

(*i*) Agricultural, animal husbandry, forestry, grazing, farming and related activities, including, but not limited to, wayside fresh produce stands.

(*ii*) Transient or temporary activities.

(*iii*) Activities not visible from the main-traveled way.

(*iv*) Activities conducted in a building principally used as a residence, or in a building located on property that is used principally for residential purposes or for activities recited in subparagraph (*i*).

(*v*) Railroad tracks and minor sidings.

(*vi*) Outdoor advertising.

(*vii*) Activities more than 660 feet from the main-traveled way.

(*viii*) Activities that have not been in continuous operation of a business or commercial nature for at least 2 years.

(*ix*) Public utility facilities, whether regularly staffed or not.

(*x*) Structures associated with on-site outdoor recreational activities such as riding stables, golf course shops, and campground offices.

(*xi*) Activities conducted in a structure for which an occupancy permit has not been issued or which is not a fully enclosed building, having all necessary utility service and sanitary facilities required for its intended commercial or industrial use.

(*xii*) A storage facility for a business or other activity not located on the same property, except a storage building having at least 10 separate units that are available to be rented by the public.

(*xiii*) A temporary business solely established to qualify as commercial or industrial activity under this act.

(c) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(d) "Interstate highway" means a highway officially designated as a part of the national system of interstate and defense highways by the department and approved by the appropriate authority of the federal government.

(e) "Freeway" means a divided highway of not less than 2 lanes in each direction to which owners or occupants of abutting property or the public do not have a right of ingress or egress to, from or across the highway, except at points determined by or as otherwise provided by the authorities responsible therefor.

(f) "Primary highway" means a highway, other than an interstate highway or freeway, officially designated as a part of the primary system as defined in section 131 of title 23 of the United States Code, 23 USC 131, by the department and approved by the appropriate authority of the federal government.

(g) "Main-traveled way" means the traveled way of a highway on which through traffic is carried. The traveled way of each of the separate roadways for traffic in opposite directions is a main-traveled way of a divided highway. It does not include facilities as frontage roads, turning roadways or parking areas.

(h) "Sign" means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing, whether placed individually or on a T-type, V-type, back to back or double-faced display, designed, intended or used to advertise or inform.

(i) "Sign structure" means the assembled components which make up an outdoor advertising display, including but not limited to uprights, supports, facings and trim. Such sign structure may contain 1 or 2 signs per facing and may be double-faced, back to back, T-type or V-type.

(j) "Visible" means a sign that has a message that is capable of being seen and read by a person of normal visual acuity when traveling in a motor vehicle.

(k) "Location" means a place where there is located a single, double-faced, back to back, T-type, or V-type sign structure.

(*l*) "Maintain" means to allow to exist and includes the periodic changing of advertising messages, customary maintenance and repair of signs and sign structures.

(m) "Abandoned sign or sign structure" means a sign or sign structure subject to the provisions of this act, the owner of which has failed to secure a permit, has failed to identify the sign or sign structure or has failed to respond to notice.

(n) "Department" means the state transportation department.

(o) "Adjacent area" means the area measured from the nearest edge of the right of way of an interstate highway, freeway, or primary highway and extending 3,000 feet perpendicularly and then along a line parallel to the right-of-way line.

(p) "Person" means any individual, partnership, private association, or corporation, state, county, city, village, township, charter township, or other public or municipal association or corporation.

(q) "On-premises sign" means a sign advertising activities conducted or maintained on the property on which it is located. The boundary of the property shall be as determined by tax rolls, deed registrations, and apparent land use delineations. When a sign consists principally of brand name or trade name advertising and the product or service advertised is only incidental to the principal activity, or if it brings rental income to the property owner or sign owner, it shall be considered the business of outdoor advertising and not an on-premises sign. Signs on narrow strips of land contiguous to the advertised activity, or signs on easements on adjacent property, when the purpose is clearly to circumvent the intent of this act, shall not be considered on-premises signs.

(r) "Billboard" means a sign separate from a premises erected for the purpose of advertising a product, event, person, or subject not related to the premises on which the sign is located. Off-premises directional signs as permitted in this act shall not be considered billboards for the purposes of this section.

(s) "Secondary highway" means a state secondary road or county primary road.

(t) "Tobacco product" means any tobacco product sold to the general public and includes, but is not limited to, cigarettes, tobacco snuff, and chewing tobacco.

252.303 Purpose.

Sec. 3. To improve and enhance scenic beauty consistent with section 131 of title 23 of the United States Code, 23 USC 131, and to limit and reduce the illegal possession and use of tobacco by minors, the legislature finds it appropriate to regulate and control outdoor advertising and outdoor advertising as it pertains to tobacco adjacent to the streets, roads, highways, and freeways within this state and that outdoor advertising is a legitimate accessory commercial use of private property, is an integral part of the marketing function and an established segment of the economy of this state.

252.304 Size, lighting, and spacing of signs and sign structures; regulation and control; exceptions.

Sec. 4. This act regulates and controls the size, lighting, and spacing of signs and sign structures in adjacent areas and occupies the whole field of that regulation and control except for the following:

(a) A city, village, township, or charter township may enact ordinances to regulate and control the size, lighting, and spacing of signs and sign structures but shall not permit a sign or sign structure that is otherwise prohibited by this act or require or cause the removal of lawfully erected signs or sign structures subject to this act without the payment of just compensation. A sign owner shall apply for an annual permit pursuant to section 6 for each sign to be maintained or to be erected within that city, village, charter township, or township. A sign erected or maintained within that city, village, township, or charter township shall also comply with all applicable provisions of this act.

(b) A city, village, charter township, or township vested by law with authority to enact zoning codes has full authority under its own zoning codes or ordinances to establish commercial or industrial areas and the actions of a city, village, charter township, or township in so doing shall be accepted for the purposes of this act. However, except as provided in subdivision (a), zoning which is not part of a comprehensive zoning plan and is taken primarily to permit outdoor advertising structures shall not be accepted for purposes of this act. A zone in which limited commercial or industrial activities are permitted as incidental to other primary land uses is not a commercial or industrial zone for outdoor advertising control purposes.

(c) An ordinance or code of a city, village, township, or charter township that existed on March 31, 1972 and that prohibits signs or sign structures is not made void by this act.

(d) A county, on its own initiative or at the request of a city, village, township, or charter township within that county, may prepare a model ordinance as described in subdivision (a). A city, village, township, or charter township within that county may adopt the model ordinance.

