

(w) “Public facility” means a street, plaza, pedestrian mall, and any improvements to a street, plaza, or pedestrian mall including street furniture and beautification, park, parking facility, recreational facility, right-of-way, structure, waterway, bridge, lake, pond, canal, utility line or pipe, building, and access routes to any of the foregoing, designed and dedicated to use by the public generally, or used by a public agency. Public facility includes an improvement to a facility used by the public or a public facility as those terms are defined in section 1 of 1966 PA 1, MCL 125.1351, which improvement is made to comply with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(x) “Qualified refunding obligation” means an obligation issued or incurred by an authority or by a municipality on behalf of an authority to refund an obligation if 1 or more of the following apply:

(i) The obligation is issued to refund a qualified refunding obligation issued in November 1997 and any subsequent refundings of that obligation issued before January 1, 2010 or the obligation is issued to refund a qualified refunding obligation issued on May 15, 1997 and any subsequent refundings of that obligation issued before January 1, 2010 in an authority in which 1 parcel or group of parcels under common ownership represents 50% or more of the taxable value captured within the tax increment finance district and that will ultimately provide for at least a 40% reduction in the taxable value of the property as part of a negotiated settlement as a result of an appeal filed with the state tax tribunal. Qualified refunding obligations issued under this subparagraph are not subject to the requirements of section 611 of the revised municipal finance act, 2001 PA 34, MCL 141.2611, if issued before January 1, 2010. The duration of the development program described in the tax increment financing plan relating to the qualified refunding obligations issued under this subparagraph is hereby extended to 1 year after the final date of maturity of the qualified refunding obligations.

(ii) The refunding obligation meets both of the following:

(A) The net present value of the principal and interest to be paid on the refunding obligation, including the cost of issuance, will be less than the net present value of the principal and interest to be paid on the obligation being refunded, as calculated using a method approved by the department of treasury.

(B) The net present value of the sum of the tax increment revenues described in subdivision (bb)(ii) and the distributions under section 13b to repay the refunding obligation will not be greater than the net present value of the sum of the tax increment revenues described in subdivision (bb)(ii) and the distributions under section 13b to repay the obligation being refunded, as calculated using a method approved by the department of treasury.

(y) “Qualified township” means a township that meets all of the following requirements:

(i) Was not eligible to create an authority prior to January 3, 2005.

(ii) Adjoins a municipality that previously created an authority.

(iii) Along with the adjoining municipality that previously created an authority, is a member of the same joint planning commission under the joint municipal planning act, 2003 PA 226, MCL 125.131 to 125.143.

(z) “Specific local tax” means a tax levied under 1974 PA 198, MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the technology park development act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA 189, MCL 211.181 to 211.182. The initial assessed value or current assessed value of property subject to a specific local tax shall be the quotient of the specific local tax paid divided by the ad valorem millage rate. However, after 1993, the state tax commission shall prescribe the method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax.

(aa) “State fiscal year” means the annual period commencing October 1 of each year.

(bb) “Tax increment revenues” means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of real and personal property in the development area, subject to the following requirements:

(i) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions other than the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts upon the captured assessed value of real and personal property in the development area for any purpose authorized by this act.

(ii) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts upon the captured assessed value of real and personal property in the development area in an amount equal to the amount necessary, without regard to subparagraph (i), to repay eligible advances, eligible obligations, and other protected obligations.

(iii) Tax increment revenues do not include any of the following:

(A) Ad valorem property taxes attributable either to a portion of the captured assessed value shared with taxing jurisdictions within the jurisdictional area of the authority or to a portion of value of property that may be excluded from captured assessed value or specific local taxes attributable to such ad valorem property taxes.

(B) Ad valorem property taxes excluded by the tax increment financing plan of the authority from the determination of the amount of tax increment revenues to be transmitted to the authority or specific local taxes attributable to such ad valorem property taxes.

(C) Ad valorem property taxes exempted from capture under section 3(3) or specific local taxes attributable to such ad valorem property taxes.

(iv) The amount of tax increment revenues authorized to be included under subparagraph (ii) or (v), and required to be transmitted to the authority under section 14(1), from ad valorem property taxes and specific local taxes attributable to the application of the levy of the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, a local school district or an intermediate school district upon the captured assessed value of real and personal property in a development area shall be determined separately for the levy by the state, each school district, and each intermediate school district as the product of sub-subparagraphs (A) and (B):

(A) The percentage that the total ad valorem taxes and specific local taxes available for distribution by law to the state, local school district, or intermediate school district, respectively, bears to the aggregate amount of ad valorem millage taxes and specific taxes available for distribution by law to the state, each local school district, and each intermediate school district.

(B) The maximum amount of ad valorem property taxes and specific local taxes considered tax increment revenues under subparagraph (ii) or (v).

(v) Tax increment revenues include ad valorem property taxes and specific local taxes, in an annual amount and for each year approved by the state treasurer; attributable to the levy by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and by local or intermediate school districts, upon the captured assessed value of real and personal property in the development area of an authority established in a city with a population of 750,000 or more to pay for, or reimburse an advance for, not more than \$8,000,000.00 for the demolition of buildings or structures on public or privately owned property within a

development area that commences in 2005, or to pay the annual principal of or interest on an obligation, the terms of which are approved by the state treasurer, issued by an authority, or by a city on behalf of an authority, to pay not more than \$8,000,000.00 of the costs to demolish buildings or structures on public or privately owned property within a development area that commences in 2005.

