

which it is affixed on July 14, 2003 may enforce its liens or security interests by accepting a deed in lieu of foreclosure or in the manner provided by law for enforcing liens on the real property. The lien or security interest on a mobile home described in this subsection is perfected against the mobile home if the holder of the lien or security interest in both the mobile home and the real property to which it is affixed on July 14, 2003 has perfected a lien on the real property as provided under law for perfecting a lien on real property. The date of perfection of the lien or security interest of the mobile home is the date of perfection of the lien on the real property to which the mobile home is affixed on July 14, 2003.

(7) If the holder of a lien or security interest becomes the owner of a mobile home affixed to real property through the process of real property foreclosure or through a deed in lieu of foreclosure under subsection (6), the holder shall submit an affidavit described in subsection (1) to the department after the redemption period for the foreclosure expires or the deed in lieu of foreclosure is recorded and the department shall cancel the certificate of title for the mobile home.

(8) If an owner of both the mobile home and the real property described in subsection (1) intends to detach the mobile home from the real property, the owner shall do both of the following:

(a) Before detaching the mobile home, record an affidavit of detachment in the office of the register of deeds in the county in which the affidavit is recorded under subsection (3).

(b) Apply for a certificate of title for the mobile home on a form prescribed by the department. The application shall include a duplicate original executed affidavit of detachment and proof that there are no security interests or liens on the mobile home or the written consent of each lienholder of record to the detachment and a fee in the amount prescribed in section 30a for a certificate of title.

(9) An owner of an affixed mobile home shall not detach it from the real property before a certificate of title for the mobile home is issued by the department. If a certificate of title is issued by the department, the mobile home is no longer considered part of the real property and sections 30 to 30h apply.

(10) This section applies to all transactions, liens, and mortgages within its scope even if the transaction, lien, or mortgage was entered into or created before July 14, 2003.

(11) As used in this section:

(a) A mobile home is “affixed” to real property if it meets all of the following:

(i) The wheels, towing hitches, and running gear are removed.

(ii) It is attached to a foundation or other support system.

(b) “Ownership interest” means the fee simple interest in real property or an interest as the lessee under a ground lease for the real property that has a term that continues for at least 20 years after the recording of the affidavit under subsection (3).

This act is ordered to take immediate effect.

Approved October 4, 2005.

Filed with Secretary of State October 4, 2005.

[No. 163]

(SB 370)

AN ACT to amend 1993 PA 92, entitled “An act to require certain disclosures in connection with transfers of residential property,” by amending section 7 (MCL 565.957), as amended by 2003 PA 130.

The People of the State of Michigan enact:

565.957 Disclosure; form.

Sec. 7. (1) The disclosures required by this act shall be made on the following form:

SELLER'S DISCLOSURE STATEMENT

Property Address: _____

Street

_____ Michigan

City, Village, or Township

Purpose of Statement: This statement is a disclosure of the condition of the property in compliance with the seller disclosure act. This statement is a disclosure of the condition and information concerning the property, known by the seller. Unless otherwise advised, the seller does not possess any expertise in construction, architecture, engineering, or any other specific area related to the construction or condition of the improvements on the property or the land. Also, unless otherwise advised, the seller has not conducted any inspection of generally inaccessible areas such as the foundation or roof. This statement is not a warranty of any kind by the seller or by any agent representing the seller in this transaction, and is not a substitute for any inspections or warranties the buyer may wish to obtain.

Seller's Disclosure: The seller discloses the following information with the knowledge that even though this is not a warranty, the seller specifically makes the following representations based on the seller's knowledge at the signing of this document. Upon receiving this statement from the seller, the seller's agent is required to provide a copy to the buyer or the agent of the buyer. The seller authorizes its agent(s) to provide a copy of this statement to any prospective buyer in connection with any actual or anticipated sale of property. The following are representations made solely by the seller and are not the representations of the seller's agent(s), if any. **THIS INFORMATION IS A DISCLOSURE ONLY AND IS NOT INTENDED TO BE A PART OF ANY CONTRACT BETWEEN BUYER AND SELLER.**

Instructions to the Seller: (1) Answer ALL questions. (2) Report known conditions affecting the property. (3) Attach additional pages with your signature if additional space is required. (4) Complete this form yourself. (5) If some items do not apply to your property, check NOT AVAILABLE. If you do not know the facts, check UNKNOWN. FAILURE TO PROVIDE A PURCHASER WITH A SIGNED DISCLOSURE STATEMENT WILL ENABLE A PURCHASER TO TERMINATE AN OTHERWISE BINDING PURCHASE AGREEMENT.

Appliances/Systems/Services: The items below are in working order (the items below are included in the sale of the property only if the purchase agreement so provides):

	Yes	No	Unknown	Not Available
Range/Oven	_____	_____	_____	_____
Dishwasher	_____	_____	_____	_____
Refrigerator	_____	_____	_____	_____
Hood/fan	_____	_____	_____	_____
Disposal	_____	_____	_____	_____
TV antenna, TV rotor & controls	_____	_____	_____	_____
Electrical system	_____	_____	_____	_____

Garage door opener & remote control	___	___	___	___
Alarm system	___	___	___	___
Intercom	___	___	___	___
Central vacuum	___	___	___	___
Attic fan	___	___	___	___
Pool heater, wall liner & equipment	___	___	___	___
Microwave	___	___	___	___
Trash compactor	___	___	___	___
Ceiling fan	___	___	___	___
Sauna/hot tub	___	___	___	___
Washer	___	___	___	___
Dryer	___	___	___	___
Lawn sprinkler system	___	___	___	___
Water heater	___	___	___	___
Plumbing system	___	___	___	___
Water softener/conditioner	___	___	___	___
Well & pump	___	___	___	___
Septic tank & drain field	___	___	___	___
Sump pump	___	___	___	___
City Water System	___	___	___	___
City Sewer System	___	___	___	___
Central air conditioning	___	___	___	___
Central heating system	___	___	___	___
Wall furnace	___	___	___	___
Humidifier	___	___	___	___
Electronic air filter	___	___	___	___
Solar heating system	___	___	___	___
Fireplace & chimney	___	___	___	___
Wood burning system	___	___	___	___

Explanations (attach additional sheets if necessary):

UNLESS OTHERWISE AGREED, ALL HOUSEHOLD APPLIANCES ARE SOLD IN WORKING ORDER EXCEPT AS NOTED, WITHOUT WARRANTY BEYOND DATE OF CLOSING.

Property conditions, improvements & additional information:

1. Basement/crawl space: Has there been evidence of water? yes ___ no ___

If yes, please explain: _____

2. Insulation: Describe, if known _____

Urea Formaldehyde Foam Insulation (UFFI) is installed?

unknown ___ yes ___ no ___

3. Roof: Leaks? yes _____ no _____

Approximate age if known _____

4. Well: Type of well (depth/diameter, age, and repair history, if known): _____

Has the water been tested? yes _____ no _____

If yes, date of last report/results: _____

5. Septic tanks/drain fields: Condition, if known: _____

6. Heating System: Type/approximate age: _____

7. Plumbing system: Type: copper _____ galvanized _____ other _____

Any known problems? _____

8. Electrical system: Any known problems? _____

9. History of infestation, if any: (termites, carpenter ants, etc.) _____

10. Environmental Problems: Are you aware of any substances, materials, or products that may be an environmental hazard such as, but not limited to, asbestos, radon gas, formaldehyde, lead-based paint, fuel or chemical storage tanks and contaminated soil on the property. unknown _____ yes _____ no _____

If yes, please explain: _____

11. Flood insurance: Do you have flood insurance on the property?
unknown _____ yes _____ no _____

12. Mineral rights: Do you own the mineral rights?
unknown _____ yes _____ no _____

Other Items: Are you aware of any of the following:

1. Features of the property shared in common with the adjoining landowners, such as walls, fences, roads and driveways, or other features whose use or responsibility for maintenance may have an effect on the property?
unknown _____ yes _____ no _____

2. Any encroachments, easements, zoning violations, or nonconforming uses?
unknown _____ yes _____ no _____

3. Any “common areas” (facilities like pools, tennis courts, walkways, or other areas co-owned with others), or a homeowners’ association that has any authority over the property?
unknown _____ yes _____ no _____

4. Structural modifications, alterations, or repairs made without necessary permits or licensed contractors?
unknown _____ yes _____ no _____

5. Settling, flooding, drainage, structural, or grading problems?
unknown _____ yes _____ no _____

6. Major damage to the property from fire, wind, floods, or landslides?
unknown _____ yes _____ no _____

7. Any underground storage tanks?
unknown _____ yes _____ no _____

8. Farm or farm operation in the vicinity; or proximity to a landfill, airport, shooting range, etc.?
unknown _____ yes _____ no _____

9. Any outstanding utility assessments or fees, including any natural gas main extension surcharge?

unknown ____ yes ____ no ____

10. Any outstanding municipal assessments or fees?

unknown ____ yes ____ no ____

11. Any pending litigation that could affect the property or the seller’s right to convey the property?

unknown ____ yes ____ no ____

If the answer to any of these questions is yes, please explain. Attach additional sheets, if necessary: _____

The seller has lived in the residence on the property from _____ (date) to _____ (date). The seller has owned the property since _____ (date). The seller has indicated above the condition of all the items based on information known to the seller. If any changes occur in the structural/mechanical/appliance systems of this property from the date of this form to the date of closing, seller will immediately disclose the changes to buyer. In no event shall the parties hold the broker liable for any representations not directly made by the broker or broker’s agent.

Seller certifies that the information in this statement is true and correct to the best of seller’s knowledge as of the date of seller’s signature.

BUYER SHOULD OBTAIN PROFESSIONAL ADVICE AND INSPECTIONS OF THE PROPERTY TO MORE FULLY DETERMINE THE CONDITION OF THE PROPERTY. THESE INSPECTIONS SHOULD TAKE INDOOR AIR AND WATER QUALITY INTO ACCOUNT, AS WELL AS ANY EVIDENCE OF UNUSUALLY HIGH LEVELS OF POTENTIAL ALLERGENS INCLUDING, BUT NOT LIMITED TO, HOUSEHOLD MOLD, MILDEW AND BACTERIA.

BUYERS ARE ADVISED THAT CERTAIN INFORMATION COMPILED PURSUANT TO THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.721 TO 28.732, IS AVAILABLE TO THE PUBLIC. BUYERS SEEKING THAT INFORMATION SHOULD CONTACT THE APPROPRIATE LOCAL LAW ENFORCEMENT AGENCY OR SHERIFF’S DEPARTMENT DIRECTLY.

BUYER IS ADVISED THAT THE STATE EQUALIZED VALUE OF THE PROPERTY, PRINCIPAL RESIDENCE EXEMPTION INFORMATION, AND OTHER REAL PROPERTY TAX INFORMATION IS AVAILABLE FROM THE APPROPRIATE LOCAL ASSESSOR’S OFFICE. **BUYER SHOULD NOT ASSUME THAT BUYER’S FUTURE TAX BILLS ON THE PROPERTY WILL BE THE SAME AS THE SELLER’S PRESENT TAX BILLS. UNDER MICHIGAN LAW, REAL PROPERTY TAX OBLIGATIONS CAN CHANGE SIGNIFICANTLY WHEN PROPERTY IS TRANSFERRED.**

Seller _____ Date _____

Seller _____ Date _____

Buyer has read and acknowledges receipt of this statement.

Buyer _____ Date _____ Time: _____

Buyer _____ Date _____ Time: _____

(2) A form described in subsection (1) printed before January 1, 2006 that was in compliance with this section at that time may be utilized and shall be considered in compliance with this section until April 1, 2006.

Effective date.

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

This act is ordered to take immediate effect.

Approved October 6, 2005.

Filed with Secretary of State October 6, 2005.

[No. 164]

(HB 4916)

AN ACT to amend 1996 PA 376, entitled “An act to create and expand certain renaissance zones; to foster economic opportunities in this state; to facilitate economic development; to stimulate industrial, commercial, and residential improvements; to prevent physical and infrastructure deterioration of geographic areas in this state; to authorize expenditures; to provide exemptions and credits from certain taxes; to create certain obligations of this state and local governmental units; to require disclosure of certain transactions and gifts; to provide for appropriations; and to prescribe the powers and duties of certain state and local departments, agencies, and officials,” by amending section 10 (MCL 125.2690), as amended by 2000 PA 259.

The People of the State of Michigan enact:

125.2690 Individuals or businesses ineligible for exemption, deduction, or credit; limitations.

Sec. 10. (1) An individual who is a resident of a renaissance zone or a business that is located and conducts business activity within a renaissance zone or a person that owns property located in a renaissance zone is not eligible for the exemption, deduction, or credit listed in section 9(1) or (2) for that taxable year if 1 or more of the following apply:

(a) The resident, business, or property owner is delinquent on December 31 of the prior tax year under 1 or more of the following:

(i) The single business tax act, 1975 PA 228, MCL 208.1 to 208.145.

(ii) The income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(iii) 1974 PA 198, MCL 207.551 to 207.572.

(iv) The commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668.

(v) The enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123.

(vi) 1953 PA 189, MCL 211.181 to 211.182.

(vii) The technology park development act, 1984 PA 385, MCL 207.701 to 207.718.

(viii) Part 511 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.51101 to 324.51120.

(ix) The neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786.

(x) The city utility users tax act, 1990 PA 100, MCL 141.1151 to 141.1177.

(b) The resident, business, or property owner is substantially delinquent as defined in a written policy by the qualified local governmental unit in which the renaissance zone is located on December 31 of the prior tax year under 1 or both of the following:

(i) The city income tax act, 1964 PA 284, MCL 141.501 to 141.787.