252.306 Permit; application; contents of form.

Sec. 6. A sign owner shall apply for an annual permit on a form prescribed by the department for each sign to be maintained or to be erected in an adjacent area where the facing of the sign is visible from an interstate highway, freeway, or primary highway. A sign owner shall apply for a separate sign permit for each sign for each highway subject to this act from which the facing of the sign is visible. The owner shall apply for the permit for such signs which become subject to the permit requirements of this act because of a change in highway designation or other reason not within the control of the sign owner within 2 months after

the sign becomes subject to the permit requirements of this act. The form shall require the name and business address of the applicant, the name and address of the owner of the property on which the sign is to be located, the date the sign, if currently maintained, was erected, the zoning classification of the property, a precise description of where the sign is or will be situated and a certification that the sign is not prohibited by section 18(a), (b), (c), or (d) and that the sign does not violate any provisions of this act. The sign permit application shall include a statement signed by the owner of the land on which the sign is to be placed, acknowledging that no trees or shrubs in the adjacent highway right-of-way may be removed, trimmed, or in any way damaged or destroyed without the written authorization of the department. The department may require documentation to verify the zoning, the consent of the land owner, and any other matter considered essential to the evaluation of the compliance with this act.

252.307 Permit; fees; expiration; renewal; exception; delinquent payment; transfer fee.

Sec. 7. (1) A permit fee is payable annually in advance, to be credited to the state trunk line fund. The fee is $100.00 for the first year except that signs in existence prior to a highway's change in designation or jurisdiction which would require signs to be permitted shall only be required to pay the permit renewal amount as provided in subsection (2). The department shall establish an annual expiration date for each permit and may change the expiration date of existing permits to spread the permit renewal activity over the year. Permit fees may be prorated the first year. An application for the renewal of a permit shall be filed with the department at least 30 days before the expiration date.

(2) For signs up to and including 300 square feet, the annual permit renewal fee is $50.00. For signs greater than 300 square feet, the annual permit renewal fee is $80.00. Signs of the service club and religious category as defined in rules promulgated by the department are not subject to an annual renewal fee.

(3) For each permit, the department shall assess a $100.00 penalty for delinquent payment of renewal fees.

(4) The department shall require a transfer fee when a request is made to transfer existing permits to a new sign owner. Except as otherwise provided in this subsection, the transfer fee shall be $100.00 for each permit that is requested to be transferred, up to a maximum of $500.00 for a request that identifies 5 or more permits to be transferred. If the department incurs additional costs directly attributable to special and unique circumstances associated with the requested transfer, the department may assess a transfer fee greater than the maximums identified in this subsection to recover those costs incurred by the department.

252.309 Permit; issuance or denial.

Sec. 9. Except for signs existing on March 31, 1972, a permit shall be issued or denied within 30 days after proper receipt of the permit form and the permit fee from the applicant. A permit shall not be issued for a sign which is prohibited by section 18(a), (b), (c), or (d). A permit shall not be issued for a sign that violates this act unless the sign is eligible for removal compensation under section 22.

252.311 Trimming or removing trees or shrubs within highway right-of-way; violation as felony; penalty; removal of sign.

Sec. 11. (1) Except as otherwise provided in subsection (2), a person who trims or removes trees or shrubs within a highway right-of-way for the purpose of making a proposed or existing sign more visible may pay a penalty of up to 5 times the value of the trees or

shrubs trimmed or removed unless the person trimmed or removed the trees or shrubs under the authority of a permit issued under section 11a. The value of the removed trees or shrubs shall be determined by the department in accordance with section 11a(3).

(2) A person who removes trees or shrubs within a highway right-of-way for the purpose of making a proposed or existing sign more visible without first obtaining a permit under section 11a is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $25,000.00, or both. If no criminal action pursuant to this section has been brought against the person within 1 year of the removal of trees or shrubs without a permit, the department may proceed to recover the penalty prescribed in subsection (1). If a criminal action is brought against a person pursuant to this subsection, the department shall not proceed to recover the penalty prescribed in subsection (1).

(3) If a sign owner or the sign owner's agent trims or removes trees or shrubs without first having obtained a permit under section 11a, the sign owner shall not be eligible to obtain a permit under section 11a for 3 years from the date of trimming or removal of trees or shrubs.

(4) If trees or shrubs within a highway right-of-way have been trimmed or removed by a sign owner or its agent for the purpose of making the sign more visible, the sign shall be considered illegal and the department may remove the sign pursuant to the procedures established in section 19 if a court determines any of the following:

(a) The trimming or removal was in violation of a local ordinance.

(b) The trimming or removal resulted in the intentional trimming or removal of trees or shrubs that were not authorized to be trimmed or removed in a permit issued under section 11a.

(c) The sign owner trimmed or removed trees or shrubs and did not obtain a permit under section 11a.

(5) If a sign is removed under this section and the department subsequently receives an application for a permit under section 6 for the same area, the department shall consider that the conditions for the permit issued under section 6 remain in force for spacing and all other requirements of this act.

252.311a Permit to manage vegetation.

Sec. 11a. (1) Subject to the requirements of this section, the department is authorized to and shall issue permits for the management of vegetation to the owner of a sign subject to this act.

(2) A sign owner may apply to the department for a permit to manage vegetation using the department's approved form. The application shall be accompanied by an application fee of $150.00 to cover the costs of evaluating and processing the application. The application shall be submitted during the 2 or more annual application periods not less than 60 days each, as specified by the department. The application shall clearly identify the vegetation to be managed in order to create visibility of the sign within the billboard viewing zone and all proposed mitigation for the impacts of the vegetation management undertaken. The application shall also include anticipated management that will be needed in the future to maintain the visibility of the sign within the billboard viewing zone for the time specified in subsection (4) and procedures for clearing vegetation as determined by the department.