This act is ordered to take immediate effect.

Approved March 13, 2008.

Filed with Secretary of State March 14, 2008.

[No. 36]

(SB 712)

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 307 and 310 (MCL 257.307 and 257.310), as amended by 2008 PA 7.

The People of the State of Michigan enact:

257.307 Application for operator’s or chauffeur’s license; documents to be supplied to verify citizenship or identity and legal presence; manner; contents; image and signature; equipment; signature and certification; donor registry; driving record from another jurisdiction; application for original, renewal, or upgrade of vehicle group designation or indorsement; issuing renewal license by mail or other methods; information manual; disclosure or display of social security number; electronic access to donor registry; agreements with federal government; termination of license issued by another state; duties of secretary of state.

Sec. 307. (1) If an applicant for an operator’s license or chauffeur’s license is a citizen of the United States, the applicant shall supply a photographic identity document, a birth certificate, or other sufficient documents as the secretary of state may require to verify the identity and citizenship of the applicant. If an applicant for an operator’s or chauffeur’s license is not a citizen of the United States, the applicant shall supply a photographic identity document and other sufficient documents to verify the identity of the applicant and the applicant’s

legal presence in the United States under subdivision (b). The documents required under this subsection shall include the applicant's full legal name, date of birth, and address and residency and demonstrate that the applicant is a citizen of the United States or is legally present in the United States. If the applicant's full legal name differs from the name of the applicant that appears on a document presented under this subsection, the applicant shall present documents to verify his or her current full legal name. An application for an operator's or chauffeur's license shall be made in a manner prescribed by the secretary of state and shall contain all of the following:

(a) The applicant's full legal name, date of birth, residence address, height, sex, eye color, signature, intent to make an anatomical gift, other information required or permitted on the license under this chapter, and, only to the extent required to comply with federal law, the applicant's social security number. The applicant may provide a mailing address if the applicant receives mail at an address different from his or her residence address.

(b) If the applicant is not a citizen of the United States, the applicant shall provide documents demonstrating his or her legal presence in the United States. A person legally present in the United States includes, but is not limited to, a person authorized by the United States government for employment in the United States, a person with nonimmigrant status authorized under federal law, and a person who is the beneficiary of an approved immigrant visa petition or an approved labor certification. The secretary of state shall adopt rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as are necessary for the administration of this subdivision. A determination by the secretary of state that an applicant is not legally present in the United States may be appealed under section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631.

(c) The following notice shall be included to inform the applicant that under sections 509o and 509r of the Michigan election law, 1954 PA 116, MCL 168.509o and 168.509r, the secretary of state is required to use the residence address provided on this application as the applicant's residence address on the qualified voter file for voter registration and voting:

“NOTICE: Michigan law requires that the same address be used for voter registration and driver license purposes. Therefore, if the residence address you provide in this application differs from your voter registration address as it appears on the qualified voter file, the secretary of state will automatically change your voter registration to match the residence address on this application, after which your voter registration at your former address will no longer be valid for voting purposes. A new voter registration card, containing the information of your polling place, will be provided to you by the clerk of the jurisdiction where your residence address is located.”

(d) For an original or renewal operator's or chauffeur's license with a vehicle group designation or indorsement, the names of all states where the applicant has been licensed to drive any type of motor vehicle during the previous 10 years.

(e) For an operator's or chauffeur's license with a vehicle group designation or indorsement, the following certifications by the applicant:

(i) The applicant meets the applicable federal driver qualification requirements under 49 CFR part 391 if the applicant operates or intends to operate in interstate commerce or meets the applicable qualifications of the department of state police under the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.25, if the applicant operates or intends to operate in intrastate commerce.

(ii) The vehicle in which the applicant will take the driving skills tests is representative of the type of vehicle the applicant operates or intends to operate.

(iii) The applicant is not subject to disqualification by the United States secretary of transportation, or a suspension, revocation, or cancellation under any state law for conviction of an offense described in section 312f or 319b.

(iv) The applicant does not have a driver's license from more than 1 state or jurisdiction.

(f) An applicant for an operator's or chauffeur's license with a vehicle group designation and a hazardous material indorsement shall provide his or her fingerprints as prescribed by state and federal law.

(2) An applicant for an operator's or chauffeur's license may have his or her image and signature captured or reproduced when the application for the license is made. The secretary of state shall acquire equipment purchased or leased under this section under standard purchasing procedures of the department of management and budget based on standards and specifications established by the secretary of state. The secretary of state shall not purchase or lease equipment until an appropriation for the equipment has been made by the legislature. A digital photographic image and signature captured under this section shall appear on the applicant's operator's license or chauffeur's license. A person's digital photographic image shall be used as follows:

(a) By a federal, state, or local governmental agency for a law enforcement purpose authorized by law.

(b) By the secretary of state for a use specifically authorized by law.

(c) By the secretary of state for forwarding to the department of state police the images to persons required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, upon the department of state police providing the secretary of state an updated list of the names of those persons.

(d) As necessary to comply with a law of this state or of the United States.

(3) An application shall contain a signature or verification and certification by the applicant, as determined by the secretary of state, and shall be accompanied by the proper fee. The secretary of state shall collect the application fee with the application. The secretary of state shall refund the application fee to the applicant if the license applied for is denied, but shall not refund the fee to an applicant who fails to complete the examination requirements of the secretary of state within 90 days after the date of application for a license.