(ii) Taxes, fees, and special assessments collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(c) For residential rental property in a renaissance zone, the residential rental property is not in substantial compliance with all applicable state and local zoning, building, and housing laws, ordinances, or codes and, except as otherwise provided in this subdivision, the residential rental property owner has not filed an affidavit before December 31 in the immediately preceding tax year with the local tax collecting unit in which the residential rental property is located as required under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff. Beginning December 31, 2004, a residential rental property owner is not required to file an affidavit if the qualified local governmental unit in which the residential rental property is located determines that the residential rental property is in substantial compliance with all applicable state and local zoning, building, and housing laws, ordinances, and codes on December 31 of the immediately preceding tax year.

(2) An individual who is a resident of a renaissance zone is eligible for an exemption, deduction, or credit under section 9(1) and (2) until the department of treasury determines that the aggregate state and local tax revenue forgone as a result of all exemptions, deductions, or credits granted under this act to that individual reaches \$10,000,000.00.

(3) A casino located and conducting business activity within a renaissance zone is not eligible for the exemption, deduction, or credit listed in section 9(1) or (2). Real property in a renaissance zone on which a casino is operated, personal property of a casino located in a renaissance zone, and all property associated or affiliated with the operation of a casino is not eligible for the exemption, deduction, or credit listed in section 9(1) or (2). As used in this subsection, "casino" means a casino or a parking lot, hotel, motel, or retail store owned or operated by a casino, an affiliate, or an affiliated company, regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

(4) For tax years beginning on or after January 1, 1997, an individual who is a resident of a renaissance zone shall not be denied the exemption under subsection (1) if the individual failed to file a return on or before December 31 of the prior tax year under subsection (1)(a)(i) and that individual was entitled to a refund under that act.

This act is ordered to take immediate effect.

Approved October 6, 2005.

Filed with Secretary of State October 6, 2005.

[No. 165]**(HB 4917)**

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 7ff (MCL 211.7ff), as amended by 1998 PA 498.

The People of the State of Michigan enact:

211.7ff Real and personal property located in renaissance zone.

Sec. 7ff. (1) For taxes levied after 1996, except as otherwise provided in subsections (2) and (3) and except as limited in subsections (4), (5), and (6), real property in a renaissance zone and personal property located in a renaissance zone is exempt from taxes collected under this act to the extent and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.

(2) Real and personal property in a renaissance zone is not exempt from collection of the following:

(a) A special assessment levied by the local tax collecting unit in which the property is located.

(b) Ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit.

(c) A tax levied under section 705, 1211c, or 1212 of the revised school code, 1976 PA 451, MCL 380.705, 380.1211c, and 380.1212.

(3) Real property in a renaissance zone on which a casino is operated and personal property of a casino located in a renaissance zone is not exempt from the collection of taxes under this act. As used in this subsection, “casino” means a casino regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, and all property associated or affiliated with the operation of a casino, including, but not limited to, a parking lot, hotel, motel, or retail store.

(4) For residential rental property in a renaissance zone, the exemption provided under this section is only available if that residential rental property is in substantial compliance with all applicable state and local zoning, building, and housing laws, ordinances, or codes and either of the following occurs:

(a) The property owner files an affidavit before December 31 in the immediately preceding tax year with the treasurer of the local tax collecting unit in which the property

is located stating that the property is in substantial compliance with all applicable state and local zoning, building, and housing laws, ordinances, or codes.

(b) Beginning December 31, 2004, the qualified local governmental unit in which the residential rental property is located determines that the residential rental property is in substantial compliance with all applicable state and local zoning, building, and housing laws, ordinances, and codes on tax day as provided in section 2. If the qualified local governmental unit in which the residential rental property is located determines that the residential rental property is in substantial compliance with all applicable state and local zoning, building, and housing laws, ordinances, and codes on tax day as provided in section 2, the property owner is not required to file an affidavit under subdivision (a).

(5) Except as otherwise provided in subsection (6), personal property is exempt under this section if that property is located in a renaissance zone on tax day as provided in section 2 and was located in that renaissance zone for not less than 50% of the immediately preceding tax year. The written statement required under section 19 shall identify all personal property located in a renaissance zone on tax day as provided in section 2 and shall indicate whether that personal property was located in that renaissance zone for 50% of the immediately preceding tax year.

(6) Personal property located in a renaissance zone on tax day as provided in section 2 and located in that renaissance zone for less than 50% of the immediately preceding tax year is exempt under this section if an owner of the personal property files an affidavit with the written statement required under section 19 stating that the personal property will be located in that renaissance zone for not less than 50% of the tax year for which the exemption is claimed. The written statement required under section 19 shall identify all personal property located in that renaissance zone on tax day as provided in section 2 and identify that personal property for which an exemption is claimed under this subsection.

(7) As used in this section:

(a) “Qualified local governmental unit” means that term as defined in section 3 of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2683.

(b) “Renaissance zone” means that area designated a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.

(c) “Residential rental property” means that portion of real property not occupied by an owner of that real property that is classified as residential real property under section 34c, is a multiple-unit dwelling, or is a dwelling unit in a multiple purpose structure, used for residential purposes, and all personal property located in that real property.

This act is ordered to take immediate effect.

Approved October 6, 2005.

Filed with Secretary of State October 6, 2005.

[No. 166]

(HB 4541)

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 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 sections 518, 525, and 537 (MCL 436.1518, 436.1525, and 436.1537), section 518 as added by 2002 PA 725, section 525 as amended by 2005 PA 97, and section 537 as amended by 2001 PA 223.

The People of the State of Michigan enact:

436.1518 Definitions; consumption of alcohol on premises of motor-sports entertainment complex.

Sec. 518. (1) As used in this section:

(a) “Motorsports entertainment complex” means a closed-course motorsports facility and its ancillary grounds that comply with all of the following:

(i) Has at least 1,500 fixed seats for race patrons.

(ii) Has at least 7 scheduled days of motorsports events each calendar year.

(iii) Serves food and beverages at the facility during sanctioned motorsports events each calendar year through concession outlets, which may be staffed by individuals who represent or are members of 1 or more nonprofit civic or charitable organizations that directly financially benefit from the concession outlets’ sales.

(iv) Engages in tourism promotion.

(b) “Motorsports event” means a motorsports race and its ancillary activities that have been sanctioned by a sanctioning body.

(c) “Owner” means a person who owns and operates a motorsports entertainment complex.

(d) “Sanctioning body” means the American motorcycle association (AMA); auto racing club of America (ARCA); championship auto racing teams (CART); grand American road racing association (GRAND AM); Indy racing league (IRL); national association for stock car auto racing (NASCAR); nation hot rod association (NHRA); professional sportscar racing (PSR); sports car club of America (SCCA); United States auto club (USAC); Michigan state promoters association; or any successor organization or any other nationally or internationally recognized governing body of motorsports that establishes an annual schedule of motorsports events and grants rights to conduct the events, that has established and administers rules and regulations governing all participants involved in the events and all persons conducting the events, and that requires certain liability assurances, including insurance.

(2) Notwithstanding the quota provisions of section 531, the commission may issue motorsports event licenses for the sale of beer and wine for consumption on the premises to the owner of a motorsports entertainment complex for use during sanctioned motor-sports events only.

(3) For a period of time not to exceed 7 consecutive days during which public access is permitted to a motorsports entertainment complex in connection with a motorsports

event, members of the general public at least 21 years or older may bring beer and wine not purchased at the licensed motorsports entertainment complex into the motorsports entertainment complex and possess and consume that beer and wine. Possession and consumption of beer and wine under this section are allowed only in portions of the motorsports entertainment complex open to the general public that are also part of the licensed premises of a retail licensee under both of the following circumstances:

(a) The licensed premises are located within the motorsports entertainment complex.

(b) The retail licensee holds a license for consumption on the licensed premises of the motorsports entertainment complex.

(4) A person holding a license for the sale of alcoholic liquor for consumption on the premises at a motorsports entertainment complex is subject to the civil liability provisions of section 801 if the civil action is brought by or on behalf of an individual who suffers damage or is personally injured by a minor or visibly intoxicated person by reason of the unlawful consumption of alcoholic liquor on the licensed premises by that minor or visibly intoxicated person if the unlawful consumption is proven to be a proximate cause of the damage, injury, or death of the individual, whether the alcoholic liquor was sold or furnished by the licensee or was brought onto the licensed premises under subsection (3).

436.1525 License fee; filing completed application; issuance of license within certain period of time; report; "completed application" defined.

Sec. 525. (1) Except as otherwise provided for in this section, the following license fees shall be paid at the time of filing applications or as otherwise provided in this act:

(a) Manufacturers of spirits, but not including makers, blenders, and rectifiers of wines containing 21% or less alcohol by volume, \$1,000.00.

(b) Manufacturers of beer, \$50.00 per 1,000 barrels, or fraction of a barrel, production annually with a maximum fee of \$1,000.00, and in addition \$50.00 for each motor vehicle used in delivery to retail licensees. A fee increase does not apply to a manufacturer of less than 15,000 barrels production per year.

(c) Outstate seller of beer, delivering or selling beer in this state, \$1,000.00.

(d) Wine makers, blenders, and rectifiers of wine, including makers, blenders, and rectifiers of wines containing 21% or less alcohol by volume, \$100.00. The small wine maker license fee is \$25.00.

(e) Outstate seller of wine, delivering or selling wine in this state, \$300.00.

(f) Outstate seller of mixed spirit drink, delivering or selling mixed spirit drink in this state, \$300.00.

(g) Dining cars or other railroad or Pullman cars selling alcoholic liquor, \$100.00 per train.

(h) Wholesale vendors other than manufacturers of beer, \$300.00 for the first motor vehicle used in delivery to retail licensees and \$50.00 for each additional motor vehicle used in delivery to retail licensees.

(i) Watercraft, licensed to carry passengers, selling alcoholic liquor, a minimum fee of \$100.00 and a maximum fee of \$500.00 per year computed on the basis of \$1.00 per person per passenger capacity.

(j) Specially designated merchants, for selling beer or wine for consumption off the premises only but not at wholesale, \$100.00 for each location regardless of the fact that the location may be a part of a system or chain of merchandising.

(k) Specially designated distributors licensed by the commission to distribute spirits and mixed spirit drink in the original package for the commission for consumption off the premises, \$150.00 per year, and an additional fee of \$3.00 for each \$1,000.00 or major fraction of that amount in excess of \$25,000.00 of the total retail value of merchandise purchased under each license from the commission during the previous calendar year.

(l) Hotels of class A selling beer and wine, a minimum fee of \$250.00 and, for all bedrooms in excess of 20, \$1.00 for each additional bedroom, but not more than \$500.00.

(m) Hotels of class B selling beer, wine, mixed spirit drink, and spirits, a minimum fee of \$600.00 and, for all bedrooms in excess of 20, \$3.00 for each additional bedroom. If a hotel of class B sells beer, wine, mixed spirit drink, and spirits in more than 1 public bar, the fee entitles the hotel to sell in only 1 public bar, other than a bedroom, and a license shall be secured for each additional public bar, other than a bedroom, the fee for which is \$350.00.

(n) Taverns, selling beer and wine, \$250.00.

(o) Class C license selling beer, wine, mixed spirit drink, and spirits, \$600.00. If a class C licensee sells beer, wine, mixed spirit drink, and spirits in more than 1 bar, a fee of \$350.00 shall be paid for each additional bar. In municipally owned or supported facilities in which nonprofit organizations operate concession stands, a fee of \$100.00 shall be paid for each additional bar.

(p) Clubs selling beer, wine, mixed spirit drink, and spirits, \$300.00 for clubs having 150 or fewer duly accredited members and \$1.00 for each additional member. The membership list for the purpose only of determining the license fees to be paid under this subdivision shall be the accredited list of members as determined by a sworn affidavit 30 days before the closing of the license year. This subdivision does not prevent the commission from checking a membership list and making its own determination from the list or otherwise. The list of members and additional members is not required of a club paying the maximum fee. The maximum fee shall not exceed \$750.00 for any 1 club.

(q) Warehouse, to be fixed by the commission with a minimum fee for each warehouse of \$50.00.

(r) Special licenses, a fee of \$50.00 per day, except that the fee for that license or permit issued to any bona fide nonprofit association, duly organized and in continuous existence for 1 year before the filing of its application, is \$25.00. Not more than 5 special licenses may be granted to any organization, including an auxiliary of the organization, in a calendar year.

(s) Airlines licensed to carry passengers in this state that sell, offer for sale, provide, or transport alcoholic liquor, \$600.00.

(t) Brandy manufacturer, \$100.00.

(u) Mixed spirit drink manufacturer, \$100.00.

(v) Brewpub, \$100.00.

(w) Class G-1, \$1,000.00.

(x) Class G-2, \$500.00.

(y) Motorsports event license, \$250.00.

(2) The fees provided in this act for the various types of licenses shall not be prorated for a portion of the effective period of the license. Notwithstanding subsection (1), the initial license fee for any licenses issued under section 531(3) and (4) is \$20,000.00. The renewal license fee shall be the amount described in subsection (1). However, the commission shall not impose the \$20,000.00 initial license fee for applicants whose license eligibility was already approved on July 20, 2005.

(3) Beginning July 23, 2004, and except in the case of any resort or resort economic development license issued under section 531(2), (3), (4), and (5) and a license issued under

section 521, the commission shall issue an initial or renewal license not later than 90 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of the state of Michigan. If the application is considered incomplete by the commission, the commission shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility upon an applicant determined otherwise ineligible for issuance of a license. The 90-day period is tolled under any of the following circumstances:

(a) Notice sent by the commission of a deficiency in the application until the date all of the requested information is received by the commission.