(3) From January 1, 2007 until January 1, 2008, upon proper receipt by the department of an application and application fee, and based on the provisions of subsection (4), an applicant shall be notified of approval, approval with modifications, or denial no later than 90 days after the last day of the application period. Beginning January 1, 2008, the department shall issue its decision on an application no later than 30 days after the last day of the application

period. The department shall approve the application, approve the application with modification, or deny the application. If the department approves the application or approves the application with modification, it shall notify the applicant and the notification shall include the value of the vegetation to be managed as determined by the department using the most recent version of the international society of arboriculture's guide for plant appraisal and the corresponding Michigan tree evaluation supplement to the guide for plant appraisal published by the Michigan forestry and park association. The department may use another objective authoritative guide or establish a value schedule, in consultation with representatives of the outdoor advertising industry and other interested parties, if either the guide or the supplement has not been updated for more than 5 years. The notification to the applicant shall also include any required mitigation for the vegetation to be managed and all conditions and requirements associated with the issuance of the permit. The permit fee shall be $300.00, except that in special and unique situations and circumstances where the department incurs additional costs directly attributable to the approval of the permit, a fee greater than $300.00 adequate for the recovery of additional costs may be assessed. Upon receipt of the permit fee, payment for the value of the vegetation, and compliance with MDOT conditions and requirements, the department shall issue the permit.

(4) Subject to the provisions of this subsection, a permit to manage vegetation shall provide for a minimum of 5 seconds of continuous, clear, and unobstructed view of the billboard face based on travel at the posted speed as measured from the point directly adjacent to the point of the billboard closest to the highway. The department and the applicant may enter into an agreement, at the request of the applicant, identifying the specific location of the continuous, clear, and unobstructed view within the billboard viewing zone. The specific location may begin at a point anywhere within the billboard viewing zone but shall result in a continuous, clear, and unobstructed view of not less than 5 seconds. An applicant shall apply for a permit that minimizes the amount of vegetation to be managed for the amount of viewing time requested. Applications for vegetation management that provide for greater than 5 seconds of continuous, clear, and unobstructed viewing at the posted speed as measured from a point directly adjacent to the point of the billboard closest to the highway shall not be rejected based solely upon the application exceeding the 5-second minimum. For billboards spaced less than 500 feet apart, vegetation management, when permitted, shall provide for a minimum of 5 seconds of continuous, clear, and unobstructed view of the billboard face based on travel at the posted speed or the distance between the billboard and the adjacent billboard, whichever is less.

(5) The department shall issue permits for vegetation management in a viewing cone or, at the department's discretion, another shape that provides for the continuous, clear, and unobstructed view of the billboard face. The department may, in its discretion, issue a permit for vegetation management outside of the billboard viewing zone.

(6) If no suitable alternative exists or the applicant is unable to provide acceptable mitigation, the department may deny an application or provide a limited permit to manage vegetation when it can be demonstrated that 1 or more of the following situations exist:

(a) The vegetation management would have an adverse impact on safety.

(b) The vegetation management would have an adverse impact on operations of the state trunk line highway.

(c) The vegetation management conflicts with federal or state law, rules, or statutory requirements.

(d) The applicant does not have the approval of the owner of the property.

(e) The vegetation to be managed was planted or permitted to be planted by the department for a specific purpose.

(f) Vegetation would be managed for a newly constructed billboard or vegetation existed that obscured the billboard or would have obscured the billboard before it was constructed. In denying an application or providing a limited permit, the department shall consider previous vegetation management that was allowed at the billboard site.

(g) The management would occur on a scenic or heritage route that was designated on or before the effective date of the amendatory act that added this section.

(h) The application is for a sign that has been found, after a hearing in accordance with section 19, not to be in compliance with this act.

(i) Other special or unique circumstances or conditions exist, including, but not limited to, adverse impact on the environment, natural features, or adjacent property owners.

(7) If the department denies an application or issues a limited permit under this subsection, the department shall provide a specific rationale for denying an application or approving a limited permit.

(8) No later than 30 days after receiving a denial or a limited permit under subsection (6), an applicant may request the review and reconsideration of the denial or limited permit. The applicant shall submit its request in writing on a form as determined by the department. The applicant shall state the specific item or items for which review and reconsideration are being requested. An applicant who received a limited permit may manage vegetation in accordance with that permit during the review and reconsideration period.

(9) No later than 90 days after January 1, 2007, the department shall develop a procedure for review and reconsideration of applications that are denied or that result in the issuance of a limited permit. This procedure shall include at least 2 levels of review and provide for input from the applicant. The review period shall not exceed 120 days. The department shall consult with all affected and interested parties, including, but not limited to, representatives of the outdoor advertising industry, in the development of this procedure.

(10) If, after review and reconsideration as provided for in subsection (8), the applicant is denied a permit or issued a limited permit, the applicant may appeal the decision of the department to a court of competent jurisdiction.

(11) All work performed in connection with trimming, removing, or relocating vegetation shall be performed at the sign owner's expense.

(12) The department shall not plant or authorize to be planted any vegetation that obstructs, or through expected normal growth will obstruct in the future, the visibility within the billboard viewing zone of any portion of a sign face subject to this act.

(13) The department shall prepare an annual report for submission to the legislature regarding the vegetation management undertaken pursuant to this section. At a minimum, this report shall include all of the following items:

(a) The number of application periods.

(b) The number of applications submitted under this section.

(c) The number of permits approved without modifications.

(d) The number of permits approved with modifications.

(e) The number of permits denied.

(f) The number of modified or denied permits which were appealed.

(g) The number of appeals that reversed the department's decision.

(h) The number of appeals that upheld the department's decision.

(i) The number of permits approved which requested a visibility time period exceeding 5 seconds.

(j) The amount of compensation paid to the state for removed vegetation.

(k) The average number of days after the end of the application period before an applicant was sent notice that a permit was approved.

(*l*) A summary of the reasons for which the department denied or modified permits.

(m) A summary of the amount of all revenues and expenses associated with the management of the vegetation program.

(14) The report in subsection (13) shall contain a summary for the entire state and report in detail for each department region. The department shall provide the report to the legislature for review no later than 90 days following the completion of each fiscal year. The reporting deadline for the initial report is 18 months after January 1, 2007.

(15) A person who under the authority of a permit obtained under this section trims or removes more trees and shrubs than the permit authorizes is subject to 1 or more of the following penalties:

(a) For the first 3 violations during a 3-year period, a penalty of an amount up to $5,000.00 or the amount authorized as a penalty in section 11(1), whichever is greater.

(b) For the fourth violation during a 3-year period and any additional violation during that period, a penalty of an amount up to $25,000.00 or double the amount authorized as a penalty in section 11(1), whichever is greater, for each violation.

(c) For the fourth violation during a 3-year period, and any additional violation, a person is not eligible to obtain or renew a permit under this section for a period of 3 years from the date of the fourth violation.