(4) In conjunction with the application for an operator's license or chauffeur's license, the secretary of state shall do all of the following:

(a) Provide the applicant with all of the following:

(i) Information explaining the applicant's right to make an anatomical gift in the event of death in accordance with section 310.

(ii) Information describing the anatomical gift donor registry program under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123. The information required under this subparagraph includes the address and telephone number of Michigan's federally designated organ procurement organization or its successor organization as defined in section 10102 of the public health code, 1978 PA 368, MCL 333.10102.

(iii) Information giving the applicant the opportunity to be placed on the donor registry described in subparagraph (ii).

(b) Provide the applicant with the opportunity to specify on his or her operator's or chauffeur's license that he or she is willing to make an anatomical gift in the event of death in accordance with section 310.

(c) Inform the applicant that, if he or she indicates to the secretary of state under this section a willingness to have his or her name placed on the donor registry described in subdivision (a)(ii), the secretary of state will mark the applicant's record for the donor registry.

(d) Provide the applicant with the opportunity to make a donation of \$1.00 or more to the organ and tissue donation education fund created under section 217o. A donation made under

this subdivision shall be deposited in the state treasury to the credit of the organ and tissue donation education fund.

(5) The secretary of state may fulfill the requirements of subsection (4) by 1 or more of the following methods:

(a) Providing printed material enclosed with a mailed notice for an operator's or chauffeur's license renewal or the issuance of an operator's or chauffeur's license.

(b) Providing printed material to an applicant who personally appears at a secretary of state branch office.

(c) Through electronic information transmittals for operator's and chauffeur's licenses processed by electronic means.

(6) The secretary of state shall maintain a record of an individual who indicates a willingness to have his or her name placed on the donor registry described in subsection (4)(a)(ii). Information about an applicant's indication of a willingness to have his or her name placed on the donor registry that is obtained by the secretary of state under subsection (4) and forwarded under subsection (14) is exempt from disclosure under section 13(1)(d) of the freedom of information act, 1976 PA 442, MCL 15.243.

(7) If an application is received from a person previously licensed in another jurisdiction, the secretary of state shall request a copy of the applicant's driving record and other available information from the national driver register. When received, the driving record and other available information become a part of the driver's record in this state.

(8) If an application is received for an original, renewal, or upgrade of a vehicle group designation or indorsement, the secretary of state shall request the person's complete driving record from all states where the applicant was previously licensed to drive any type of motor vehicle over the last 10 years before issuing a vehicle group designation or indorsement to the applicant. If the applicant does not hold a valid commercial motor vehicle driver license from a state where he or she was licensed in the last 10 years, this complete driving record request must be made not earlier than 24 hours before the secretary of state issues the applicant a vehicle group designation or indorsement. For all other drivers, this request must be made not earlier than 10 days before the secretary of state issues the applicant a vehicle group designation or indorsement. The secretary of state shall also check the applicant's driving record with the national driver register and the federal commercial driver license information system before issuing that group designation or indorsement. If the application is for the renewal of a vehicle group designation or indorsement, and if the secretary of state enters on the person's historical driving record maintained under section 204a a notation that the request was made and the date of the request, the secretary of state is required to request the applicant's complete driving record from other states only once under this section.

(9) Except for a vehicle group designation or indorsement or as provided in this subsection or section 314(5), the secretary of state may issue a renewal operator's or chauffeur's license for 1 additional 4-year period or until the person is no longer determined to be legally present under section 307 by mail or by other methods prescribed by the secretary of state. The secretary of state may check the applicant's driving record through the national driver register and the commercial driver license information system before issuing a license under this section. The secretary of state shall issue a renewal license only in person if the person is a person required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card. If a license is renewed by mail or by other method, the secretary of state shall issue evidence of renewal to indicate the date the license expires in the future. The department of state police shall provide to the secretary of state updated lists of persons

required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card.

(10) Upon request, the secretary of state shall provide an information manual to an applicant explaining how to obtain a vehicle group designation or indorsement. The manual shall contain the information required under 49 CFR part 383.

(11) The secretary of state shall not disclose a social security number obtained under subsection (1) to another person except for use for 1 or more of the following purposes:

(a) Compliance with 49 USC 31301 to 31317 and regulations and state law and rules related to this chapter.

(b) To carry out the purposes of section 466(a) of the social security act, 42 USC 666, in connection with matters relating to paternity, child support, or overdue child support.

(c) To check an applicant's driving record through the national driver register and the commercial driver license information system when issuing a license under this act.

(d) With the department of community health, for comparison with vital records maintained by the department of community health under part 28 of the public health code, 1978 PA 368, MCL 333.2801 to 333.2899.

(e) As otherwise required by law.

(12) The secretary of state shall not display a person's social security number on the person's operator's or chauffeur's license.

(13) A requirement under this section to include a social security number on an application does not apply to an applicant who demonstrates he or she is exempt under law from obtaining a social security number.

(14) As required in section 10120 of the public health code, 1978 PA 368, MCL 333.10120, the secretary of state shall maintain the donor registry in a manner that provides electronic access, including, but not limited to, the transfer of data to this state's federally designated organ procurement organization or its successor organization, tissue banks, and eye banks, in a manner that complies with that section.