(b) The time period during which actions required by a party other than the applicant or the commission are completed that include, but are not limited to, completion of construction or renovation of the licensed premises; mandated inspections by the commission or by any state, local, or federal agency; approval by the legislative body of a local unit of government; criminal history or criminal record checks; financial or court record checks; or other actions mandated by this act or rule or as otherwise mandated by law or local ordinance.

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

(5) Beginning October 1, 2005, the chair of the commission shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with liquor license issues. The chair of the commission shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the commission received and completed within the 90-day time period described in subsection (3).

(b) The number of applications denied.

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

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

436.1537 Classes of vendors permitted to sell alcoholic liquors at retail; sale of wine by wine maker; wine tastings.

Sec. 537. (1) The following classes of vendors may sell alcoholic liquors at retail as provided in this section:

(a) Taverns where beer and wine may be sold for consumption on the premises only.

(b) Class C license where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises.

(c) Clubs where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises only to bona fide members where consumption is limited to these members and their bona fide guests, who have attained the age of 21 years.

(d) Hotels of class A where beer and wine may be sold for consumption on the premises and in the rooms of bona fide registered guests. Hotels of class B where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises and in the rooms of bona fide registered guests.

(e) Specially designated merchants, where beer and wine may be sold for consumption off the premises only.

(f) Specially designated distributors where spirits and mixed spirit drink may be sold for consumption off the premises only.

(g) Special licenses where beer and wine or beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises only.

(h) Dining cars or other railroad or Pullman cars, watercraft, or aircraft, where alcoholic liquor may be sold for consumption on the premises only, subject to rules promulgated by the commission.

(i) Brewpubs where beer manufactured on the premises by the licensee may be sold for consumption on or off the premises by any of the following licensees:

(i) Class C.

(ii) Tavern.

(iii) Class A hotel.

(iv) Class B hotel.

(j) Micro brewers where beer produced by the micro brewer may be sold to a consumer for consumption on or off the brewery premises.

(k) Class G-1 license where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises only to members required to pay an annual membership fee and consumption is limited to these members and their bona fide guests.

(l) Class G-2 license where beer and wine may be sold for consumption on the premises only to members required to pay an annual membership fee and consumption is limited to these members and their bona fide guests.

(m) Motorsports event license where beer and wine may be sold for consumption on the premises during sanctioned motorsports events only.

(2) A wine maker may sell wine made by that wine maker in a restaurant for consumption on or off the premises if the restaurant is owned by the wine maker or operated by another person under an agreement approved by the commission and located on the premises where the wine maker is licensed.

(3) A wine maker, with the prior written approval of the commission, may conduct wine tastings of wines made by that wine maker and may sell the wine made by that wine maker for consumption off the premises at a location other than the premises where the wine maker is licensed to manufacture wine, under the following conditions:

(a) The premises upon which the wine tasting occurs conforms to local and state sanitation requirements.

(b) Payment of a \$100.00 fee per location is made to the commission.

(c) The wine tasting locations shall be considered licensed premises.

(d) Wine tasting does not take place between the hours of 2 a.m. and 7 a.m. Monday through Saturday, or between 2 a.m. and 12 noon on Sunday.

(e) The premises and the licensee comply with and are subject to all applicable rules promulgated by the commission.

This act is ordered to take immediate effect.

Approved October 6, 2005.

Filed with Secretary of State October 6, 2005.

[No. 167]

(HB 4673)

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” (MCL 750.1 to 750.568) by adding section 317a.

The People of the State of Michigan enact:

750.317a Delivery of schedule 1 or 2 controlled substance; death as felony; penalty.

Sec. 317a. A person who delivers a schedule 1 or 2 controlled substance, other than marihuana, to another person in violation of section 7401 of the public health code, 1978 PA 368, MCL 333.7401, that is consumed by that person or any other person and that causes the death of that person or other person is guilty of a felony punishable by imprisonment for life or any term of years.

Effective date.

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

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 423 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved October 6, 2005.

Filed with Secretary of State October 6, 2005.

Compiler's note: Senate Bill No. 423, referred to in enacting section 2, was filed with the Secretary of State October 6, 2005, and became 2005 PA 168, Eff. Jan. 1, 2006.

[No. 168]

(SB 423)

AN ACT to amend 1927 PA 175, entitled “An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of

courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 16p of chapter XVII (MCL 777.16p), as amended by 2000 PA 279.

The People of the State of Michigan enact:

CHAPTER XVII

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

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

M.C.L.	Category	Class	Description	Stat Max
750.317	Person	M2	Second degree murder	Life
750.317a	Person	A	Delivery of controlled substance causing death	Life
750.321	Person	C	Manslaughter	15
750.322	Person	C	Willful killing of unborn quick child	15
750.323	Person	C	Abortion resulting in death	15
750.324	Person	G	Negligent homicide	2
750.327	Person	A	Death by explosives on vehicle or vessel	Life
750.328	Person	A	Death by explosives in or near building	Life
750.329	Person	C	Homicide-weapon aimed with intent but not malice	15
750.329a	Person	E	Assisting a suicide	5

Effective date.

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

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4673 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved October 6, 2005.

Filed with Secretary of State October 6, 2005.

Compiler's note: House Bill No. 4673, referred to in enacting section 2, was filed with the Secretary of State October 6, 2005, and became 2005 PA 167, Eff. Jan. 1, 2006.

[No. 169]**(HB 5094)**

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 5522 (MCL 324.5522), as amended by 2001 PA 49.

The People of the State of Michigan enact:

324.5522 Fee-subject facility; air quality fees; calculation of facility emissions for previous year; annual report detailing activities of previous fiscal year; action by attorney general for collection of fees; applicability of section; condition.

Sec. 5522. (1) For the state fiscal year beginning October 1, 2001, and continuing until September 30, 2007, the owner or operator of each fee-subject facility shall pay air quality fees as required and calculated under this section. The department may levy and collect an annual air quality fee from the owner or operator of each fee-subject facility in this state. The legislature intends that the fees required under this section meet the minimum requirements of the clean air act and that this expressly stated fee system serve as a limitation on the amount of fees imposed under this part on the owners or operators of fee-subject facilities in this state.

(2) The annual air quality fee shall be calculated for each fee-subject facility, according to the following procedure:

(a) For category I facilities, the annual air quality fee shall be the sum of a facility charge and an emissions charge as specified in subdivision (e). The facility charge shall be \$4,485.00.

(b) For category II facilities, the annual air quality fee shall be the sum of a facility charge and an emissions charge as specified in subdivision (e). The facility charge shall be \$1,795.00.

(c) For category III facilities, the annual air quality fee shall be \$250.00.

(d) For municipal electric generating facilities that are category I facilities and that emit more than 450 tons but less than 18,000 tons of fee-subject air pollutants, the annual

air quality fee shall be the following amount, based on the number of tons of fee-subject air pollutants emitted:

(i) More than 450 tons but less than 4,000 tons, \$24,816.00.

(ii) At least 4,000 tons but not more than 5,300 tons, \$24,816.00 plus \$45.25 per ton of fee-subject air pollutant in excess of 4,000 tons.

(iii) More than 5,300 tons but not more than 12,000 tons, \$85,045.00.

(iv) More than 12,000 tons but less than 18,000 tons, \$159,459.00.

(e) The emissions charge for category I and category II facilities shall equal the emission charge rate of \$45.25, multiplied by the actual tons of fee-subject air pollutants emitted. A pollutant that qualifies as a fee-subject air pollutant under more than 1 class shall be charged only once. The actual tons of fee-subject air pollutants emitted is considered to be the sum of all fee-subject air pollutants emitted at the fee-subject facility for the calendar year 2 years preceding the year of billing, but not more than the lesser of the following:

(i) 4,000 tons.

(ii) 1,000 tons per pollutant, if the sum of all fee-subject air pollutants except carbon monoxide emitted at the fee-subject facility is less than 4,000 tons.

(3) The auditor general shall conduct a biennial audit of the federally mandated operating permit program required in title V. The audit shall include the auditor general's recommendation regarding the sufficiency of the fees required under subsection (2) to meet the minimum requirements of the clean air act.

(4) After January 1, but before January 15 of each year beginning in 1995, the department shall notify the owner or operator of each fee-subject facility of its assessed annual air quality fee. Payment is due within 90 calendar days of the mailing date of the air quality fee notification. If an assessed fee is challenged under subsection (6), payment is due within 90 calendar days of the mailing date of the air quality fee notification or within 30 days of receipt of a revised fee or statement supporting the original fee, whichever is later. The department shall deposit all fees collected under this section to the credit of the fund.

(5) If the owner or operator of a fee-subject facility fails to submit the amount due within the time period specified in subsection (4), the department shall assess the owner or operator a penalty of 5% of the amount of the unpaid fee for each month that the payment is overdue up to a maximum penalty of 25% of the total fee owed.

(6) If the owner or operator of a fee-subject facility desires to challenge its assessed fee, the owner or operator shall submit the challenge in writing to the department. The department shall not process the challenge unless it is received by the department within 45 calendar days of the mailing date of the air quality fee notification described in subsection (4). A challenge shall identify the facility and state the grounds upon which the challenge is based. Within 30 calendar days of receipt of the challenge, the department shall determine the validity of the challenge and provide the owner with notification of a revised fee or a statement setting forth the reason or reasons why the fee was not revised. Payment of the challenged or revised fee is due within the time frame described in subsection (4). If the owner or operator of a facility desires to further challenge its assessed fee, the owner or operator of the facility has an opportunity for a contested case hearing as provided for under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(7) If requested by the department, by March 15 of each year, or within 45 days of a request by the department, whichever is later, the owner or operator of each fee-subject

facility shall submit information regarding the facility's previous year's emissions to the department. The information shall be sufficient for the department to calculate the facility's emissions for that year and meet the requirements of 40 CFR 51.320 to 51.327.

(8) By July 1 of each year, the department shall provide the owner or operator of each fee-subject facility required to pay an emission charge pursuant to this section with a copy of the department's calculation of the facility emissions for the previous year. Within 60 days of this notification, the owner or operator of the facility may provide corrections to the department. The department shall make a final determination of the emissions by December 15 of that year. If the owner or operator disagrees with the determination of the department, the owner or operator may request a contested case hearing as provided for under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(9) By March 1 annually, the department shall prepare and submit to the governor, the legislature, the chairpersons of the standing committees of the senate and house of representatives with primary responsibility for environmental protection issues related to air quality, and the chairpersons of the subcommittees of the senate and house appropriations committees with primary responsibility for appropriations to the department a report that details the activities of the previous fiscal year funded by the fund for the department. This report shall include, at a minimum, all of the following as it relates to the department:

(a) The number of full-time equated positions performing title V and non-title V air quality enforcement, compliance, or permitting activities.

(b) All of the following information related to the permit to install program authorized under section 5505:

(i) The number of permit to install applications received by the department.

(ii) The number of permit to install applications for which a final action was taken by the department. The number of final actions should be reported as the number of applications approved, the number of applications denied, and the number of applications withdrawn by the applicant.

(iii) The number of permits to install approved that were required to complete public participation under section 5511(3) before final action and the number of permits to install approved that were not required to complete public participation under section 5511(3) prior to final action.

(iv) The average number of final permit actions per permit to install reviewer full-time equivalent position.

(v) The percentage and number of permit to install applications which were reviewed for administrative completeness within 10 days of receipt by the department.

(vi) The percentage and number of permit to install applications which were reviewed for technical completeness within 30 days of receipt of an administratively complete application by the department.

(vii) The percentage and number of permit to install applications submitted to the department that were administratively complete as received.

(viii) The percentage and number of permit to install applications for which a final action was taken by the department within 60 days of receipt of a technically complete application for those not required to complete public participation under section 5511(3) prior to final action, or within 120 days of receipt of a technically complete application for those which are required to complete public participation under section 5511(3) prior to final action.

(c) All of the following information for the renewable operating permit program authorized under section 5506:

(i) The number of renewable operating permit applications received by the department.

(ii) The number of renewable operating permit applications for which a final action was taken by the department. The number of final actions should be reported as the number of applications approved, the number of applications denied, and the number of applications withdrawn by the applicant.

(iii) The percentage and number of permit applications initially processed within the required time.

(iv) The percentage and number of permit renewals and modifications processed within the required time.

(v) The number of permit applications reopened by the department.

(vi) The number of general permits issued by the department.

(d) The number of letters of violation sent.

(e) The amount of penalties collected from all consent orders and judgments.

(f) For each enforcement action that includes payment of a penalty, a description of what corrective actions were required by the enforcement action.

(g) The number of inspections done on sources required to obtain a permit under section 5506 and the number of inspections of other sources.

(h) The number of air pollution complaints received, investigated, not resolved, and resolved by the department.

(i) The number of contested case hearings and civil actions initiated and completed, and the number of voluntary consent orders, administrative penalty orders, and emergency orders entered or issued, for sources required to obtain a permit under section 5506.

(j) The amount of revenue in the fund at the end of the fiscal year.

(10) The report under subsection (9) shall also include the amount of revenue for programs under this part received during the prior fiscal year from fees, from federal funds, and from general fund appropriations. Each of these amounts shall be expressed as a dollar amount and as a percent of the total annual cost of programs under this part.

(11) The attorney general may bring an action for the collection of the fees imposed under this section.

(12) This section does not apply if the administrator of the United States environmental protection agency determines that the department is not adequately administering or enforcing the renewable operating permit program and the administrator promulgates and administers a renewable operating permit program for this state.

This act is ordered to take immediate effect.

Approved October 10, 2005.