(16) If the department alleges that a person has trimmed or removed more trees or shrubs than the permit authorizes, then the department shall notify the person of its intent to seek any 1 or more of the penalties provided in subsection (15). The notification shall be in writing and delivered via United States certified mail, and shall detail the conduct the department alleges constitutes a violation of subsection (15), shall indicate what penalties the department will be seeking under subsection (15), and shall occur within 30 days of the filing of the completion order for the trimming or removal of trees or shrubs the department alleges violated the permit. Any allegation by the department that a person has trimmed or removed more trees or shrubs than the permit authorizes shall be subject to the appeals process contained in section 11(8), (9), and (10).

(17) As used in this act:

(a) "Billboard viewing zone" means the 1,000-foot area measured at the pavement edge of the main-traveled way closest to the billboard having as its terminus the point of the right-of-way line immediately adjacent to the billboard.

(b) "Vegetation management" means the trimming, removal, or relocation of trees, shrubs, or other plant material.

(c) "Viewing cone" means the triangular area described as the point directly below the face of the billboard closest to the roadway, the point directly below the billboard face farthest away from the roadway, a point as measured from a point directly adjacent to the part of the billboard closest to the roadway and extending back parallel to the roadway the distance that provides the view of the billboard prescribed in this section, and the triangle described by the points extending upward to the top of the billboard.

252.312 Placing permit number on sign; violation; penalty.

Sec. 12. (1) All persons holding permits under this act, at their own expense, shall place the permit number on each sign facing erected or maintained by them within 4 months after receiving a permit for signs existing on March 31, 1972 and within 3 business days for all

other signs. The numbers shall be of a size and type specified by the department and located on the lower corner thereof nearest the adjacent highway.

(2) Any person who does not display the correct permit number or who does not display any permit number on a sign as required under subsection (1) is subject to a $250.00 penalty. The department shall give a person who is not in compliance with this subsection written notice of noncompliance, and a person not in compliance with this subsection shall have 30 days to remedy the violation before any penalty is assessed. A person subject to this section may verify compliance with the department via time-dated electronic means.

252.315 Size requirements and limitations.

Sec. 15. (1) All signs erected or maintained in business areas or unzoned commercial and industrial areas shall comply with the following size requirements and limitations:

(a) In counties of less than 425,000 population, signs shall not exceed 1,200 square feet in area, including border or trim but excluding ornamental base or apron, supports and other structural members.

(b) In counties having a population of 425,000 or more, signs of a size exceeding 1,200 square feet in area but not in excess of 6,500 square feet in area, including border or trim but excluding ornamental base or apron, supports and other structural members, shall be permitted if the department determines that the signs are in accord with customary usage in the area where the sign is located.

(c) For signs erected after March 23, 1999, signs on a sign structure shall not be stacked 1 on top of another. For signs erected prior to March 23, 1999, the sign or sign structure shall not be modified to provide a sign or sign structure that is stacked 1 on top of another.

(2) Maximum size limitations shall apply to each side of a sign structure. Signs may be placed back to back, side by side or in V-type or T-type construction, with not more than 2 sign displays to each side. Any such sign structure shall be considered as 1 sign for the purposes of this section.

252.316 Illuminated signs.

Sec. 16. (1) A sign that is subject to this act may be illuminated so as to allow the sign to be seen and read but the illumination shall be employed in a manner that prevents beams or rays of light from being directed at any portion of the main-traveled way of the highway in a manner that interferes with safe driving.

(2) A sign containing changing illumination shall not be erected in any area except in an incorporated city or village over 35,000 in population where the department determines it is consistent with customary usage in the area. A sign permitted under section 18(f) is not a sign containing changing illumination.

(3) A sign shall not be so illuminated that it obscures or interferes with the effectiveness of an official traffic sign, device, or signal.

(4) All lighting shall be subject to any other provisions relating to lighting of signs presently applicable to all highways under the jurisdiction of the state.

252.317 Distances between signs; distance from interchange, intersection, or rest area.

Sec. 17. (1) Along interstate highways and freeways, a sign structure located in a business area or unzoned commercial or industrial area shall not be erected closer than 1,000 feet to another sign structure on the same side of the highway.

(2) Along primary highways a sign structure shall not be closer than 500 feet to another sign structure.

(3) The provisions of this section do not apply to signs separated by a building or other visual obstruction in such a manner that only 1 sign located within the spacing distances is visible from the highway at any time, provided that the building or other visual obstruction has not been created for the purpose of visually obstructing either of the signs at issue.

(4) Along interstate highways and freeways located outside of incorporated municipalities, a sign structure shall not be permitted adjacent to or within 500 feet of an interchange, an intersection at grade or a safety roadside rest area. The 500 feet shall be measured from the point of beginning or ending of pavement widening at the exit from, or entrance to, the main-traveled way.

(5) Official signs as described in section 13(1)(a) and on-premises signs shall not be counted nor shall measurements be made from them for purposes of determining compliance with the spacing requirements provided in this section.

(6) The spacing requirements provided in this section apply separately to each side of the highway.

(7) The spacing requirements provided in this section shall be measured along the nearest edge of the pavement of the highway between points directly opposite each sign.

(8) A sign that was erected in compliance with the spacing requirements of this section that were in effect at the time when the sign was erected, but which does not comply with the spacing requirements of this section after March 23, 1999, shall not be considered unlawful as that term is used in section 22.

252.318 Prohibited signs or sign structures.

Sec. 18. The following signs or sign structures are prohibited:

(a) Those which purport to regulate, warn, or direct the movement of traffic or which interfere with, imitate, or resemble any official traffic sign, signal, or device.

(b) Those which are not adequately maintained and in a good state of repair.

(c) Those which are erected or maintained upon trees or painted or drawn upon rocks or other natural resources.

(d) Those which prevent the driver of a motor vehicle from having a clear and unobstructed view of approaching, intersecting, or merging traffic.

(e) Those which are abandoned.

(f) Those that involve motion or rotation of any part of the structure, running animation or displays, or flashing or moving lights. This subdivision does not apply to a sign or sign structure with static messages or images that change if the rate of change between 2 static messages or images does not exceed more than 1 change per 6 seconds, each change is complete in 1 second or less, and the maximum daylight sign luminance level does not exceed 62,000 candelas per meter squared at 40,000 lux illumination beginning 1/2 hour after sunrise and continuing until 1/2 hour before sunset and does not exceed 375 candelas per meter squared at 4 lux illumination at all other times. In addition to the above requirements, signs exempted under this subdivision shall be configured to default to a static display in the event of mechanical failure.