(15) The secretary of state, with the approval of the state administrative board created under 1921 PA 2, MCL 17.1 to 17.3, may enter into agreements with the United States government to verify whether an applicant for an operator's license or a chauffeur's license under this section who is not a citizen of the United States is authorized under federal law to be present in the United States.

(16) The secretary of state shall not issue an operator's license or a chauffeur's license to a person holding an operator's license or chauffeur's license issued by another state without confirmation that the person is terminating or has terminated the operator's license or chauffeur's license issued by the other state.

(17) The secretary of state shall do all of the following:

(a) Ensure the physical security of locations where operator's licenses and chauffeur's licenses are produced and the security of document materials and papers from which operator's licenses and chauffeur's licenses are produced.

(b) Subject all persons authorized to manufacture or produce operator's licenses or chauffeur's licenses and all persons who have the ability to affect the identity information that appears on operator's licenses or chauffeur's licenses to appropriate security clearance requirements. The security requirements of this subdivision and subdivision (a) may require that licenses be manufactured or produced in this state.

(c) Provide fraudulent document recognition programs to department of state employees engaged in the issuance of operator's licenses and chauffeur's licenses.

257.310 Operator's or chauffeur's license; issuance; applicant for motorcycle indorsement or vehicle group designation; contents of license; digitized license; unlawful acts; penalties; temporary driver's permit; medical data; designation of patient advocate or emancipated status; duplicates of license; emergency medical information card; participation in anatomical gift donor registry.

Sec. 310. (1) The secretary of state shall issue an operator's license to each person licensed as an operator and a chauffeur's license to each person licensed as a chauffeur. An applicant for a motorcycle indorsement under section 312a or a vehicle group designation or indorsement shall first qualify for an operator's or chauffeur's license before the indorsement or vehicle group designation application is accepted and processed. An original license or the first renewal of an existing license issued to a person less than 21 years of age shall be portrait or vertical in form and a license issued to a person 21 years of age or over shall be landscape or horizontal in form.

(2) The license issued under subsection (1) shall contain all of the following:

(a) The distinguishing number permanently assigned to the licensee.

(b) The full legal name, date of birth, address of residence, height, eye color, sex, digital photographic image, expiration date, and signature of the licensee.

(c) In the case of a licensee who has indicated his or her wish to participate in the anatomical gift donor registry under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123, a heart insignia on the front of the license.

(d) Physical security features designed to prevent tampering, counterfeiting, or duplication of the license for fraudulent purposes.

(3) Except as otherwise required under this chapter, other information required on the license pursuant to this chapter may appear on the license in a form prescribed by the secretary of state.

(4) The license shall not contain a fingerprint or finger image of the licensee.

(5) A digitized license may contain an identifier for voter registration purposes. The digitized license may contain information appearing in electronic or machine readable codes needed to conduct a transaction with the secretary of state. The information shall be limited to the person's driver license number, birth date, full legal name, date of transaction, gender, address, state of issuance, license expiration date, and other information necessary for use with electronic devices, machine readers, or automatic teller machines and shall not contain the driving record or other personal identifier. The license shall identify the encoded information.

(6) The license shall be manufactured in a manner to prohibit as nearly as possible the ability to reproduce, alter, counterfeit, forge, or duplicate the license without ready detection. In addition, a license with a vehicle group designation shall contain the information required under 49 CFR part 383.

(7) Except as provided in subsection (11), a person who intentionally reproduces, alters, counterfeits, forges, or duplicates a license photograph, the negative of the photograph, image, license, or electronic data contained on a license or a part of a license or who uses a license, image, or photograph that has been reproduced, altered, counterfeited, forged, or duplicated is subject to 1 of the following:

(a) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use is to commit or aid in the commission of an offense that is a felony punishable by imprisonment for 10 or more years, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony, punishable by imprisonment for not more than 10 years or a fine of not more than \$20,000.00, or both.

(b) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use is to commit or aid in the commission of an offense that is a felony punishable by imprisonment for less than 10 years or a misdemeanor punishable by imprisonment for 6 months or more, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not more than \$10,000.00, or both.

(c) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use is to commit or aid in the commission of an offense that is a misdemeanor punishable by imprisonment for less than 6 months, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

(8) Except as provided in subsections (11) and (16), a person who sells, or who possesses with the intent to deliver to another, a reproduced, altered, counterfeited, forged, or duplicated license photograph, negative of the photograph, image, license, or electronic data contained on a license or part of a license is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(9) Except as provided in subsections (11) and (16), a person who is in possession of 2 or more reproduced, altered, counterfeited, forged, or duplicated license photographs, negatives of the photograph, images, licenses, or electronic data contained on a license or part of a license is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(10) Except as provided in subsection (16), a person who is in possession of a reproduced, altered, counterfeited, forged, or duplicated license photograph, negative of the photograph, image, license, or electronic data contained on a license or part of a license is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

(11) Subsections (7)(a) and (b), (8), and (9) do not apply to a minor whose intent is to violate section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.

(12) The secretary of state, upon determining after an examination that an applicant is mentally and physically qualified to receive a license, may issue the applicant a temporary driver's permit. The temporary driver's permit entitles the applicant, while having the permit in his or her immediate possession, to drive a motor vehicle upon the highway for a period not exceeding 60 days before the secretary of state has issued the applicant an operator's or chauffeur's license. The secretary of state may establish a longer duration for the validity of a temporary driver's permit if necessary to accommodate the process of obtaining a background check that is required for an applicant by federal law.