Filed with Secretary of State October 10, 2005.

[No. 170]

(HB 4865)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to

provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” (MCL 750.1 to 750.568) by adding section 217f.

The People of the State of Michigan enact:

750.217f Unlawful representation as firefighter or emergency medical service personnel; definitions; violation as felony; penalty; consecutive sentences.

Sec. 217f. (1) An individual who is not employed as a firefighter or emergency medical service personnel shall not inform another individual or represent to another individual by identification or any other means that he or she is employed in 1 of those capacities with intent to do 1 or more of the following:

- (a) Perform the duties of a firefighter or emergency medical service personnel.
- (b) Represent to another person that he or she is a firefighter or emergency medical service personnel for any unlawful purpose.
- (c) Compel a person to do or refrain from doing any act against his or her will.
- (d) Gain or attempt to gain entry to a residence, building, structure, facility, or other property.
- (e) Remain or attempt to remain in or upon a residence, building, structure, facility, or other property.
- (f) Gain or attempt to gain access to financial account information.
- (g) Commit or attempt to commit a crime.
- (h) Obtain or attempt to obtain information to which the individual is not entitled.
- (i) Gain access or attempt to gain access to a person less than 18 years of age or a vulnerable adult.

(2) As used in this section:

(a) “Emergency medical service personnel” means that term as defined in section 20904 of the public health code, 1978 PA 368, MCL 333.20904.

(b) “Vulnerable adult” means that term as defined in section 145m.

(3) An individual who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$1,000.00, or both.

(4) A sentence imposed under subsection (3) may be ordered to be served consecutively to any term of imprisonment imposed for another violation arising from the same transaction.

Effective date.

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

This act is ordered to take immediate effect.

Approved October 11, 2005.

Filed with Secretary of State October 12, 2005.

[No. 171]

(HB 4866)

AN ACT to amend 1927 PA 175, entitled “An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 16l of chapter XVII (MCL 777.16l), as amended by 2003 PA 16.

The People of the State of Michigan enact:

CHAPTER XVII

777.16/ MCL 750.213 to 750.219f; felonies to which chapter applicable.

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

M.C.L.	Category	Class	Description	Stat Max
750.213	Person	B	Threats to extort money	20
750.215(3)	Pub saf	F	Impersonating peace officer	4
750.217b	Pub saf	G	Impersonating public utility employee	2
750.217c(3)	Pub ord	H	Impersonating public officer or employee	2
750.217c(4)	Pub ord	G	Impersonating public officer or employee — third or subsequent conviction	4
750.217d	Pub saf	C	False representation or practice as health professional	15
750.217e	Pub ord	G	Impersonating a DHS employee	2
750.217f	Pub saf	G	Impersonating a firefighter or emergency medical service personnel	2

750.218(4)	Property	E	False pretenses involving \$1,000 to \$20,000 or with prior convictions	5
750.218(5)	Property	D	False pretenses involving \$20,000 or more or \$1,000 to \$20,000 with prior convictions	10
750.219a(2)(c)	Property	E	Telecommunications fraud with 1 or more prior convictions or involving a value of \$1,000 to \$20,000	5
750.219a(2)(d)	Property	D	Telecommunications fraud with 2 or more prior convictions or involving a value of \$20,000 or more	10
750.219e	Property	F	Receiving, possessing, preparing, or submitting an unauthorized credit application or receiving or possessing proceeds	4
750.219f	Property	F	Receiving with intent to forward, possessing with intent to forward, or forwarding an unauthorized credit application or proceeds	4

Effective date.

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

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4865 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved October 11, 2005.

Filed with Secretary of State October 12, 2005.

Compiler's note: House Bill No. 4865, referred to in enacting section 2, was filed with the Secretary of State October 12, 2005, and became 2005 PA 170, Eff. Jan. 1, 2006.

[No. 172]

(SB 548)

AN ACT to amend 1972 PA 222, entitled "An act to provide for an official personal identification card; to provide for its form, issuance and use; to regulate the use and disclosure of information obtained from the card; to prescribe the powers and duties of the secretary of state; to prescribe fees; to prescribe certain penalties for violations; and to provide an appropriation for certain purposes," by amending section 7 (MCL 28.297), as added by 1997 PA 99.

The People of the State of Michigan enact:

28.297 Commercial look-up service; disposition of fees; computerized central file; providing file to nongovernmental person or entity.

Sec. 7. (1) The secretary of state may provide a commercial look-up service of records maintained under this act. For each individual record looked up, the secretary of state

shall charge a fee specified annually by the legislature, or if the legislature does not specify a fee, a market-based price established by the secretary of state. The secretary of state shall process a commercial look-up request only if the request is in a form or format as prescribed by the secretary of state. Fees collected under this subsection on and after October 1, 2005 shall be credited to the transportation administration collection fund created in section 810b of the Michigan vehicle code, 1949 PA 300, MCL 257.810b.

(2) The secretary of state shall establish and maintain a computerized central file of the information contained on application forms received under this act. The computerized central file shall be interfaced with the law enforcement information network as provided in the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(3) Except as provided in section 10(2), the secretary of state shall not provide an entire computerized central file or other file of records maintained under this act to a nongovernmental person or entity, unless the purchaser pays the prescribed fee for each individual record contained within the computerized file.

Conditional effective date.

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

- (a) Senate Bill No. 549.
- (b) Senate Bill No. 550.

This act is ordered to take immediate effect.
Approved October 11, 2005.
Filed with Secretary of State October 12, 2005.

Compiler's note: Senate Bill No. 549, referred to in enacting section 1, was filed with the Secretary of State October 12, 2005, and became 2005 PA 173, Imd. Eff. Oct. 12, 2005.

Senate Bill No. 550, also referred to in enacting section 1, was filed with the Secretary of State October 12, 2005, and became 2005 PA 174, Imd. Eff. Oct. 12, 2005.

[No. 173]

(SB 549)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending sections 208b and 232

(MCL 257.208b and 257.232), section 208b as amended by 2000 PA 159 and section 232 as amended by 2000 PA 192.

The People of the State of Michigan enact:

257.208b Commercial look-up service; records and information maintained by driver training school operator or limo carrier of passengers; disposition of fees; providing file to nongovernmental person or entity; failure to provide information; fines; definitions.

Sec. 208b. (1) The secretary of state may provide a commercial look-up service of records maintained under this act. For each individual record looked up, the secretary of state shall charge a fee specified annually by the legislature, or if the legislature does not specify a fee, a market-based price established by the secretary of state. The secretary of state shall process a commercial look-up request only if the request is in a form or format prescribed by the secretary of state. Fees collected under this subsection on and after October 1, 2005 shall be credited to the transportation administration collection fund created in section 810b.

(2) A driver training school operator shall subscribe to the commercial look-up service maintained by the secretary of state.

(3) A driver training school operator shall maintain on the premises of the driver training school the most current copy of all nonpersonal information related to his or her driving record and the driving record of each instructor employed by the driver training school operator for review by any prospective customer or the parent or guardian of a prospective customer.

(4) A prospective customer or the parent or guardian of a prospective customer may review a copy of all nonpersonal information related to the driving record of the driver training school operator or an instructor employed by the driver training school operator.

(5) A driver training school operator shall include in its contract with each client, as prescribed by the secretary of state, a notice that nonpersonal information related to the driving record of each individual instructor is available for review by the general public. A driver training school operator that fails to include the information required by this subsection is subject to a fine of not more than \$500.00.

(6) Each limo carrier of passengers shall subscribe to the commercial look-up service maintained by the secretary of state.

(7) A person who drives a limousine for hire for a limo carrier of passengers shall maintain a most current copy of all nonpersonal information related to the person's driving record in the limousine available for review by any prospective passenger.

(8) A prospective passenger may review a copy of all nonpersonal information related to the driving record of the driver of a limousine from a limo carrier of passengers or from the driver of the limousine.

(9) The secretary of state shall not provide an entire computerized central file or other file of records maintained under this act to a nongovernmental person or entity, unless the person or entity pays the prescribed fee for each individual record contained within the computerized file.

(10) A driver training school operator who fails to provide the information required to be maintained by this section is subject to a fine of not more than \$500.00. Each failure to provide information constitutes a separate offense.

(11) A limo carrier of passengers who fails to provide the information required to be maintained by this section is subject to a fine of not more than \$500.00. Each failure to provide information constitutes a separate offense.

(12) The driver of a limousine who fails to provide the information required by this section is subject to a fine of not more than \$500.00. Each failure to provide information constitutes a separate offense.

(13) As used in this section:

(a) “Driver training school operator” means a person licensed to operate a driver training school under part 2 of the driver education and training schools act, 1974 PA 369, MCL 256.602 to 256.609.

(b) “Limo carrier of passengers” and “limousine” mean those terms as defined in section 3 of the limousine transportation act, 1990 PA 271, MCL 257.1903.

257.232 Furnishing list of information to federal, state, or local governmental agency; contract for sale of lists of driver and motor vehicle records; records maintained in bulk; surveys, marketing, and solicitations; insertion of safeguard in agreement or contract; duties of recipient of personal information; disclosure of list based on driving behavior or sanctions.

Sec. 232. (1) Upon request, the secretary of state may furnish a list of information from the records of the department maintained under this act to a federal, state, or local governmental agency for use in carrying out the agency’s functions, or to a private person or entity acting on behalf of a governmental agency for use in carrying out the agency’s functions. The secretary of state may charge the requesting agency a preparation fee to cover the cost of preparing and furnishing a list provided under this subsection if the cost of preparation exceeds \$25.00, and use the revenues received from the service to defray necessary expenses. If the secretary of state sells a list of information under this subsection to a member of the state legislature, the secretary of state shall charge the same fee as the fee for the sale of information under subsection (2) unless the list of information is requested by the member of the legislature to carry out a legislative function. The secretary of state may require the requesting agency to furnish 1 or more blank computer tapes, cartridges, or other electronic media and may require the agency to execute a written memorandum of agreement as a condition of obtaining a list of information under this subsection.

(2) The secretary of state may contract for the sale of lists of driver and motor vehicle records and other records maintained under this act in bulk, in addition to those lists distributed at cost or at no cost under this section for purposes permitted by and described in section 208c(3). The secretary of state shall require each purchaser of records in bulk to execute a written purchase contract. The secretary of state shall fix a market-based price for the sale of such lists or other records maintained in bulk, which may include personal information. The proceeds from each sale made under this subsection on and after October 1, 2005 shall be credited to the transportation administration collection fund created in section 810b.

(3) The secretary of state or any other state agency shall not sell or furnish any list of information under subsection (2) for the purpose of surveys, marketing, and solicitations. The secretary of state shall ensure that personal information disclosed in bulk will be used, rented, or sold solely for uses permitted under this act.

(4) The secretary of state may insert any safeguard the secretary considers reasonable or necessary, including a bond requirement, in a memorandum of agreement or purchase contract executed under this section, to ensure that the information provided or sold is

used only for a permissible purpose and that the rights of individuals and of the department are protected.

(5) An authorized recipient of personal information disclosed under this section who resells or rediscloses the information for any of the purposes permitted by and described in section 208c(3) shall do both of the following:

(a) Make and keep for a period of not less than 5 years records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(b) Allow a representative of the secretary of state, upon request, to inspect and copy records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(6) The secretary of state shall not disclose a list based on driving behavior or sanctions to a nongovernmental agency, including an individual.

Conditional effective date.

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

(a) Senate Bill No. 548.

(b) Senate Bill No. 550.

This act is ordered to take immediate effect.

Approved October 11, 2005.

Filed with Secretary of State October 12, 2005.

Compiler's note: Senate Bill No. 548, referred to in enacting section 1, was filed with the Secretary of State October 12, 2005, and became 2005 PA 172, Imd. Eff. Oct. 12, 2005.

Senate Bill No. 550, also referred to in enacting section 1, was filed with the Secretary of State October 12, 2005, and became 2005 PA 174, Imd. Eff. Oct. 12, 2005.

[No. 174]

(SB 550)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 80130, 80315, 81114, and 82156 (MCL 324.80130, 324.80315, 324.81114, and 324.82156), as amended by 1997 PA 102.

The People of the State of Michigan enact:

324.80130 Commercial lookup service; disposition of fees; computerized central file; purpose; creation; maintenance; providing records to nongovernmental person or entity; fee; admissibility in evidence.

Sec. 80130. (1) The secretary of state may provide a commercial lookup service of records maintained under this part. For each individual record looked up, the secretary of

state shall charge a fee specified annually by the legislature, or if none, a market-based price established by the secretary of state. The secretary of state shall process a commercial lookup request only if the request is in a form or format prescribed by the secretary of state. Fees collected under this subsection on and after October 1, 2005 shall be credited to the transportation administration collection fund created in section 810b of the Michigan vehicle code, 1949 PA 300, MCL 257.810b.

(2) In order to provide an individual, historical boating record, the secretary of state shall create and maintain a computerized central file that includes the information contained on application forms received under this part and the name of each person who is convicted of an offense, who fails to comply with an order or judgment issued, or against whom an order is entered under this part. The computerized central file shall be interfaced with the law enforcement information network as provided in the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(3) The secretary of state shall not provide an entire computerized central or other file of records maintained under this part to a nongovernmental person or entity unless the purchaser pays the prescribed fee or price for each individual record contained within the computerized file.

(4) A certified copy of an order, record, or paper maintained under this part is admissible in evidence in the same manner as the original and is prima facie proof of the facts stated in the original.

324.80315 Records available to the public; commercial lookup service of watercraft title records; disposition of fees; computerized central file; creation; maintenance; providing to nongovernmental person or entity; fee; admissibility in evidence.