(g) Signs found to be in violation of subdivision (f) shall be brought into compliance by the permit holder or its agent no later than 24 hours after receipt by the permit holder or its agent of an official written notice from the department. Failure to comply with this subdivision within this specified time frame shall result in a $100.00 penalty being assessed to

the sign owner for each day the sign remains out of compliance. The first repeat violation of subdivision (f), for a specific sign, shall also be brought into compliance by the permit holder or its agent within 24 hours after receipt of an official written notice from the department. Failure to comply with the official written notice within the 24-hour period for the first repeat violation subjects the sign owner to a $1,000.00 penalty for each day the sign remains out of compliance. These penalties are required to be submitted to the department before the sign's permit is renewed under section 6. Second repeat violations of subdivision (f), for a specific sign, shall result in permanent removal of the variable message display device from that sign by the department or the sign owner.

252.318a Billboards; advertising purchase or consumption of tobacco products prohibited; violation; civil fine.

Sec. 18a. (1) Notwithstanding any other provision of this act, beginning January 1, 2000, all billboards within this state are subject to this act and shall not advertise the purchase or consumption of tobacco products.

(2) Notwithstanding any other provision of this act, a person who violates this section is responsible for a civil fine of not less than $5,000.00 or more than $10,000.00 for each day of violation. A civil fine collected under this section shall be distributed to public libraries as provided under 1964 PA 59, MCL 397.31 to 397.40.

252.319 Removal of signs or sign structures; procedure.

Sec. 19. (1) Signs and their supporting structures erected or maintained in violation of this act may be removed by the department in the manner prescribed in this section.

(2) There shall be mailed to the owner of the sign by certified mail a notice that the sign or its supporting sign structure violates stated specified provisions of this act and is subject to removal. If the owner's address cannot be determined, a notice shall be posted on the sign. The posted notice shall be written on red waterproof paper stock of a size not less than 8-1/2 inches by 11 inches. The notice shall be posted in the area designated by section 12 for the placing of permit numbers, in a manner so that it is visible from the highway faced by the sign or sign structure.

(3) If the sign or sign structure is not removed or brought into compliance with this act within 60 days following the date of posting or mailing of written notice or within such further time as the department may allow in writing, the sign or sign structure shall be considered to be abandoned.

(4) The department shall conduct a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, at which it shall confirm that the sign is abandoned, that due process has been observed, and that the sign may be removed by the department without payment of compensation and at the expense of the owner. Signs or sign structures considered abandoned, and any other sign or sign structure erected or maintained in violation of this act that is not eligible for removal compensation as provided in section 22, shall be removed by the department forthwith or upon the expiration of such further time as the department allows. The department may recover as a penalty from the owner of the sign or sign structure or, if he or she cannot be found, the owner of the real property upon which the sign or sign structure is located, double the cost of removal or $500.00, whichever is greater. For frivolous hearings as determined by the administrative law judge, the department may recover as a penalty from the owner of the sign or sign structure, or, if the owner of the sign or sign structure cannot be found, the owner of the real property upon which the sign or sign structure is located, double the cost of an administrative hearing incurred by the department or $500.00, whichever is greater. Any penalty imposed under this section is subject to de novo review in circuit court.

(5) The department, its agents and employees, and any person acting under the authority of or by contract with the department may enter upon private property without liability for so doing in connection with the posting or the removal of any sign or sign structure pursuant to this act.

(6) The department may contract on a negotiated basis without competitive bidding with a permittee under this act for the removal of any sign or sign structure pursuant to this act.

(7) Any repeat violation of this act shall be considered a continuing violation of this act.

(8) A sign or sign structure erected or maintained in violation of this act is a nuisance per se. The department, before or after a hearing is conducted, may apply to the circuit court in the county in which a sign is located for an order to show cause why the use of a sign erected or maintained in violation of this act should not be enjoined pending its removal in accordance with this section.

Effective date.

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

Repeal of MCL 252.325.

Enacting section 2. Section 25 of the highway advertising act of 1972, 1972 PA 106, MCL 252.325, is repealed.

Conditional effective date.

Enacting section 3. This amendatory act does not take effect unless Senate Bill No. 567 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 14, 2006.
Filed with Secretary of State December 14, 2006.

Compiler's note: Senate Bill No. 567, referenced in enacting section 3, was filed with the Secretary of State December 14, 2006, and became 2006 PA 447, Eff. Jan. 1, 2007.

[No. 449]

(HB 6031)

AN ACT to amend 1980 PA 119, entitled "An act to prescribe a privilege tax for the use of public roads and highways of this state by motor carriers by imposing a specific tax upon the use of motor fuel within this state; to provide for certain credits against this tax and certain mechanisms for paying, collecting, and enforcing this tax; to provide for the licensing of motor carriers and for exemptions from licensure; to require the keeping and providing for the examination of certain reports; to provide review procedures for the assessment of the tax and revocation of a license; to impose certain duties upon and confer certain powers to certain state departments and agencies; to prescribe certain penalties for the violation of this act; and to make appropriations," by amending section 8 (MCL 207.218), as amended by 2004 PA 472.

The People of the State of Michigan enact:

207.218 Leased commercial motor vehicles subject to act; lessor as motor carrier; exclusion by lessee of commercial motor vehicles from reports and liabilities; consolidated reports; primary liability; joint and several liability; limitation on aggregate taxes; international fuel tax agreement registration.

Sec. 8. (1) Every qualified commercial motor vehicle leased to a motor carrier shall be subject to this act, to the same extent and in the same manner as qualified commercial motor vehicles owned by a motor carrier.

(2) A lessor of qualified commercial motor vehicles may be considered a motor carrier with respect to qualified commercial motor vehicles leased to others, if the lessor supplies or pays for the motor fuel consumed by the vehicles or bills rental or other charges calculated to include the cost of motor fuel. A lessee motor carrier may exclude a qualified commercial motor vehicle leased from others from the reports and liabilities required by this act if that qualified commercial motor vehicle has been leased from a lessor who is a motor carrier pursuant to this act and the lease agreement provides for the lessor to pay the cost of motor fuel and motor fuel taxes.

(3) Upon application by the licensed motor carrier, the department may authorize a licensed motor carrier leasing qualified commercial motor vehicles from 2 or more lessors to file consolidated reports for these lessors.