(13) An operator or chauffeur may indicate on the license in a place designated by the secretary of state his or her blood type, emergency contact information, immunization data, medication data, or a statement that the licensee is deaf.

(14) An operator or chauffeur may indicate on the license in a place designated by the secretary of state that he or she has designated a patient advocate in accordance with sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515.

(15) If the applicant provides proof to the secretary of state that he or she is a minor who has been emancipated under 1968 PA 293, MCL 722.1 to 722.6, the license shall bear the designation of the individual's emancipated status in a manner prescribed by the secretary of state.

(16) Subsections (8), (9), and (10) do not apply to a person who is in possession of 1 or more photocopies, reproductions, or duplications of a license to document the identity of the licensee for a legitimate business purpose.

(17) A sticker or decal may be provided by any person, hospital, school, medical group, or association interested in assisting in implementing an emergency medical information card, but shall meet the specifications of the secretary of state. An emergency medical information card may contain information concerning the licensee's patient advocate designation, other emergency medical information, or an indication as to where the licensee has stored or registered emergency medical information.

(18) The secretary of state shall inquire of each licensee, in person or by mail, whether the licensee agrees to participate in the anatomical gift donor registry under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123.

(19) A licensee who has agreed to participate in the anatomical gift donor registry under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123, shall not be considered to have revoked that agreement solely because the licensee's license has been revoked or suspended or has expired. Enrollment in the donor registry constitutes a legal agreement that remains binding and in effect after the donor's death regardless of the expressed desires of the deceased donor's next of kin who may oppose the donor's anatomical gift.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4940 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved March 13, 2008.

Filed with Secretary of State March 17, 2008.

Compiler's note: House Bill No. 4940, referred to in enacting section 1, was filed with the Secretary of State March 17, 2008, and became 2008 PA 39, Eff. May 1, 2008.

[No. 37]

(SB 713)

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 13n of chapter XVII (MCL 777.13n), as amended by 2004 PA 215.

The People of the State of Michigan enact:

CHAPTER XVII

777.13n Applicability of chapter to certain felonies; MCL 333.10116(1) to 333.21792.

Sec. 13n. This chapter applies to the following felonies enumerated in chapter 333 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat	Max
333.10116(1)	Pub ord	E	Purchasing or selling body part of deceased individual for transplantation or therapy		5
333.10117	Pub ord	E	Falsifying, concealing, or defacing document of anatomical gift for financial gain		5
333.10204(1)	Pub ord	F	Transferring a human organ for valuable consideration		4
333.10204(4)	Pub saf	F	Removal of a human organ by an unauthorized individual		4
333.10205	Pub saf	F	Removal of a human organ in an unapproved facility		4
333.13738(2)	Pub saf	F	Waste disposal violations — second offense		5
333.13738(3)	Pub saf	F	Disposing of waste — indifference to human life		2
	Pub saf	B	Disposing of waste — extreme indifference to human life		20
333.16170(3)	Pub trst	F	False representation — health professional recovery program		4
333.16294	Pub saf	F	Health profession — unauthorized practice		4
333.17764(3)	Pub saf	G	Adulterate, misbrand, remove, or substitute a drug or device		2
333.17764(4)	Pub saf	F	Adulterate, misbrand, remove, or substitute a drug or device causing personal injury		4
333.17764(5)	Pub saf	E	Adulterate, misbrand, remove, or substitute a drug or device causing serious impairment of a body function		5
333.17764(6)	Pub saf	C	Adulterate, misbrand, remove, or substitute a drug or device causing death		15

333.17766c(2)	CS	G	Possession of more than 12 grams ephedrine or pseudoephedrine	2
333.20142(5)	Pub trst	F	False statement — application licensure health facility	4
333.21792	Pub trst	G	Nursing homes — referral fees/ bribing officials/accepting bribes	4

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4940 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved March 13, 2008.

Filed with Secretary of State March 17, 2008.

Compiler's note: House Bill No. 4940, referred to in enacting section 1, was filed with the Secretary of State March 17, 2008, and became 2008 PA 39, Eff. May 1, 2008.

[No. 38]

(SB 714)

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," by amending section 9 (MCL 52.209), as added by 2005 PA 176.

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; section to be known as "Kyle Ray Horning's law".

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, subject to part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123, and according to criteria established by Michigan's federally designated organ procurement organization, may be suitable for donation or for the donation of body 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 as defined in section 10102 of the public health code, 1978 PA 368, MCL 333.10102. If contacted by the federally designated organ procurement organization or other procurement organization, or both, the county medical examiner shall enter into an agreement with the federally designated organ procurement organization and other procurement 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 and shall meet the requirements of part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123. The agreement shall provide that if any extraordinary medical examinations are necessary prior to the removal of organs, tissues, or eyes, the procurement 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 other procurement 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 333.10123. 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 part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123.

(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 part of that individual's body has been made pursuant to part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123, 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 professional or technician who is authorized to remove an anatomical gift from a donor under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123, 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.
- (3) This section shall be known and may be cited as "Kyle Ray Horning's law".

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4940 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved March 13, 2008.

Filed with Secretary of State March 17, 2008.

