

# HOUSE BILL No. 4356

March 18, 2015, Introduced by Rep. Kesto and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled  
"The code of criminal procedure,"  
by amending section 48 of chapter XVII (MCL 777.48), as amended  
by 2013 PA 24.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### CHAPTER XVII

Sec. 48. (1) Offense variable 18 is operator ability  
affected by alcohol or drugs. Score offense variable 18 by  
determining which of the following apply and by assigning the  
number of points attributable to the one that has the highest  
number of points:

1 (a) The offender operated a vehicle, vessel, ORV,  
 2 snowmobile, aircraft, or locomotive when his or her  
 3 bodily alcohol content was 0.20 grams or more per 100  
 4 milliliters of blood, per 210 liters of breath, or per  
 5 67 milliliters of urine..... 20 points

6 (b) The offender operated a vehicle, vessel, ORV,  
 7 snowmobile, aircraft, or locomotive when his or her  
 8 bodily alcohol content was 0.15 grams or more but less  
 9 than 0.20 grams per 100 milliliters of blood, per 210  
 10 liters of breath, or per 67 milliliters of urine..... 15 points

11 (c) The offender operated a vehicle, vessel, ORV,  
 12 snowmobile, aircraft, or locomotive while the offender  
 13 was under the influence of alcoholic or intoxicating  
 14 liquor, a controlled substance, or a combination of  
 15 alcoholic or intoxicating liquor and a controlled  
 16 substance; or while the offender's body contained any  
 17 amount of a controlled substance listed in schedule 1  
 18 under section 7212 of the public health code, 1978 PA  
 19 368, MCL 333.7212, **OTHER THAN LESS THAN 5 NANOGRAMS**  
 20 **OF TETRAHYDROCANNABINOL PER 1 MILLILITER OF BLOOD IF**  
 21 **THE OFFENDER WAS A QUALIFYING PATIENT WHO WAS ISSUED**  
 22 **AND POSSESSES A REGISTRY IDENTIFICATION CARD UNDER**  
 23 **THE MICHIGAN MEDICAL MARIHUANA ACT, 2008 IL 1,**  
 24 **MCL 333.26421 TO 333.26430,** or a rule promulgated  
 25 under that section, or a controlled substance  
 26 described in section 7214(a)(iv) of the public  
 27 health code, 1978 PA 368, MCL 333.7214; or while  
 28 the offender had an alcohol content of 0.08 grams  
 29 or more but less than 0.15 grams per 100  
 30 milliliters of blood, per 210 liters of breath, or per  
 31 67 milliliters of urine or, beginning October 1,

1 2018, the offender had an alcohol content of 0.10 grams  
2 or more but less than 0.15 grams per 100 milliliters of  
3 blood, per 210 liters of breath, or per 67 milliliters  
4 of urine..... 10 points

5 (d) The offender operated a vehicle, vessel, ORV,  
6 snowmobile, aircraft, or locomotive while he or she was  
7 visibly impaired by the use of alcoholic or intoxicating  
8 liquor or a controlled substance or a combination of  
9 alcoholic or intoxicating liquor and a controlled  
10 substance, or was less than 21 years of age and had any  
11 bodily alcohol content..... 5 points

12 (e) The offender's ability to operate a vehicle,  
13 vessel, ORV, snowmobile, aircraft, or locomotive was not  
14 affected by an alcoholic or intoxicating liquor or a  
15 controlled substance or a combination of alcoholic or  
16 intoxicating liquor and a controlled substance..... 0 points

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

19 (a) An alcohol content of 0.02 grams or more but less than  
20 0.08 grams per 100 milliliters of blood, per 210 liters of  
21 breath, or per 67 milliliters of urine or, beginning October 1,  
22 2018, 0.02 grams or more but less than 0.10 grams per 100  
23 milliliters of blood, per 210 liters of breath, or per 67  
24 milliliters of urine.

25 (b) Any presence of alcohol within an individual's body  
26 resulting from the consumption of alcoholic or intoxicating  
27 liquor other than the consumption of alcoholic or intoxicating  
28 liquor as part of a generally recognized religious service or

1 ceremony.

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

4 Enacting section 2. This amendatory act does not take effect  
5 unless Senate Bill No. \_\_\_\_\_ or House Bill No. 4357 (request no.  
6 02242'15) of the 98th Legislature is enacted into law.