(4) This section shall govern the primary liability under this act of lessors and lessees of qualified commercial motor vehicles. For tax liabilities incurred before April 1, 2005, if a lessor or lessee primarily liable fails, in whole or in part, to discharge his or her liability, the failing party and the other lessor or lessee party to the transaction shall be jointly and severally responsible and liable for compliance with this act and for the payment of tax due. However, the aggregate of taxes collected from a lessor and lessee by this state under this act shall not exceed the total amount of taxes due and costs and penalties imposed.

(5) For tax liabilities arising after April 1, 2005, if a lease agreement identifies a party responsible for the payment of taxes, the nonresponsible party under the lease shall obtain a copy of the responsible party's valid international fuel tax agreement registration and keep the copy on file. If the nonresponsible party does not obtain a copy of the responsible party's valid international fuel tax agreement registration and the responsible party fails in whole or in part to discharge his or her liability, then the responsible and nonresponsible parties shall be jointly and severally responsible and liable for compliance with this act and payment of tax due. If the lease agreement does not identify the party responsible for payment of fuel taxes under this act, then both parties shall be jointly and severally responsible and liable for compliance with this act and payment of tax due. However, the aggregate of taxes collected from a lessor and lessee by this state under this act shall not exceed the total amount of taxes due and costs and penalties imposed. If the nonresponsible party under the lease maintains a copy of the responsible party's valid international fuel tax agreement registration on file, the nonresponsible party shall have no responsibility or liability for compliance with this act or payment of any taxes, costs, or penalties due under this act relating to the motor fuel consumed under the lease.

This act is ordered to take immediate effect.

Approved December 14, 2006.

Filed with Secretary of State December 14, 2006.

[No. 450]

(SB 701)

AN ACT to amend 1968 PA 319, entitled "An act to provide a uniform crime reporting system; to provide for the submitting of such report to the department of state police; to require submission of the report by certain police agencies; to require the reporting on wanted persons and stolen vehicles; to require the reporting of information regarding certain persons and unidentified bodies of deceased persons; to prescribe certain powers and duties of law enforcement agencies; and to vest the director of the department of state police with certain authority," by amending section 8 (MCL 28.258), as amended by 2002 PA 718.

The People of the State of Michigan enact:

28.258 Definitions; certain persons reported missing; preliminary investigation; entering information into LEIN, national crime information center, and clearinghouse; dental records; retaining and broadcasting information; forwarding information to registrar; notice and information to last known school district; request that registrar and school district be notified; emancipated missing child; cancellation of information; policy preventing immediate investigation prohibited; unidentified body; unknown identity of individual found.

Sec. 8. (1) As used in this section and section 9:

(a) "Child" means an individual less than 17 years of age.

(b) "Clearinghouse" means the missing child information clearinghouse established under section 9.

(c) "Department" means the department of state police.

(d) "Law enforcement agency" means the department; a police agency of a city, village, or township; a sheriff's department; or any other governmental law enforcement agency in this state.

(e) "LEIN" means law enforcement information network regulated under the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215.

(f) "Registrar" means the state registrar as defined in section 2805 of the public health code, 1978 PA 368, MCL 333.2805.

(2) If an individual who is any of the following is reported missing, the law enforcement agency receiving the report, after conducting a preliminary investigation, shall immediately enter the information described in subsection (3) regarding that individual into the LEIN, the national crime information center, and if the individual is a child, the clearinghouse:

(a) An individual who has a physical or mental disability as evidenced by written documentation from a physician or other authoritative source. As used in this act, "mental disability" includes Alzheimer's disease and dementia.

(b) An individual who was in the company of another individual under circumstances indicating that the individual's physical safety may be in danger.

(c) An individual who disappeared under circumstances indicating that the disappearance was not voluntary.

(d) A child not described in subdivision (a), (b), (c), or (f).

(e) An individual not described in subdivision (a), (b), (c), or (f), who is believed to be incapable of returning to his or her residence without assistance.

(f) An individual who is missing as the result of a natural or intentionally caused catastrophe or extraordinary accident that causes the loss of human life.

(3) The information to be entered into the LEIN, the national crime information center, and the clearinghouse under subsection (2) shall include all of the following, if available:

(a) The name and address of the individual.

(b) The vital statistics of the individual, including a physical description, and if the missing individual is a child, the child's date of birth, state of birth, and if possible, mother's maiden name.

(c) The date the individual was missing and, if the missing individual is a child under subsection (2)(d), the date the child becomes 17 years of age.

(d) Any other information that may assist in the location of the individual, as determined by the department and the LEIN policy council.

(4) If subsections (2) and (3) have been complied with and the individual is not found within 30 days, the law enforcement agency that received the report under subsection (2) shall seek the dental records of the individual under section 2844a of the public health code, 1978 PA 368, MCL 333.2844a. The information from the dental records shall be entered into the national crime information center and, if the individual is a child, the clearinghouse by the law enforcement agency.

(5) The LEIN shall retain the information under subsection (3) reported to it until the law enforcement agency that entered the information cancels the information.

(6) The law enforcement agency receiving a report of a missing individual described in subsection (2) may, or if the individual is a child and subject to the policy established by the clearinghouse, or if the individual has Alzheimer's disease or dementia or is believed to be incapable of returning to his or her residence without assistance, shall, broadcast the information described in subsection (3) over the LEIN to all of the following:

(a) All law enforcement agencies having jurisdiction of the location where the missing individual lives or was last seen.

(b) Any other law enforcement agency that potentially could become involved in locating the missing individual.

(c) All law enforcement agencies to which the individual who reported the individual missing requests the information be sent, if the request is reasonable.

(7) If 14 days have elapsed since the law enforcement agency has received a report that a child who was born in this state is missing, and the agency has not been notified of the child's return, the LEIN shall forward on-line the information described in subsection (3) to the registrar via the registrar's restricted access LEIN terminal.

(8) If 14 days have elapsed since the law enforcement agency has received a report of a missing child and the agency has not been notified of the child's return, the agency, if it has reason to believe that a missing child may be enrolled in a school district in this state, shall notify in writing the child's last known local school district or intermediate school district that the child is missing and shall provide the school district with the information described in subsection (3).

(9) A parent or legal guardian of a child missing before June 29, 1987, may notify a law enforcement agency that he or she wants the registrar and school district notified pursuant to subsections (7) and (8). Upon receiving the request, the law enforcement agency shall proceed as provided in subsections (7) and (8).