Sec. 80315. (1) Records maintained under this part, other than those declared to be confidential by law or that are restricted by law from disclosure to the public, shall be available to the public under procedures prescribed in this part, and in the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) The secretary of state may provide a commercial lookup service of watercraft title records maintained under this part. For each individual record looked up, the secretary of state shall charge a fee specified annually by the legislature, or if none, a market-based price established by the secretary of state. The secretary of state shall process a commercial lookup request only if the request is in a form or format prescribed by the secretary of state. Fees collected under this subsection on and after October 1, 2005 shall be credited to the transportation administration collection fund created in section 810b of the Michigan vehicle code, 1949 PA 300, MCL 257.810b.

(3) The secretary of state shall create and maintain a computerized central file that includes the information contained on application forms received under this part. The computerized central file shall be interfaced with the law enforcement information network as provided in the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(4) The secretary of state shall not provide an entire computerized central or other file of records maintained under this part to a nongovernmental person or entity, unless the purchaser pays the prescribed fee or price for each individual record contained within the computerized file.

(5) A certified copy of an order, record, or paper maintained under this part is admissible in evidence in the same manner as the original and is prima facie proof of the facts stated in the original.

324.81114 Records available to the public; commercial lookup service; disposition of fees; computerized central file; purging records; providing records to nongovernmental person or entity; fee; admissibility in evidence.

Sec. 81114. (1) Records maintained under this part, other than those declared to be confidential by law or that are restricted by law from disclosure to the public, shall be available to the public under procedures prescribed in this part, and in the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) The secretary of state may provide a commercial lookup service of ORV operation, title, and registration records maintained under this part. For each individual record looked up, the secretary of state shall charge a fee specified annually by the legislature, or if none, a market-based price established by the secretary of state. The secretary of state shall process a commercial lookup request only if the request is in a form or format prescribed by the secretary of state. Fees collected under this subsection on and after October 1, 2005 shall be credited to the transportation administration collection fund created in section 810b of the Michigan vehicle code, 1949 PA 300, MCL 257.810b.

(3) The secretary of state shall create and maintain a computerized central file that includes the information contained on application forms received under this part and the name of each person who is convicted of an offense, who fails to comply with an order or judgment issued, or against whom an order is entered under this part. The computerized central file shall be interfaced with the law enforcement information network as provided in the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(4) The secretary of state may purge a record of an ORV certificate of title and any record pertaining to it 7 years after the title was issued or the record was made or received.

(5) The secretary of state shall not provide an entire computerized central or other file of records maintained under this part to a nongovernmental person or entity, unless the purchaser pays the prescribed fee or price for each individual record contained within the computerized file.

(6) A certified copy of an order, record, or paper maintained under this part is admissible in evidence in the same manner as the original and is prima facie proof of the facts stated in the original.

324.82156 Availability of records to public; commercial lookup service of snowmobile operation, title, and registration; disposition of fees; individual record; computerized central file; providing records to nongovernmental person or entity; fee; admissibility in evidence.

Sec. 82156. (1) Records maintained under this part, other than those declared to be confidential by law or that are restricted by law from disclosure to the public, shall be available to the public under procedures prescribed in this part, and in the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) The secretary of state may provide a commercial lookup service of snowmobile operation, title, and registration records maintained under this part. For each individual record looked up, the secretary of state shall charge a fee specified annually by the legislature, or if none, a market-based price established by the secretary of state. The secretary of state shall process a commercial lookup request only if the request is in a form or format prescribed by the secretary of state. Fees collected under this subsection

on and after October 1, 2005 shall be credited to the transportation administration collection fund created in section 810b of the Michigan vehicle code, 1949 PA 300, MCL 257.810b.

(3) In order to provide an individual, historical snowmobiling record, the secretary of state shall create and maintain a computerized central file that includes the information contained on application forms received under this part and the name of each person who is convicted of an offense, who fails to comply with an order or judgment issued, or against whom an order is entered under this part or former 1968 PA 74. The computerized central file shall be interfaced with the law enforcement information network as provided in the L.E.I.N. police council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(4) The secretary of state shall not provide an entire computerized central or other file of records maintained under this part to a nongovernmental person or entity, unless the purchaser pays the prescribed fee or price for each individual record contained within the computerized file.

(5) A certified copy of an order, record, or paper maintained in this record is admissible in evidence in like manner as the original and is prima facie proof of the facts stated in the original.

Conditional effective date.

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

- (a) Senate Bill No. 548.
- (b) Senate Bill No. 549.

This act is ordered to take immediate effect.

Approved October 11, 2005.

Filed with Secretary of State October 12, 2005.

Compiler's note: Senate Bill No. 548, referred to in enacting section 1, was filed with the Secretary of State October 12, 2005, and became 2005 PA 172, Imd. Eff. Oct. 12, 2005.

Senate Bill No. 549, also referred to in enacting section 1, was filed with the Secretary of State October 12, 2005, and became 2005 PA 173, Imd. Eff. Oct. 12, 2005.

[No. 175]

(SB 415)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 82101 and 82148 (MCL 324.82101 and 324.82148), section 82101 as amended by 2003 PA 230 and section 82148 as added by 1995 PA 58.

The People of the State of Michigan enact:

324.82101 Definitions; applicability of subdivisions (1)(p), (u), and (v); condition.

Sec. 82101. (1) As used in this part:

(a) “Conviction” means a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt or probate court disposition on a violation of this part, regardless of whether the penalty is rebated or suspended.

(b) “Dealer” means any person engaged in the sale, lease, or rental of snowmobiles as a regular business.

(c) “Former section 15a” means section 15a of former 1968 PA 74, as constituted prior to May 1, 1994.

(d) “Highly restricted personal information” means an individual’s photograph or image, social security number, digitized signature, and medical and disability information.

(e) “Highway or street” means the entire width between the boundary lines of every way publicly maintained if any part thereof is open to the use of the public for purposes of vehicular travel.

(f) “In-kind contributions” means services and goods as approved by the department that are provided by a grant recipient toward completion of a department-approved local snowmobile program under section 82107.

(g) “Law of another state” means a law or ordinance enacted by any of the following:

(i) Another state.

(ii) A local unit of government in another state.

(iii) Canada or a province or territory of Canada.

(iv) A local unit of government in a province or territory of Canada.

(h) “Long-term incapacitating injury” means an injury that causes a person to be in a comatose, quadriplegic, hemiplegic, or paraplegic state, which state is likely to continue for 1 year or more.

(i) “Operate” means to ride in or on and be in actual physical control of the operation of a snowmobile.

(j) “Operator” means any person who operates a snowmobile.

(k) “Owner” means any of the following:

(i) A person who holds the legal title to a snowmobile.

(ii) A vendee or lessee of a snowmobile that is the subject of an agreement for conditional sale or lease with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee.

(iii) A person renting a snowmobile or having the exclusive use of a snowmobile for more than 30 days.

(l) “Peace officer” means any of the following:

(i) A sheriff.

(ii) A sheriff’s deputy.

(iii) A deputy who is authorized by a sheriff to enforce this part and who has satisfactorily completed at least 40 hours of law enforcement training, including training specific to this part.

(iv) A village or township marshal.

(v) An officer of the police department of any municipality.

(vi) An officer of the Michigan state police.

(vii) The director and conservation officers employed by the department.

(viii) A law enforcement officer who is certified pursuant to the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616, as long as that officer is policing within his or her jurisdiction.

(m) “Personal information” means information that identifies an individual, including an individual’s driver identification number, name, address not including zip code, and telephone number, but does not include information on snowmobile operation or equipment-related violations or civil infractions, operator or snowmobile registration status, accidents, or other behaviorally-related information.

(n) “Probate court or family division disposition” means the entry of a probate court order of disposition or family division order of disposition for a child found to be within the provisions of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32.

(o) “Prosecuting attorney”, except as the context requires otherwise, means the attorney general, the prosecuting attorney of a county, or the attorney representing a local unit of government.

(p) “Recreational snowmobile trail improvement subaccount”, subject to subsection (2), means the recreational snowmobile trail improvement subaccount of the snowmobile account created in section 82110.

(q) “Right-of-way” means that portion of a highway or street less the roadway and any shoulder.

(r) “Roadway” means that portion of a highway or street improved, designated, or ordinarily used for vehicular travel. If a highway or street includes 2 or more separate roadways, the term roadway refers to any such roadway separately, but not to all such roadways collectively.

(s) “Shoulder” means that portion of a highway or street on either side of the roadway that is normally snowplowed for the safety and convenience of vehicular traffic.

(t) “Snowmobile” means any motor-driven vehicle designed for travel primarily on snow or ice of a type that utilizes sled-type runners or skis, an endless belt tread, or any combination of these or other similar means of contact with the surface upon which it is operated, but is not a vehicle that must be registered under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(u) “Snowmobile account”, subject to subsection (2), means the snowmobile account of the Michigan conservation and recreation legacy fund provided for in section 2025.

(v) “Snowmobile registration fee subaccount”, subject to subsection (2), means the snowmobile registration fee subaccount of the snowmobile account created in section 82111.

(w) “Zone 1” means all of the Upper Peninsula.

(x) “Zone 2” means all of that part of the Lower Peninsula north of a line beginning at and drawn from a point on the Michigan-Wisconsin boundary line due west of the westerly terminus of River road in Muskegon county; thence due east to the westerly terminus of River road; thence north and east along the center line of the River road to its intersection with highway M-120; thence northeasterly and easterly along the center line of highway M-120 to the junction of highway M-20; thence easterly along the center line of M-20 to its junction with US-10 at the Midland-Bay county line; thence easterly along

the center line of the “business route” of highway US-10 to the intersection of Garfield road in Bay county; thence north along the center line of Garfield road to the intersection of the Pinconning road; thence east along the center line of Pinconning road to the intersection of the Seven Mile road; thence north along the center of the Seven Mile road to the Bay-Arenac county line; thence north along the center line of the Lincoln School road (county road 25) in Arenac county to the intersection of highway M-61; thence east along the center line of highway M-61 to the junction of highway US-23; thence northerly and easterly along the center line of highway US-23 to the center line of the Au Gres river; thence southerly along the center line of the river to its junction with Saginaw Bay of Lake Huron; thence north 78° east to the international boundary line between the United States and the Dominion of Canada.

(y) “Zone 3” means all of that part of the Lower Peninsula south of the line described in subdivision (x).

(2) Subsection (1)(p), (u), and (v) does not apply unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963.

324.82148 Convictions prohibiting operation of snowmobile; order; sharing conviction records; termination of indefinite order; multiple convictions or probate court dispositions resulting from same incident; hearing; record; judicial review.

Sec. 82148. (1) Upon receipt of the appropriate records of conviction, the secretary of state shall issue an order with no expiration date that the person not operate a snowmobile to a person having any of the following convictions, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(a) Two convictions of a felony involving the use of a snowmobile within 7 years.

(b) Any combination of 2 convictions within 7 years for a violation of section 82127(1), section 15a(1) of former 1968 PA 74, or section 15a of former 1968 PA 74, as added by 1980 PA 402.

(c) One conviction under section 82127(4) or (5) or section 15a(4) or (5) of former 1968 PA 74.

(d) Any combination of 3 convictions within 10 years for a violation of section 82127(1) or (3), section 15a(1) or (3) of former 1968 PA 74, or section 15a of former 1968 PA 74, as added by 1980 PA 402.

(2) The department shall seek to enter agreements with the appropriate agencies of other states, Canada, and provinces and territories of Canada for the sharing of records of convictions described in subsection (1).

(3) The secretary of state shall issue an order with no expiration date that a person not operate a snowmobile notwithstanding a court order issued under section 82142, or a local ordinance substantially corresponding to section 82142. The secretary of state shall not terminate an indefinite order issued under this part until both of the following occur:

(a) The later of the following:

(i) The expiration of not less than 1 year after the order was issued.

(ii) The expiration of not less than 5 years after the date of a subsequent issuance of an indefinite order occurring within 7 years after the date of a prior order.

(b) The person meets the requirements of the department of state.

(4) Multiple convictions or probate court dispositions resulting from the same incident shall be treated as a single violation for purposes of issuance of an order under this section.

(5) A person who is aggrieved by the issuance of an order by the secretary of state under this section may request a hearing with the secretary of state. The hearing shall be requested within 14 days after issuance of an order under this section by the secretary of state. If a hearing is requested, the secretary of state shall hold the hearing in the same manner and under the same conditions as provided in section 322 of the Michigan vehicle code, 1949 PA 300, MCL 257.322.

(6) The hearing officer shall make a record of proceedings held pursuant to subsection (5). The record shall be prepared and transcribed in accordance with section 86 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.286. Upon notification of the filing of a petition for judicial review pursuant to section 82150 and not less than 10 days before the matter is set for review, the hearing officer shall transmit to the court in which the petition is filed the original or a certified copy of the official record of the proceedings. The parties to the proceedings for judicial review may stipulate that the record be shortened. A party unreasonably refusing to stipulate to a shortened record may be taxed by the court in which the petition is filed for the additional costs. The court may permit subsequent corrections to the record.

(7) Judicial review of an administrative sanction under this section is governed by the law in effect at the time the offense was committed or attempted.

This act is ordered to take immediate effect.

Approved October 11, 2005.

Filed with Secretary of State October 12, 2005.

[No. 176]

(HB 4938)

AN ACT to amend 1953 PA 181, entitled "An act relative to investigations in certain instances of the causes of death within this state due to violence, negligence or other act or omission of a criminal nature or to protect public health; to provide for the taking of statements from injured persons under certain circumstances; to abolish the office of coroner and to create the office of county medical examiner in certain counties; to prescribe the powers and duties of county medical examiners; to prescribe penalties for violations of the provisions of this act; and to prescribe a referendum thereon," (MCL 52.201 to 52.216) by adding section 9.