Compiler's note: House Bill No. 4940, referred to in enacting section 1, was filed with the Secretary of State March 17, 2008, and became 2008 PA 39, Eff. May 1, 2008.

[No. 39]

(HB 4940)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental,

and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending the heading of part 101 and sections 10101, 10102, 10103, 10104, 10105, 10106, 10107, 10108, 10109, 10204, and 20165 (MCL 333.10101, 333.10102, 333.10103, 333.10104, 333.10105, 333.10106, 333.10107, 333.10108, 333.10109, 333.10204, and 333.20165), section 10102 as amended by 2003 PA 62, section 10104 as amended by 2005 PA 140, section 10108 as amended by 2006 PA 301, section 10204 as amended by 1999 PA 60, and section 20165 as amended by 1998 PA 108, and by adding sections 10110, 10111, 10112, 10113, 10114, 10115, 10116, 10117, 10118, 10119, 10120, 10121, 10122, and 10123; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

PART 101

REVISED UNIFORM ANATOMICAL GIFT LAW

333.10101 Short title of part.

Sec. 10101. This part shall be known and may be cited as the “revised uniform anatomical gift law”.

333.10102 Definitions.

Sec. 10102. As used in this part:

- (a) “Adult” means an individual who is at least 18 years of age.
- (b) “Agent” means an individual who meets 1 or more of the following requirements:
 - (i) Is authorized to make health care decisions on the principal’s behalf by a power of attorney for health care.
 - (ii) Is expressly authorized to make an anatomical gift on the principal’s behalf by any other record signed by the principal.
- (c) “Anatomical gift” means a donation of all or part of a human body to take effect after the donor’s death for the purpose of transplantation, therapy, research, or education.
- (d) “Body part” means an organ, eye, or tissue of a human being. The term does not include the whole body.
- (e) “Decedent” means a deceased individual whose body or body part is or may be the source of an anatomical gift. The term includes a stillborn infant and, subject to this subdivision and restrictions imposed by law other than this part, a fetus. The term does not include a blastocyst, embryo, or fetus that is the subject of an abortion. As used in this subdivision, “abortion” means that term as defined in section 17015.

(f) “Disinterested witness” means a witness who is not a spouse, child, parent, sibling, grandchild, grandparent, or guardian of or other adult who exhibited special care and concern for the individual who makes, amends, revokes, or refuses to make an anatomical gift. The term does not include a person to which an anatomical gift could pass under section 10111.

(g) “Document of gift” means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver license, identification card, or donor registry.

(h) “Donor” means an individual whose body or body part is the subject of an anatomical gift.

(i) “Donor registry” means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts as provided for in section 10120.

(j) “Driver license” means an operator’s or chauffeur’s license or permit issued to an individual by the secretary of state under chapter III of the Michigan vehicle code, 1949 PA 300, MCL 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.

(k) “Eye” means a human eye or any portion of a human eye.

(l) “Eye bank” means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(m) “Guardian” means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.

(n) “Hospital” means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(o) “Identification card” means an official state personal identification card issued by the secretary of state under 1972 PA 222, MCL 28.291 to 28.300.

(p) “Know” means to have actual knowledge.

(q) “Minor” means an individual who is under 18 years of age.

(r) “Organ” means a human kidney, liver, heart, lung, pancreas, or intestine or multi-visceral organs when transplanted at the same time as an intestine.

(s) “Organ procurement organization” means a person certified or recertified by the secretary of the United States department of health and human services as a qualified organ procurement organization under 42 USC 273(b).

(t) “Parent” means a parent whose parental rights have not been terminated.

(u) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality or any other legal or commercial entity.

(v) “Physician” means an individual authorized to practice medicine or osteopathic medicine and surgery under the law of any state.

(w) “Procurement organization” means an eye bank, organ procurement organization, or tissue bank.

(x) “Prospective donor” means an individual who is dead or near death and has been determined by a procurement organization to have a body part that could be medically suitable for transplantation, therapy, research, or education. The term does not include an individual who has made a refusal.

(y) “Reasonably available” means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(z) “Recipient” means an individual into whose body a decedent’s body part has been or is intended to be transplanted.

(aa) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(bb) “Refusal” means a record created under section 10107 that expressly refuses to make an anatomical gift of an individual’s body or body part.

(cc) “Sign” means that, with the present intent to authenticate or adopt a record, an individual does either of the following:

(i) Executes or adopts a tangible symbol.

(ii) Attaches to or logically associates with the record an electronic symbol, sound, or process.

(dd) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(ee) “Technician” means an individual determined to be qualified to remove or process body parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.

(ff) “Tissue” means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(gg) “Tissue bank” means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(hh) “Transplant hospital” means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

333.10103 Applicability of part to anatomical gift.

Sec. 10103. This part applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

333.10104 Anatomical gift of donor’s body or body part; purpose; persons making gift.

Sec. 10104. Subject to section 10108, an anatomical gift of a donor’s body or body part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in section 10105 by any of the following:

(a) The donor, if the donor is an adult or if the donor is a minor and meets 1 or more of the following requirements:

(i) Is emancipated.

(ii) Has been issued a driver license or identification card because the donor is at least 16 years of age.

(b) An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift.

(c) A parent of the donor, if the donor is an unemancipated minor.

(d) The donor’s guardian.