(10) On the seventeenth birthday of a child who has been reported missing pursuant to subsection (2)(d), any information entered into the LEIN regarding that child shall be

retained and the child shall be considered to be an emancipated missing child until the information is canceled by the law enforcement agency that entered the information into the network. If the information entered into the LEIN regarding a child missing as prescribed by subsection (2) is canceled, the law enforcement agency that entered the information into the network shall inform the registrar and school district notified as prescribed by subsection (7) of the cancellation.

(11) A law enforcement agency shall not establish or maintain a policy that prevents an immediate investigation as soon as practical regarding an individual described in subsection (2) who is reported missing.

(12) When the unidentified body of a deceased individual is found, the law enforcement agency receiving the report, after conducting a preliminary investigation, shall immediately enter the following information, if available, into the national crime information center and, if the body is that of a child, into the clearinghouse:

(a) The physical description of the unidentified body and whether footprints, body X-rays, and fingerprint classifications are available.

(b) The date the body was found and the cause and manner of death.

(c) What body parts are found if the body is dismembered.

(d) Dental examination records obtained under section 2844a of the public health code, 1978 PA 368, MCL 333.2844a.

(e) Any other information that would assist in the identification of the body, as determined by the department and the LEIN policy council.

(13) When an individual is found whose identity is unknown and cannot be readily determined, the law enforcement agency receiving the report, after conducting a preliminary investigation, shall enter the following information into the national crime information center and, if the individual is a child, into the clearinghouse:

(a) A physical description of the individual.

(b) Any other information that would assist in the identification of the individual, as determined by the department and the LEIN policy council.

This act is ordered to take immediate effect.
Approved December 14, 2006.
Filed with Secretary of State December 14, 2006.

[No. 451]

(SB 1328)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain

health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 7333 (MCL 333.7333), as amended by 2001 PA 231.

The People of the State of Michigan enact:

333.7333 "Good faith" defined; dispensing controlled substances included in schedule 2; prescription form; emergency; filling and refilling prescription; dispensing controlled substance included in schedule 3, 4, or 5; requirements and use of written prescription; animal control shelter or animal protection shelter or class B dealer; use of animal tranquilizer; limited permit; "animal tranquilizer" and "class B dealer" defined.

Sec. 7333. (1) As used in this section, "good faith" means the prescribing or dispensing of a controlled substance by a practitioner licensed under section 7303 in the regular course of professional treatment to or for an individual who is under treatment by the practitioner for a pathology or condition other than that individual's physical or psychological dependence upon or addiction to a controlled substance, except as provided in this article. Application of good faith to a pharmacist means the dispensing of a controlled substance pursuant to a prescriber's order which, in the professional judgment of the pharmacist, is lawful. The pharmacist shall be guided by nationally accepted professional standards including, but not limited to, all of the following, in making the judgment:

(a) Lack of consistency in the doctor-patient relationship.

(b) Frequency of prescriptions for the same drug by 1 prescriber for larger numbers of patients.

(c) Quantities beyond those normally prescribed for the same drug.

(d) Unusual dosages.

(e) Unusual geographic distances between patient, pharmacist, and prescriber.

(2) Except as otherwise provided in this section, a practitioner, in good faith, may dispense a controlled substance included in schedule 2 upon receipt of a prescription of a practitioner licensed under section 7303 on a prescription form. A practitioner shall not issue more than 1 prescription for a controlled substance included in schedule 2 on a single prescription form.

(3) In an emergency situation, as described in R 338.3165 of the Michigan administrative code, a controlled substance included in schedule 2 may be dispensed upon the oral prescription of a practitioner if, the prescribing practitioner promptly fills out a prescription form and forwards the prescription form to the dispensing pharmacy within 7 days after the oral prescription is issued. Except for a terminally ill patient whose terminal illness the pharmacist documents pursuant to rules promulgated by the administrator, a prescription for a controlled substance included in schedule 2 shall not be filled more than 60 days after the date on which the prescription was issued. A prescription for a controlled substance included in schedule 2 for a terminally ill patient whose terminal illness the pharmacist

documents pursuant to rules promulgated by the administrator may be partially filled in increments for not more than 60 days after the date on which the prescription was issued.

(4) A practitioner, in good faith, may dispense a controlled substance included in schedule 3, 4, or 5 that is a prescription drug as determined under section 503(b) of the federal food, drug, and cosmetic act, 21 USC 353, or section 17708, upon receipt of a prescription on a prescription form or an oral prescription of a practitioner. A prescription for a controlled substance included in schedule 3 or 4 shall not be filled or refilled without specific refill instructions noted by the prescriber. A prescription for a controlled substance included in schedule 3 or 4 shall not be filled or refilled later than 6 months after the date of the prescription or be refilled more than 5 times, unless renewed by the prescriber in accordance with rules promulgated by the administrator.

(5) A controlled substance included in schedule 5 shall not be distributed or dispensed other than for a medical purpose, or in any manner except in accordance with rules promulgated by the administrator.

(6) If a prescription is required under this section, the prescription shall contain the quantity of the controlled substance prescribed in both written and numerical terms. A prescription is in compliance with this subsection if, in addition to containing the quantity of the controlled substance prescribed in written terms, it contains preprinted numbers representative of the quantity of the controlled substance prescribed next to which is a box or line the prescriber may check.

(7) A prescribing practitioner shall not use a prescription form for a purpose other than prescribing. A prescribing practitioner shall not postdate a prescription form that contains a prescription for a controlled substance. A prescriber may transmit a prescription by facsimile of a printed prescription form and by electronic transmission of a printed prescription form, if not prohibited by federal law. If, with the patient's consent, a prescription is electronically transmitted, it shall be transmitted directly to a pharmacy of the patient's choice by the prescriber or the prescriber's authorized agent, and the data shall not be altered, modified, or extracted in the transmission process.

(8) Notwithstanding subsections (1) to (5), an animal control shelter or animal protection shelter registered with the department of agriculture pursuant to 1969 PA 287, MCL 287.331 to 287.340, or a class B dealer may acquire a limited permit only for the purpose of buying, possessing, and administering a commercially prepared, premixed solution of sodium pentobarbital to practice euthanasia on injured, sick, homeless, or unwanted domestic pets and other animals, if the animal control shelter or animal protection shelter or class B dealer does all of the following:

(a) Applies to the administrator for a permit in accordance with rules promulgated under this part. The application shall contain the name of the individual in charge of the day to day operations of the animal control shelter or animal protection shelter or class B dealer's facilities and the name of the individual responsible for designating employees who will be practicing euthanasia on animals pursuant to this act.