The People of the State of Michigan enact:

52.209 Body determined suitable for donation; agreement; release of information; conduct of examination within certain time period.

Sec. 9. (1) If a county medical examiner or his or her designee receives notification from a person other than a representative of a hospital of a death that requires an investigation by the county medical examiner's office pursuant to this act, the county medical examiner or his or her designee shall take charge of the body. If, upon viewing the body and personally inquiring into the cause and manner of the death, the county medical examiner or his or her designee determines that the body, according to criteria established by

Michigan's federally designated organ procurement organization, may be suitable for donation or for the donation of physical parts, the county medical examiner or his or her designee shall, in a timely manner as prescribed under subsection (2), contact Michigan's federally designated organ procurement organization or its successor organization. If contacted by the federally designated organ procurement organization or the eye and tissue organization, or both, the county medical examiner shall enter into an agreement with the federally designated organ procurement organization and the eye and tissue organization that coordinates the recovery and allocation of anatomical donations in that county. The agreement shall outline the procedures and protocols of each party to assure that transplantable organs, tissues, and eyes are obtained from potential donors. The agreement shall provide that if any extraordinary medical examinations are necessary prior to the removal of organs, tissues, or eyes, the organization shall cover those costs. The county medical examiner or his or her designee may release any information to the federally designated organ procurement organization or eye and tissue organization that is necessary to identify potential organ, tissue, or eye donors and seek consent for such donations in accordance with part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109. A county medical examiner or his or her designee shall not discuss the option of organ donation with any individual with the authority to make a gift under section 10102 of the public health code, 1978 PA 368, MCL 333.10102.

(2) If an investigation of the cause and manner of death, regardless of whether the death occurred in a hospital or not, is required under this act and the county medical examiner or his or her designee has notice that the individual is a donor or that a gift of all or a physical part of that individual's body has been made in accordance with part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109, the county medical examiner or his or her designee shall conduct the examination of the dead body within a time period that permits organs, tissues, and eyes to remain viable for transplant. If the county medical examiner or his or her designee is unable to conduct the investigation within that period of time, a health care professional who is authorized to remove an anatomical gift from a donor may remove the donated tissues or organs, or both, in order to preserve the viability of the donated tissues or organs for transplant upon notifying the county medical examiner or his or her designee. If the county medical examiner or his or her designee determines that an organ may be related to the cause of death, the county medical examiner or his or her designee may do 1 or more of the following:

- (a) Request to be present during the removal of the donated organs.
- (b) Request a biopsy of the donated organs.

This act is ordered to take immediate effect.

Approved October 19, 2005.

Filed with Secretary of State October 19, 2005.

[No. 177]

(HB 4852)

AN ACT to amend 1963 PA 181, entitled "An act to promote safety upon the public highways by regulating the operation of certain vehicles; to provide consistent regulation of these areas by state agencies and local units of government; to establish the qualifications of persons necessary for the safe operation of such vehicles; to limit the hours of service of persons engaged in operating such vehicles; to require the keeping of

records of such operations; to provide penalties for the violation of this act; to prescribe the powers and duties of certain state agencies; and to repeal certain acts and parts of acts,” by amending the title and sections 1a, 2d, 3, 4, 5, 6, 7, 7a, 7b, 7c, 7d, 11, and 12 (MCL 480.11a, 480.12d, 480.13, 480.14, 480.15, 480.16, 480.17, 480.17a, 480.17b, 480.17c, 480.17d, 480.21, and 480.22), the title and sections 1a, 2d, 3, 4, and 6 as amended and sections 7d and 12 as added by 1995 PA 265, section 5 as added by 1998 PA 337, sections 7, 7b, and 11 as amended by 2000 PA 98, section 7a as added by 1988 PA 359, and section 7c as amended by 2004 PA 168, and by adding sections 4a, 13, 14, and 15; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

TITLE

An act to promote safety upon highways open to the public by regulating the operation of certain vehicles; to provide consistent regulation of these areas by state agencies and local units of government; to establish the qualifications of persons necessary for the safe operation of such vehicles; to establish certain violations of shippers offering certain materials for transportation; to limit the hours of service of persons engaged in operating such vehicles; to require the keeping of records of such operations; to provide penalties for the violation of this act; to prescribe the powers and duties of certain state agencies; and to repeal acts and parts of acts.

480.11a Adoption of federal regulations; exceptions; definition.

Sec. 1a. (1) This state adopts the following provisions of title 49 of the code of federal regulations, on file with the office of the secretary of state except where modified by this act:

(a) Hazardous materials regulations, being 49 CFR parts 100 through 180 except for the transportation of agricultural products for which an exception from the application of 49 CFR subchapter C and 49 CFR subchapters G and H, part 172, is provided under 49 CFR 173.5, is specifically authorized if the transportation is in compliance with this act and other state law.

(b) Motor carrier safety regulations, being 49 CFR parts 40, 356, 365, 368, 371 through 373, 375, 376, 379, 382, 385, 387, 390 through 393, 395 through 399 including the appendices of each part except for the following:

(i) Except as provided in this subparagraph, where the term “United States department of transportation”, “federal motor carrier safety administration”, “federal motor carrier safety administrator”, “director”, “bureau of motor carrier safety”, “pipeline and hazardous materials administration”, or “associate administrator for hazardous materials safety” appears, it refers to the department of state police. If the term is being used for the purposes of 49 CFR 397 as it relates to routing and movement of hazardous materials, it refers to the Michigan state transportation department.

(ii) Where “interstate” appears, it shall mean intrastate or interstate, or both, as applicable, except as specifically provided in this act.

(iii) Where “special agent of the federal motor carrier safety administration”, “administration personnel”, or “hazardous materials enforcement specialist” appears, it either means a peace officer or an enforcement member of the motor carrier division of the department of state police.

(iv) Where MCS 63 appears, it means MC 9 and MC 9b.

(v) Where MCS 64 appears, it means UD-70.

(vi) Exempt intracity zones and the regulations applicable to exempt intracity zones do not apply to this act.

(2) This act does not apply to a bus operated by a public transit agency operating under any of the following:

(a) A county, city, township, or village as provided by law, or other authority incorporated under 1963 PA 55, MCL 124.351 to 124.359. Each authority and governmental agency incorporated under 1963 PA 55, MCL 124.351 to 124.359, has the exclusive jurisdiction to determine its own contemplated routes, hours of service, estimated transit vehicle miles, costs of public transportation services, and projected capital improvements or projects within its service area.

(b) An authority incorporated under the metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426, or that operates a transportation service pursuant to an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(c) A contract entered into pursuant to 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536, or 1951 PA 35, MCL 124.1 to 124.13.

(d) An authority incorporated under the public transportation authority act, 1986 PA 196, MCL 124.451 to 124.479, or a nonprofit corporation organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, that provides transportation services.

(e) An authority financing public improvements to transportation systems under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(3) As used in this act, “hazardous material vehicle inspection or repair facility” means a commercial enterprise that performs inspections, certification, testing, or repairs to commercial motor vehicles transporting hazardous materials as required by 49 CFR parts 100 to 180 and includes motor carriers that perform the inspections, certification, testing, or repairs to vehicles owned or leased by the motor carrier.

480.12d Person qualified to drive commercial motor vehicle.

Sec. 2d. (1) A person shall not drive a commercial motor vehicle unless he or she is qualified to drive that vehicle. A motor carrier shall not require or permit a person to drive a commercial motor vehicle unless that person is qualified to drive that vehicle.

(2) In the case of intrastate transportation, a person is qualified to drive a commercial motor vehicle if he or she meets all of the requirements of 49 CFR part 391 except all of the following provisions:

(a) Except as otherwise provided in subdivision (b), the person is at least 18 years old when transporting intrastate property or passengers.

(b) The person is at least 21 years old when transporting hazardous materials in a quantity that requires the vehicle to be marked or placarded under 49 CFR parts 100 to 180.

(c) The person is eligible for and displays a valid medical waiver card, is excepted from the medical waiver card provisions under this act, or displays a grandfather rights card issued in accordance with this act.

480.13 Motor carrier safety appeal board; creation; membership; duties; person not physically qualified to drive; waiver to drive commercial motor vehicle; application; requirements; issuance of waiver; validity; renewal; notice; suspension or revocation; denial of application for waiver; appeal; effect on worker’s compensation status.

Sec. 3. (1) The motor carrier safety appeal board is created. The board shall consist of the director of the department of state police or his or her designee, the secretary of state

or his or her designee, the director of the state transportation department or his or her designee, and 1 representative of the motor carrier industry chosen jointly by these 3 department heads and the Michigan trucking association. The appeal board shall hear and decide applications for waivers from medical requirements of this act and the rules promulgated pursuant to this act.

(2) A person who is not physically qualified to drive under 49 CFR 391.41 and who is otherwise qualified to drive a commercial motor vehicle may drive a commercial motor vehicle if the motor carrier division of the department of state police or the appeal board has granted a waiver to that person.

(3) An application for a waiver shall be submitted jointly by the person who seeks a waiver of his or her physical disqualification and by the motor carrier that will employ the person if the application is granted. The application shall be delivered to the headquarters of the motor carrier division of the department of state police.

(4) An application for a waiver shall contain all of the following:

(a) A description of all of the following:

(i) The type, size, and special equipment, if any, of the vehicles the individual applicant intends to drive.

(ii) The general area and type of roads the individual applicant intends to traverse while driving.

(iii) The maximum distances the individual applicant intends to drive.

(iv) The nature of the commodities or cargo the individual applicant intends to transport.

(v) The methods the applicant or any other person will use to load and secure the commodities or cargo.

(vi) The nature and extent of the individual applicant's experience at operating commercial motor vehicles of the type he or she intends to drive.

(b) An agreement that the motor carrier will promptly file with the motor carrier division of the department of state police reports that the division may require, including accident reports.

(c) An agreement that if a waiver is granted, it authorizes the individual applicant to drive intrastate only when employed by the motor carrier that joined in the individual's application.

(5) An application for a waiver shall be accompanied by all of the following:

(a) Not less than 2 reports of medical examinations, conducted within the preceding 60 days of the date of the application, pursuant to 49 CFR 391.43, each of which includes the medical examiner's opinion concerning the individual applicant's ability to operate safely a vehicle of the type the applicant intends to drive.

(b) A copy of the individual applicant's application for employment made pursuant to 49 CFR 391.21 or this act.

(6) An application for a waiver shall be signed by both the individual applicant and the motor carrier. If the motor carrier is a corporation, the application shall be signed by an officer of the corporation. If the motor carrier is a partnership, the application shall be signed by a general partner.

(7) The driver applicant or motor carrier applicant shall not falsify information in the letter of application or the renewal application.

(8) The motor carrier division of the department of state police may deny the application or may approve the application, in whole or in part, and issue a waiver subject to

the terms, conditions, and limitations as it considers consistent with safety and the public interest. A waiver is valid for not more than 2 years, and a waiver may be renewed upon submission of a new application under this act.

(9) If the motor carrier division of the department of state police grants a waiver, it shall notify each applicant by a letter, that sets forth the terms, conditions, and limitations of the waiver. The motor carrier shall retain the letter or a legible copy of it and a copy of the medical waiver card in the driver's qualification file as long as the individual applicant is employed by that motor carrier and for 3 years thereafter. The individual applicant shall have the current medical waiver card in his or her possession when he or she drives a commercial motor vehicle or is otherwise on duty.

(10) The motor carrier division of the department of state police may suspend a waiver at any time. The motor carrier division may revoke a waiver after the person to whom it was issued is given notice of the proposed revocation and a reasonable opportunity to appeal for review.

(11) An applicant who was denied in whole or in part his or her application for a waiver of physical defect under this act or conflict of medical evaluation under 49 CFR 391.47 may make an appeal for review by contacting the motor carrier division.

(12) Notwithstanding any other provisions of this section, the determination of the motor carrier safety appeal board shall have no bearing on worker's compensation status.

480.14 Exceptions to act and federal provisions; exemption from medical qualification; grandfather rights; preexisting conditions; maintaining copy of grandfather card.

Sec. 4. (1) The provisions of this act and 49 CFR 391.21 relating to applications for employment, 49 CFR 391.23 relating to investigations and inquiries, and 49 CFR 391.31 and CFR 391.33 relating to road tests do not apply to a driver who has been a regularly employed driver of an intrastate motor carrier of property for a continuous period which began on or before June 10, 1984, as long as he or she continues to be a regularly employed driver of that motor carrier or to a driver who has been a regularly employed driver of an intrastate motor carrier of passengers for a continuous period which began on or before March 3, 1991, as long as he or she continued to be a regularly employed driver of that motor carrier. Such a driver is qualified to drive a commercial motor vehicle if he or she fulfills the requirements of section 2d(2).

(2) The provisions in this act pertaining to an intrastate driver's medical qualifications do not apply to any driver who:

(a) Has been a regularly employed driver of the motor carrier for a continuous period that began on or before June 10, 1984.

(b) Has continued to be a regularly employed driver of that motor carrier.

(c) Is otherwise qualified to drive a commercial motor vehicle under this act.

(d) Has made application to the appeal board claiming grandfathering rights.

(e) Has received a grandfather rights card from the motor carrier division of the department of state police. The grandfather rights card shall be carried at all times on the person of the driver while he or she is operating a commercial motor vehicle. The original grandfather rights application form or a legible copy of it will be retained in the driver's qualification file in accordance with this act.