333.10105 Donor making anatomical gift; methods; gift by donor card or other record; effect of revocation, suspension, expiration, or cancellation of driver license or identification card upon which anatomical gift is indicated; anatomical gift made by will; effect of probate or invalidation.

Sec. 10105. (1) A donor may make an anatomical gift by doing any of the following:

(a) By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver license or identification card.

(b) In a will.

(c) During a terminal illness or injury of the donor, by any form of communication addressed to at least 2 adults, at least 1 of whom is a disinterested witness. However, the physician who attends the donor during the terminal illness or injury shall not act as a recipient of the communication under this subdivision.

(d) As provided in subsection (2).

(2) A donor or other person authorized to make an anatomical gift under section 10104 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and shall meet all of the following requirements:

(a) Be witnessed by at least 2 adults, at least 1 of whom is a disinterested witness, who have signed at the request of the donor or the other person.

(b) State that it has been signed and witnessed as provided in subdivision (a).

(3) Revocation, suspension, expiration, or cancellation of a driver license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

(4) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

333.10106 Amendment or revocation of anatomical gift; means.

Sec. 10106. (1) Subject to section 10108, a donor or other person authorized to make an anatomical gift under section 10104 may amend or revoke an anatomical gift by any of the following means:

(a) A record signed by any of the following:

(i) The donor.

(ii) The other person authorized to make an anatomical gift under section 10104.

(iii) Subject to subsection (2), another individual acting at the direction of the donor or the other person authorized to make an anatomical gift under section 10104 if the donor or other person is physically unable to sign.

(b) A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(2) A record signed pursuant to subsection (1)(a)(iii) shall meet all of the following requirements:

(a) Be witnessed by at least 2 adults, at least 1 of whom is a disinterested witness, who have signed at the request of the donor or the other person.

(b) State that it has been signed and witnessed as provided in subdivision (a).

(3) Subject to section 10108, a donor or other person authorized to make an anatomical gift under section 10104 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(4) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least 2 adults, at least 1 of whom is a disinterested witness.

(5) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (1).

333.10107 Refusal to make anatomical gift; means.

Sec. 10107. (1) An individual may refuse to make an anatomical gift of his or her body or body part by any of the following means:

(a) A record signed by either of the following:

(i) The individual.

(ii) Subject to subsection (2), another individual acting at the direction of the individual if the individual is physically unable to sign.

(b) The individual's will, whether or not the will is admitted to probate or invalidated after his or her death.

(c) Any form of communication made by the individual during his or her terminal illness or injury addressed to at least 2 adults, at least 1 of whom is a disinterested witness.

(2) A record signed pursuant to subsection (1)(a)(ii) shall meet all of the following requirements:

(a) Be witnessed by at least 2 adults, at least 1 of whom is a disinterested witness, who have signed at the request of the individual.

(b) State that it has been signed and witnessed as provided in subdivision (a).

(3) An individual who has made a refusal may amend or revoke the refusal by any of the following means:

(a) In the manner provided in subsection (1) for making a refusal.

(b) By subsequently making an anatomical gift pursuant to section 10105 that is inconsistent with the refusal.

(c) By destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(4) Except as otherwise provided in section 10108(8), in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of his or her body or body part bars all other persons from making an anatomical gift of the individual's body or body part.

333.10108 Person other than donor barred from making, amending, or revoking anatomical gift; conditions; revocation of anatomical gift not considered as refusal; unrevoked or revocation of anatomical gift by person other than donor; certain conduct not considered as limitation; donor as unemancipated minor.

Sec. 10108. (1) Except as otherwise provided in subsection (7) and subject to subsection (6), in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or body part if the donor made an anatomical gift of the donor's body or body part under

section 10105 or an amendment to an anatomical gift of the donor's body or body part under section 10106.

(2) A donor's revocation of an anatomical gift of the donor's body or body part under section 10106 is not a refusal and does not bar another person specified in section 10104 or 10109 from making an anatomical gift of the donor's body or body part under section 10105 or 10110.

(3) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or body part under section 10105 or an amendment to an anatomical gift of the donor's body or body part under section 10106, another person may not make, amend, or revoke the gift of the donor's body or body part under section 10110.

(4) A revocation of an anatomical gift of a donor's body or body part under section 10106 by a person other than the donor does not bar another person from making an anatomical gift of the body or body part under section 10105 or 10110.

(5) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 10104, an anatomical gift of a body part is neither a refusal to give another body part nor a limitation on the making of an anatomical gift of another body part at a later time by the donor or other person.

(6) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 10104, an anatomical gift of a body part for 1 or more of the purposes set forth in section 10104 is not a limitation on the making of an anatomical gift of the body part for any of the other purposes by the donor or any other person under section 10105 or 10110.

(7) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or body part.

(8) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

333.10109 Classes of persons making anatomical gift; priority; more than 1 member of class making anatomical gift; availability of person in prior class.

Sec. 10109. (1) Subject to subsections (2) and (3) and unless barred by section 10107 or 10108, an anatomical gift of a decedent's body or body part for purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed as follows:

(a) An agent of the decedent at the time of death who could have made an anatomical gift under section 10104(b) immediately before the decedent's death.

(b) The spouse of the decedent.

(c) Adult children of the decedent.

(d) Parents of the decedent.

(e) Adult siblings of the decedent.

(f) Adult grandchildren of the decedent.

(g) Grandparents of the decedent.