(b) Complies with the rules promulgated by the administrator for the storage, handling, and use of a commercially prepared, premixed solution of sodium pentobarbital to practice euthanasia on animals. A record of use shall be maintained and shall be available for inspection.

(c) Certifies that an employee of the animal control shelter or animal protection shelter or class B dealer has received, and can document completion of, a minimum of 8 hours of training given by a licensed veterinarian in the use of sodium pentobarbital to practice euthanasia on animals pursuant to rules promulgated by the administrator, in consultation with the Michigan board of veterinary medicine as these rules relate to this training, and

that only an individual described in this subdivision or an individual otherwise permitted to use a controlled substance pursuant to this article will administer the commercially prepared, premixed solution of sodium pentobarbital according to written procedures established by the animal control shelter or animal protection shelter or class B dealer.

(9) The application described in subsection (8) shall include the names and addresses of all individuals employed by the animal control shelter or animal protection shelter or class B dealer who have been trained as described in subsection (8)(c) and the name of the veterinarian who trained them. The list of names and addresses shall be updated every 6 months.

(10) If an animal control shelter or animal protection shelter or class B dealer issued a permit pursuant to subsection (8) does not have in its employ an individual trained as described in subsection (8)(c), the animal control shelter or animal protection shelter or class B dealer shall immediately notify the administrator and shall cease to administer any commercially prepared, premixed solution of sodium pentobarbital until the administrator is notified that 1 of the following has occurred:

(a) An individual trained as described in subsection (8)(c) has been hired by the animal control shelter or animal protection shelter or class B dealer.

(b) An employee of the animal control shelter or animal protection shelter or class B dealer has been trained as described in subsection (8)(c).

(11) A veterinarian, including a veterinarian who trains individuals as described in subsection (8)(c), is not civilly or criminally liable for the use of a commercially prepared, premixed solution of sodium pentobarbital by an animal control shelter or animal protection shelter or class B dealer unless the veterinarian is employed by or under contract with the animal control shelter or animal protection shelter or class B dealer and the terms of the veterinarian's employment or the contract require the veterinarian to be responsible for the use or administration of the commercially prepared, premixed solution of sodium pentobarbital.

(12) A person shall not knowingly use or permit the use of a commercially prepared, premixed solution of sodium pentobarbital in violation of this section.

(13) This section does not require that a veterinarian be employed by or under contract with an animal control shelter or animal protection shelter or class B dealer to obtain, possess, or administer a commercially prepared, premixed solution of sodium pentobarbital pursuant to this section.

(14) Notwithstanding subsections (1) to (5), an animal control shelter registered with the department of agriculture pursuant to 1969 PA 287, MCL 287.331 to 287.340, may acquire a limited permit only for the purpose of buying, possessing, and administering a commercially prepared solution of an animal tranquilizer to sedate a feral, wild, difficult to handle, or other animal for euthanasia, or to tranquilize an animal running at large that is dangerous or difficult to capture, if the animal control shelter does all of the following:

(a) Applies to the administrator for a permit in accordance with the rules promulgated under this part. The application shall contain the name of the individual in charge of the day to day operations of the animal control shelter and the name of the individual responsible for designating employees who will be administering an animal tranquilizer pursuant to this act.

(b) Complies with the rules promulgated by the administrator for the storage, handling, and use of a commercially prepared solution of an animal tranquilizer. A record of use shall be maintained and shall be available for inspection by the department of agriculture.

(c) Certifies that an employee of the animal control shelter has received, and can document completion of, a minimum of 16 hours of training, including at least 3 hours of practical training, in the use of animal tranquilizers on animals from a training program approved by the state veterinarian, in consultation with the Michigan board of veterinary medicine, and given by a licensed veterinarian pursuant to rules promulgated by the administrator, in consultation with the Michigan board of veterinary medicine as these rules relate to this training, and that only an individual described in this subdivision or an individual otherwise permitted to use a controlled substance pursuant to this article will administer the commercially prepared solution of an animal tranquilizer according to written procedures established by the animal control shelter.

(15) Notwithstanding subsections (1) to (5), an animal protection shelter registered with the department of agriculture pursuant to 1969 PA 287, MCL 287.331 to 287.340, may acquire a limited permit only for the purpose of buying, possessing, and administering a commercially prepared solution of an animal tranquilizer to sedate a feral, wild, difficult to handle, or other animal for euthanasia, if the animal protection shelter does all of the following:

(a) Applies to the administrator for a permit in accordance with the rules promulgated under this part. The application shall contain the name of the individual in charge of the day to day operations of the animal protection shelter and the name of the individual responsible for designating employees who will be administering an animal tranquilizer pursuant to this act.

(b) Complies with the rules promulgated by the administrator for the storage, handling, and use of a commercially prepared solution of an animal tranquilizer. A record of use shall be maintained and shall be available for inspection by the department of agriculture.

(c) Certifies that an employee of the animal protection shelter has received, and can document completion of, a minimum of 16 hours of training, including at least 3 hours of practical training, in the use of animal tranquilizers on animals from a training program approved by the state veterinarian, in consultation with the Michigan board of veterinary medicine, and given by a licensed veterinarian pursuant to rules promulgated by the administrator, in consultation with the Michigan board of veterinary medicine as these rules relate to this training, and that only an individual described in this subdivision or an individual otherwise permitted to use a controlled substance pursuant to this article will administer the commercially prepared solution of an animal tranquilizer according to written procedures established by the animal protection shelter.

(16) The application described in subsection (14) or (15) shall include the names and business addresses of all individuals employed by the animal control shelter or animal protection shelter who have been trained as described in subsection (14)(c) or (15)(c) and shall include documented proof of the training. The list of names and business addresses shall be updated every 6 months.

(17) If an animal control shelter or animal protection shelter issued a permit pursuant to subsection (14) or (15) does not have in its employ an individual trained as described in subsection (14)(c) or (15)(c), the animal control shelter or animal protection shelter shall immediately notify the administrator and shall cease to administer any commercially prepared solution of an animal tranquilizer until the administrator is notified that 1 of the following has occurred:

(a) An individual trained as described in subsection (14)(c) or (15)(c) has been hired by the animal control shelter or animal protection shelter.

(b) An employee of the animal control shelter or animal protection shelter has been trained as described in subsection (14)(c) or (15)(c).