(3) Notwithstanding subsection (2), the provisions of this act pertaining to random, reasonable cause, and postaccident drug and alcohol testing apply to all drivers as required by 49 CFR part 382 granted grandfather rights under this section.

(4) Grandfather rights shall remain valid until December 31, 2014.

(5) The exemption from medical qualification under this section applies only to preexisting conditions before January 1, 1996. Any medical condition that would normally disqualify a driver under this act automatically voids any grandfather rights. Any driver who develops a normally disqualifying medical condition or violates any provision of subsection (2) of this section after being issued a grandfather card must return the grandfather card to the motor carrier division of the department of state police and apply for a medical waiver as provided in this act.

(6) A motor carrier shall maintain the original or a legible copy of the grandfather card issued under this act in the file of each driver that has been issued one.

480.14a Issuance of new grandfather cards; prohibition.

Sec. 4a. The department is not authorized to issue new grandfather cards under section 4 after the effective date of the amendatory act that added this section.

480.15 Intrastate transportation; exceptions; applicability to farm vehicle driver, public utility driver, government-owned commercial motor vehicle, certain combination of vehicles, and buses; definitions.

Sec. 5. (1) In the case of intrastate transportation, the provisions of 49 CFR 391.21 relating to application for employment, 49 CFR 391.23 relating to investigations and inquiries, 49 CFR 391.31 relating to road tests, 49 CFR part 395 relating to hours of service, 49 CFR 391.41 to 391.45 to the extent that they require a driver to be medically qualified or examined and to have a medical examiner's certificate on his or her person and the provisions of this act relating to files and records do not apply to a farm vehicle driver as defined in 49 CFR 390.5.

(2) For intrastate transportation, the provisions of this act do not apply to a self-propelled implement of husbandry or an implement of husbandry being drawn by a farm tractor or another implement of husbandry.

(3) The provisions of this act related to driver qualifications do not apply to public utility, telephone, and cable television company service employees if those employees are not otherwise being used as a regularly employed driver and are not operating a vehicle that meets the definition of a commercial motor vehicle in 49 CFR part 383.

(4) The requirements of 49 CFR part 395 do not apply to any driver of a public utility service vehicle when being used in cases of emergency. As used in this subsection, "emergency" means any instance of loss of public utility service due to an unforeseen circumstance, a natural disaster, or an act of God. A declaration of emergency by a public official is not required to constitute an emergency under this subsection.

(5) A commercial motor vehicle constructed and maintained so that the body chassis or other parts of the vehicle afford the rear end protection required by 49 CFR 393.86 is in compliance with that section.

(6) This act and the rules promulgated under this act do not apply to a commercial motor vehicle owned and operated by a unit of government or its employees, except as otherwise provided by this act, and except for all of the following parts of 49 CFR:

- (a) Part 382.
- (b) Part 391.
- (c) Part 392.
- (d) Part 393.

(7) A combination of vehicles with an actual combination gross vehicle weight or a gross combination weight rating of 26,000 pounds or less, provided the trailer or semitrailer has an actual gross vehicle weight or gross vehicle weight rating of 15,000 pounds or less, may be equipped with surge brakes for intrastate operation as allowed by section 705(1)(c) of the Michigan vehicle code, 1949 PA 300, MCL 257.705. Vehicles of any size that are transporting hazardous materials in an amount that requires placarding or vehicles that are designed to transport more than 8 passengers, including the driver, are prohibited from being equipped with surge brakes for intrastate operation.

(8) This act and the rules promulgated under this act do not apply to a school bus as defined in the pupil transportation act, 1990 PA 187, MCL 257.1801 to 257.1877, or a bus defined and certificated under the motor bus transportation act, 1982 PA 432, MCL 474.101 to 474.141.

(9) As used in subsections (3) and (4), “public utility” means a person or corporation operating equipment or facilities for producing, generating, transmitting, delivering, or furnishing gas or electricity for the production of light, heat, or power for the public for compensation.

(10) As used in this section:

(a) “Implement of husbandry” means that term as defined in section 21 of the Michigan vehicle code, 1949 PA 300, MCL 257.21.

(b) “Farm tractor” means that term as defined in section 16 of the Michigan vehicle code, 1949 PA 300, MCL 257.16.

480.16 Motor carriers; submission of documents to motor carrier officer; inspection of cargo.

Sec. 6. (1) Motor carriers shall submit, upon demand, all their transportation safety related documents, such as all records and information pertaining to any accident, drivers’ records of duty status, bills of lading, shipping records, driver time and payroll records, driver qualification records, vehicle maintenance records, and equipment for inspection or copying during regular business hours to any enforcement member of the motor carrier division displaying a valid Michigan department of state police, motor carrier division identification card.

(2) Hazardous materials vehicle inspection and repair facilities shall submit, upon demand, all their transportation safety related documents as required by this act, such as hazardous materials tank certification and repair documents, and annual inspection certification documents to any enforcement member of the motor carrier division displaying a valid Michigan department of state police motor carrier division identification card.

(3) A motor carrier or a hazardous material vehicle inspection or repair facility operating within this state with main offices in another state or province shall submit all transportation safety related documents as outlined in subsection (1) for inspection and copying within 10 working days after receiving formal notification requesting the documents.

(4) An enforcement member of the motor carrier division of the department of state police displaying valid identification may, without a warrant, require the cargo carrying portion of a vehicle to be opened for inspection of the cargo, any object within that portion of the vehicle, or the interior of the vehicle or any compartment within the interior of the vehicle. If a commercial motor vehicle is inspected by breaking the load seal, then the enforcement member shall give to the driver a signed receipt of inspection and the enforcement member shall be responsible for applying a state of Michigan seal.

480.17 Violation of act or rules; penalty.

Sec. 7. (1) Except as provided in sections 7b, 7c, and 7d, any person, driver, or motor carrier as defined by 49 CFR 390.5 who violates this act or a rule promulgated under this act, or permits or requires any person to violate this act or a rule promulgated under this act, is responsible for a state civil infraction and may be ordered to pay a fine of not more than \$250.00 for each violation.

(2) A peace officer or an enforcement member of the motor carrier division of the department of state police, upon probable cause to believe that a motor vehicle is being operated in violation of this act or a rule promulgated under this act, may stop the motor vehicle and inspect the motor vehicle. If a violation is found, the officer may issue a notice to appear for that violation.

(3) An enforcement member of the motor carrier division of the department of state police, upon notification of a valid out-of-service order upon a motor carrier issued by the United States department of transportation, by a state or a political subdivision of a state, by the Canadian or Mexican government, or by the government of a province of Canada, may stop and detain any vehicle operated by the motor carrier and place the vehicle and driver out of service pursuant to the order. A driver or motor carrier operating a vehicle in violation of an out-of-service order is responsible for a state civil infraction and shall be assessed a fine of not more than \$500.00.

480.17a Rules; rescission.

Sec. 7a. The department of state police may promulgate rules necessary to the accomplishment of the purpose of this act. The administrative rules promulgated and filed with the secretary of state on June 22, 1984 and any subsequent revisions to those rules were rescinded effective January 1, 1996 by 1995 PA 265.

480.17b Penalties; “serious safety defect” defined.

Sec. 7b. (1) A driver, person, or motor carrier as defined by 49 CFR 390.5 who operates or who requires or permits the driver to operate a commercial motor vehicle with a serious safety defect in violation of this act or a rule promulgated under this act is responsible for a state civil infraction and shall be assessed a fine of not more than \$500.00 for each violation. A fine ordered to be paid by the district court under this subsection shall be paid to the county treasurer and applied for library purposes as provided by law. A fine ordered to be paid by a municipal court shall be paid to the treasurer of the political subdivision whose ordinance is violated.

(2) As used in this section, “serious safety defect” means a violation of this act or a rule promulgated pursuant to this act relative to brakes, tires, steering, coupling devices, headlights, taillights, brake lights, and turn signals that results in the vehicle being placed out of service.

480.17c Transporting package relating to hazardous material required to be marked or labeled; violation; penalty; owner or user of hazardous materials vehicle inspection or repair facility; violation as misdemeanor.

Sec. 7c. (1) A person who operates or who requires or permits a person to operate a commercial motor vehicle in violation of this act or a rule promulgated under this act related to the transportation of hazardous materials if the vehicle is transporting a package required to be marked or labeled under 49 CFR parts 100 to 180 is responsible for a state civil infraction and may be ordered to pay a fine of not more than \$500.00 for each violation.

(2) A person or entity identified in subsection (1) who knowingly or willfully violates this act or a rule promulgated under this act is, upon conviction, guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$500.00, or both, for each violation.

(3) A person or entity identified in subsection (1) who causes injury or death during a violation of this act, while a vehicle identified in subsection (1) that is transporting a package required to be marked or labeled under 49 CFR parts 100 to 180 is used, is, upon conviction, guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$500.00, or both, for each violation.

(4) An officer, employee, owner, or agent of an individual, partnership, corporation, or association, or their lessees or receiver appointed by a court that is the owner or user of any hazardous materials vehicle inspection or repair facility that violates a section of this act, or a rule promulgated under this act, related to the transportation of hazardous materials, is guilty of a misdemeanor punishable as prescribed in this section.

480.17d Definitions; compliance order; shut down order; noncompliance as misdemeanor; impoundment of vehicle.

Sec. 7d. (1) As used in this section:

(a) “Immediate destination” means the next scheduled stop of a commercial motor vehicle already in motion where the cargo on board can be safely secured.

(b) “Motor carrier division” means the motor carrier division of the department of state police.

(c) “Person” means an individual, driver, or employee or a firm, motor carrier, lessee, lessor, association, partnership, or corporation, and their affiliated or related successors, that undertakes to control, direct, conduct, or otherwise perform transportation by commercial motor vehicle upon the public highways of this state.

(d) “Shut down order” means a court order issued to a motor carrier upon proof shown of unreasonable risk or an imminent hazard.

(e) “Unreasonable risk or an imminent hazard” shall be defined as any condition of commercial motor vehicle, employee, or commercial motor vehicle operation which creates, causes, or compounds the substantial likelihood that death, serious illness, or severe personal injury may occur if not discontinued immediately.

(2) Upon determination that the continued operation of commercial motor vehicles by a person upon the highways of this state poses an unreasonable risk or an imminent hazard to the public safety, the motor carrier division shall issue a compliance order. The order may direct a person to make certain changes, repairs, or alterations to the person’s vehicles or operations, to comply with the laws of this state. In making an order, restrictions shall not be imposed on any employee or person beyond that required to abate the hazard. Any vehicle or driver operating during the specified time period of the order shall be in compliance with all applicable laws and rules.

(3) A compliance order shall include the name and address of the person and the chief operating officer of the person, the reason or reasons for the order, and the requirements or conditions that must be met for rescission of the order. The order shall also include a statement that the person has a set time limit to comply with the order. If the set time limit expires and the person is not in compliance with the order, the motor carrier division may seek a shut down order from a circuit court. The motor carrier division shall set the time limit for compliance with the compliance order to be not less than 30 days and not more than 180 days.

(4) Upon petition to the circuit court having jurisdiction by the motor carrier division, the court may issue a shut down order. The order shall direct a vehicle or vehicles or employee or employees out of service from further operations, or shall direct a person to cease all or part of the person's commercial motor vehicle operation. In making such an order, restrictions shall not be imposed on any employee or person beyond that required to abate the hazard.

(5) A shut down order shall include the name and address of the person and the chief operating officer of the person, the reason or reasons for the order, the requirements or conditions that must be met for rescission of the order, and a statement of the right to appeal.

(6) An order to any person to cease all or part of its operation shall not prevent vehicles in transit at the time the order is served from proceeding to their immediate destinations, unless that vehicle or person is specifically ordered out of service. However, vehicles and drivers proceeding to their immediate destination shall be subject to compliance upon arrival.

(7) A person who fails to comply with a shut down order is guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00 for each violation, or by imprisonment for not more than 90 days, or both. A person or vehicle found operating on the highways of this state while under a shut down order shall be immediately stopped, and impounded or arrested. The owner or lessee of the vehicle shall be responsible for any costs incurred during impoundment. The vehicle shall be released upon the court's determination that the order has been complied with.

480.21 Ordinances or resolutions inconsistent with act; "inconsistent" defined; fine for operating vehicle with serious safety defect; exception; issuance of more than 1 citation; requirements as motor carrier enforcement officer.

Sec. 11. (1) A township, city, village, county, or another state agency shall not adopt or enforce an ordinance or resolution that is inconsistent with this act or any rule promulgated pursuant to this act. As used in this section, "inconsistent" means a rule or ordinance that is more permissive than this act, that is more restrictive than this act, that would require more action, equipment, or permits than this act would require, or that prevents or obstructs compliance with this act.

(2) The fine for operating a vehicle with a serious safety defect ordered to be paid under an ordinance or resolution adopted by a township, city, village, or county that is consistent with section 7b shall be paid to the county treasurer and shall be allocated as follows:

(a) Seventy percent to the township, city, village, or county in which the citation is issued.

(b) Thirty percent for library purposes as provided by law.

(3) Subsection (2) does not apply to a fine ordered to be paid for a case in which the citation is dismissed pursuant to subsection (4).

(4) The owner or operator of a commercial motor vehicle shall not be issued more than 1 citation for each violation of a code or ordinance regulating the operation of a commercial motor vehicle and substantially corresponding to a provision of sections 683 to 725a of the Michigan vehicle code, 1949 PA 300, MCL 257.683 to 257.725a, within a 24-hour period. If the owner or operator of a commercial motor vehicle is issued a citation by a township, city, village, or county for an equipment violation that does not result in the vehicle being placed out of service, the court shall dismiss the citation if the owner or operator of that commercial motor vehicle provides written proof to the court within 14 days after the

citation is issued showing that the defective equipment indicated in the citation has been repaired.

(5) In order to be classified as a motor carrier enforcement officer, a police officer must have training equal to the minimum training requirements, including any annual training updates, established by the department of state police for an officer of the motor carrier division of the department of state police. A police officer who has received training equal to these minimum training requirements before the effective date of this section is considered a motor carrier enforcement officer for purposes of this act.

480.22 Transfer of hazardous material; prohibitions; exceptions; overfilling container.

Sec. 12. (1) Except as provided in subsection (2), a person, driver, owner, carrier, lessee, or lessor shall not transfer or allow to be transferred a hazardous material from a cargo tank, portable tank, or any other container to any cargo tank, portable tank, fuel tank, or any other container on a highway, road, street, or alley within this state.

(2) Subsection (1) does not apply to the following transfer situations:

(a) Fueling machinery or equipment for construction, farm, and maintenance use.

(b) Fueling emergency vehicles.

(c) Under emergency conditions, a transfer may be made provided it is approved by the local fire chief, the state fire marshal, or a hazardous materials investigator of the motor carrier division of the department of state police pursuant to their respective authority under the fire prevention code, 1941 PA 207, MCL 29.1 to 29.34.

(3) A person shall not overfill a container, including a storage tank, during a transfer of a hazardous material from or into a vehicle, so that hazardous material is released from the package or container.

(4) The penalty for violating this section shall be as prescribed in section 7c.

480.23 Transporting hazardous materials in amount requiring placard on publicly maintained route; prohibition; violation; penalty.

Sec. 13. (1) A person, driver, owner, carrier, lessee, or lessor shall not transport or allow to be transported a vehicle carrying hazardous materials in an amount required to be placarded under title 49 of the code of federal regulations on a publicly maintained route as identified on the national hazardous materials route registry as determined by the department of transportation under title 49 CFR.

(2) The penalty for violating this section shall be as prescribed in section 7c.

480.24 Enforcement of state civil infraction.

Sec. 14. (1) A state civil infraction shall be enforced in the manner provided for enforcement of state civil infractions in chapter 88 of the revised judiciary act of 1961, 1961 PA 236, MCL 600.8801 to 600.8835.

(2) When a person who is not a resident of this state is stopped for a state civil infraction under this act or any rule under this act, the police officer making the stop shall take security for the nonresident's appearance in court. The person stopped may recognize to the officer or to the court for his or her appearance by leaving with the officer or court a guaranteed appearance certificate or a sum of money not to exceed \$100.00.

(3) If a magistrate is available for an immediate appearance, upon demand of the person stopped, the officer immediately shall take the nonresident driver before the magistrate to answer to the state civil infraction alleged. If the nonresident defendant requests a

hearing, the hearing shall be scheduled and the defendant shall leave with the court the guaranteed appearance certificate or deposit as security for appearance at the scheduled informal or formal hearing.

(4) The officer receiving a guaranteed appearance certificate or deposit of money shall give a receipt to the person stopped for the guaranteed appearance certificate or the money deposited together with the written citation.

(5) At or before the completion of his or her tour of duty, a police officer taking a certificate or deposit of money shall deliver the certificate or deposit of money and the citation either to the court named in the citation or to the police chief or person authorized by the police chief to receive certificates or deposits. The police chief or person authorized by the police chief shall deposit the certificate or the money deposited and the citation with the court. Failure to deliver the money deposited shall be embezzlement of public money.

(6) If the person who posts a certificate or deposit fails to appear as required in the citation or fails to appear for a scheduled informal or formal hearing, the court having jurisdiction and venue over the civil infraction shall enter a default judgment against the person, and the guaranteed appearance certificate or money deposited shall be forfeited and applied to any civil fine or costs ordered.

(7) For purposes of this section, “guaranteed appearance certificate” means a card or certificate containing a printed statement that a surety company authorized to do business in this state guarantees the appearance of the person whose signature appears on the card or certificate and that the company, if the person fails to appear in court at the time of a scheduled informal or formal hearing or to pay any fine or costs imposed, will pay any fine, costs, or bond forfeiture imposed on the person in a total amount not to exceed \$200.00.

(8) As used in this act, “state civil infraction” means that term as defined in section 113(1)(a) of the revised judicature act of 1961, 1961 PA 236, MCL 600.113.

480.25 Prevention of water or road surface substances being thrown from rear wheels.

Sec. 15. A truck, truck tractor, trailer, semitrailer, or any combination of these, when used on a highway, shall be constructed, equipped, or operated to prevent water or other road surface substances from being thrown from the rear wheels of the vehicle or combination at tangents exceeding 22-1/2 degrees measured from the road surface. If a flap type device is used, it shall not have attached any type of lamp, breakable reflective material, or reflecting buttons nor may the device extend beyond the maximum width of the vehicle or combination.

Repeal of sections.

Enacting section 1. The following sections of the motor carrier safety act of 1963, 1963 PA 181, are repealed:

- (a) MCL 480.11b.
- (b) MCL 480.12a.
- (c) MCL 480.12b.
- (d) MCL 480.12c.
- (e) MCL 480.12g.
- (f) MCL 480.12h.
- (g) MCL 480.12i.

- (h) MCL 480.12j.
- (i) MCL 480.12k.
- (j) MCL 480.12l.
- (k) MCL 480.12m.
- (l) MCL 480.12n.
- (m) MCL 480.12o.
- (n) MCL 480.12p.
- (o) MCL 480.12q.
- (p) MCL 480.12r.
- (q) MCL 480.12s.
- (r) MCL 480.12t.
- (s) MCL 480.12u.
- (t) MCL 480.12v.
- (u) MCL 480.12w.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) House Bill No. 4857.
- (b) House Bill No. 4858.

This act is ordered to take immediate effect.
Approved October 20, 2005.
Filed with Secretary of State October 20, 2005.

Compiler's note: House Bill No. 4857, referred to in enacting section 2, was filed with the Secretary of State October 20, 2005, and became 2005 PA 178, Imd. Eff. Oct. 20, 2005.

House Bill No. 4858, also referred to in enacting section 2, was filed with the Secretary of State October 20, 2005, and became 2005 PA 179, Imd. Eff. Oct. 20, 2005.

[No. 178]

(HB 4857)

AN ACT to amend 1982 PA 432, entitled "An act to regulate persons who transport passengers by motor bus; to prescribe powers and duties for the state transportation department; to impose certain fees; and to impose penalties," by amending section 31 (MCL 474.131), as amended by 2001 PA 129.

The People of the State of Michigan enact:

474.131 Code of federal regulations; adoption; exceptions.

Sec. 31. This state adopts the following provisions of title 49 of the code of federal regulations on file with the office of the secretary of state except where modified by this act, to provide for the safe transportation of persons, with the intent of following the policies and procedures of the United States department of transportation as they relate to title 49 of the code of federal regulations and the North American standard inspection

uniform driver/vehicle inspection out of service criteria and inspection procedures: Motor carrier safety regulations, being 49 CFR part 356, part 365, part 374, part 382, part 387, parts 390 through 393, and parts 395 through 397, including appendices B and G, except for the following:

(a) Where the terms “United States department of transportation”, “federal highway administration”, “federal highway administrator”, “director”, “bureau of motor carrier safety”, “office of motor carrier safety”, and “federal motor carrier safety administration” appear, they shall be construed to refer to the state transportation department.

(b) Where “interstate” appears, it means intrastate or interstate, or both, as applicable, except as otherwise specifically provided in this act.

(c) Where “special agent of the federal highway administration”, “special agent of the office of motor carrier safety”, “special agent of the federal motor carrier safety administration”, or “administration personnel” appears, it shall be construed to mean a peace officer or an enforcement member or a commercial vehicle safety inspector of the state transportation department.

Conditional effective date.

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

- (a) House Bill No. 4852.
- (b) House Bill No. 4858.

This act is ordered to take immediate effect.

Approved October 20, 2005.

Filed with Secretary of State October 20, 2005.

Compiler's note: House Bill No. 4852, referred to in enacting section 1, was filed with the Secretary of State October 20, 2005, and became 2005 PA 177, Imd. Eff. Oct. 20, 2005.

House Bill No. 4858, also referred to in enacting section 1, was filed with the Secretary of State October 20, 2005, and became 2005 PA 179, Imd. Eff. Oct. 20, 2005.

[No. 179]

(HB 4858)

AN ACT to amend 1949 PA 300, entitled “An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies;

to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date,” by amending sections 683, 723, 724, 806, and 819a (MCL 257.683, 257.723, 257.724, 257.806, and 257.819a), section 683 as amended by 2000 PA 97, section 723 as amended and section 819a as added by 2003 PA 152, section 724 as amended by 2004 PA 420, and section 806 as amended by 2005 PA 141, and by adding section 312g; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

257.312g Transportation of hazardous material; hazardous material endorsement on operator’s or chauffeur’s license required; violation; penalty.

Sec. 312g. A person shall not transport or require, permit, or knowingly allow to be transported a hazardous material for which a placard is required under 49 CFR parts 100 to 199 in a commercial motor vehicle if the operator of the vehicle does not have a hazardous material endorsement on his or her operator’s or chauffeur’s license. A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$500.00, or both.

257.683 Driving or moving vehicle in unsafe condition; condition and adjustment of parts and equipment; stopping and inspecting vehicle; citation; training requirements as motor carrier enforcement officer; additional parts and accessories; exceptions; violation as civil infraction.

Sec. 683. (1) A person shall not drive or move or the owner shall not cause or knowingly permit to be driven or moved on a highway a vehicle or combination of vehicles that is in such an unsafe condition as to endanger a person, or that does not contain those parts or is not at all times equipped with lamps and other equipment in proper condition and adjustment as required in sections 683 to 711, or that is equipped in a manner in violation of sections 683 to 711. A person shall not do an act forbidden or fail to perform an act required under sections 683 to 711.

(2) A police officer on reasonable grounds shown may stop a motor vehicle and inspect the motor vehicle, and if a defect in equipment is found, the officer may issue the driver a citation for a violation of a provision of sections 683 to 711.

(3) In order to be classified as a motor carrier enforcement officer, a police officer must have training equal to the minimum training requirements, including any annual training updates, established by the department of state police for an officer of the motor carrier division of the department of state police. A police officer who has received training equal to these minimum training requirements before the effective date of this section is considered a motor carrier enforcement officer for purposes of this act.

(4) Sections 683 to 711 shall not prohibit the use of additional parts and accessories on a vehicle that are not inconsistent with those sections.

(5) The provisions of sections 683 to 711 with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors, except as specifically provided in sections 683 to 711.

(6) Except as otherwise provided in section 698 or 707d, a person who violates a provision of sections 683 to 711 with respect to equipment on vehicles is responsible for a civil infraction.

257.723 Commercial vehicles with certain weight and towing or platform bed wrecker road service vehicles; identification requirements; compliance; exception; violation as civil infraction.

Sec. 723. (1) All commercial vehicles with a single or combination gross weight rating or total gross weight of more than 5,000 pounds and all towing or platform bed wrecker road service vehicles in operation upon the public highways of this state shall have the name, city, and state or the registered logo or emblem of the registered owner of the vehicle, and lessee of the vehicle if the vehicle is being operated under lease, painted or permanently attached on each side of the vehicle in letters of not less than 3 inches in height, not lower than the bottom edge of the door. This information shall be in sharp color contrast to the background.

(2) Except for towing or platform bed wrecker road service vehicles, the identification requirements of subsection (1) may be met through the use of removable devices which meet the requirements of subsection (1). These devices shall be of durable construction and securely attached to each side of the motor truck or truck tractor. The removable devices shall be attached so that the identification is in a horizontal position.

(3) A vehicle in compliance with the identification requirements of the federal motor carrier safety regulations, 49 CFR parts 390-399, is considered to be in compliance with this section.

(4) This section does not apply to a truck eligible for and registered under a farm or manufacturer license plate, that has a gross vehicle weight of less than 10,000 pounds.

(5) A person who violates this section is responsible for a civil infraction.

257.724 Stopping vehicle for weighing; shifting or removing load; civil fine and costs; moving vehicle to place of safekeeping; impoundment; lien; foreclosure sale; powers of authorized agent; unlawful weight as civil infraction; fine; driving duly marked vehicle; failure to stop as misdemeanor.

Sec. 724. (1) A police officer, a peace officer, or an authorized agent of the state transportation department or a county road commission having reason to believe that the weight of a vehicle and load is unlawful may require the driver to stop and submit to a weighing of the vehicle by either portable or stationary scales approved and sealed by the department of agriculture as a legal weighing device and may require that the vehicle be driven to the nearest weigh station of the state transportation department for the purpose of allowing a police officer, peace officer, or agent of the state transportation department or county road commission to determine whether the vehicle is loaded in conformity with this chapter.

(2) When the officer or agent, upon weighing a vehicle and load, determines that the weight is unlawful, the officer or agent may require the driver to stop the vehicle in a suitable place and remain standing until that portion of the load is shifted or removed as necessary to reduce the gross axle load weight of the vehicle to the limit permitted under this chapter. All material unloaded as provided under this subsection shall be cared for by the owner or operator of the vehicle at the risk of the owner or operator. A judge or magistrate imposing a civil fine and costs under this section that are not paid in full immediately or for which a bond is not immediately posted in double the amount of the civil fine and costs shall order the driver or owner to move the vehicle at the driver's own risk to a place of safekeeping within the jurisdiction of the judge or magistrate, inform the judge or magistrate in writing of the place of safekeeping, and keep the vehicle until the fine and costs are paid or sufficient bond is furnished or until the judge or magistrate is