(h) An adult who exhibited special care and concern for the decedent.

(i) The persons who were acting as the guardians of the person of the decedent at the time of death.

(j) The persons assigned by the state of Michigan to authorize medical care for the decedent at the time of death, including public ward custodians, correctional or mental health facility personnel, or foster parents.

(k) Any other person that has the authority to dispose of the decedent's body, including unidentified bodies, under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206.

(2) If there is more than 1 member of a class listed in subsection (1)(a), (c), (d), (e), (f), (g), or (i) entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under section 10111 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(3) A person shall not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (1) is reasonably available to make or to object to the making of an anatomical gift.

333.10110 Document of gift; amendment or revocation of gift made under MCL 333.10109; revocation effective before incision made or invasive procedures begun.

Sec. 10110. (1) A person authorized to make an anatomical gift under section 10109 may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(2) Subject to subsection (3), an anatomical gift by a person authorized under section 10109 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than 1 member of the prior class is reasonably available, the gift made by a person authorized under section 10109 may be amended or revoked as follows:

(a) Amended only if a majority of the reasonably available members agree to the amending of the gift.

(b) Revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

(3) A revocation under subsection (2) is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

333.10111 Persons named in document of gift; inability to transplant gift to named individual; person not named in gift document; rules; more than 1 purpose or body part set forth in document of gift; use of gift if general intent specified by certain words; organ procurement organization as custodian of organ; disposal of body part; ineffective gift; allocation of organs for transplantation or therapy.

Sec. 10111. (1) An anatomical gift may be made to any of the following persons named in the document of gift:

(a) A hospital; accredited medical school, dental school, college, or university; organ procurement organization; or other appropriate person, for research or education.

(b) Subject to subsection (2), an individual designated by the person making the anatomical gift if the individual is the recipient of the body part.

(c) An eye bank or tissue bank.

(2) If an anatomical gift to an individual under subsection (1)(b) cannot be transplanted into the individual, the body part passes pursuant to subsection (7) in the absence of an express, contrary indication by the person making the anatomical gift.

(3) If an anatomical gift of 1 or more specific body parts or of all body parts is made in a document of gift that does not name a person described in subsection (1) but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(a) If the body part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

(b) If the body part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

(c) If the body part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(d) If the body part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

(4) For the purpose of subsection (3) and as otherwise specified in this section, if there is more than 1 purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift shall be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(5) If an anatomical gift of 1 or more specific body parts is made in a document of gift that does not name a person described in subsection (1) and does not identify the purpose of the gift, the gift may be used for transplantation, therapy, research, or education pursuant to subsections (4) and (7).

(6) If a document of gift specifies only a general intent to make an anatomical gift by words such as “donor”, “organ donor”, or “body donor” or by a symbol or statement of similar import, the gift may be used for transplantation, therapy, research, or education pursuant to subsections (4) and (7).

(7) For purposes of subsections (2), (5), and (6), the following rules apply:

(a) If the body part is an eye, the gift passes to the appropriate eye bank.

(b) If the body part is tissue, the gift passes to the appropriate tissue bank.

(c) If the body part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(8) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subsection (1)(b), passes to the organ procurement organization as custodian of the organ.

(9) If an anatomical gift does not pass pursuant to subsections (1) through (8) or the decedent's body or body part is not used for transplantation, therapy, research, or education, custody of the body or body part passes to the person under obligation to dispose of the body or body part.

(10) A person shall not accept an anatomical gift if the person knows that the gift was not effectively made under section 10105 or 10110 or if the person knows that the decedent made a refusal under section 10107 that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is considered to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(11) Except as otherwise provided in subsection (1)(b), nothing in this part affects the allocation of organs for transplantation or therapy.

333.10112 Search for document of gift or other information; persons required to make search; document to be sent to hospital for documentation; failure to discharge duties; administrative sanctions.

Sec. 10112. (1) As soon as practical after any necessary medical intervention or treatment, each of the following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

(a) A law enforcement officer, firefighter, paramedic, other emergency rescuer finding the individual, or medical examiner or his or her designee.

(b) If no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.

(2) If a document of gift or a refusal to make an anatomical gift is located by the search required by subsection (1)(a) and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall immediately send the document of gift or refusal to the hospital for documentation.

(3) A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

333.10113 Document of gift; delivery; examination and copying.

Sec. 10113. (1) A document of gift need not be delivered during the donor's lifetime to be effective.

(2) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the decedent shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the decedent or by a person to which the gift could pass under section 10111.

333.10114 Referral of individual to procurement organization; search of records of secretary of state and donor registry; access to records; examination to ensure medical suitability; search for parents of minor donor; rights of person to which body part passes; participation of physician.

Sec. 10114. (1) When a hospital refers an individual at or near death to a procurement organization, the procurement organization shall make a reasonable search of the records of the secretary of state and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(2) A procurement organization shall be allowed reasonable access to information in the records of the secretary of state to ascertain whether an individual at or near death is a donor.

(3) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a body part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor, regardless of a prior decision to withhold or withdraw care as described in section 10121. During the examination period, measures necessary to ensure the medical suitability of the body part shall not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(4) Unless prohibited by law other than this part, at any time after a donor's death, the person to which a body part passes under section 10111 may conduct any reasonable

examination necessary to ensure the medical suitability of the body or body part for its intended purpose.

(5) Unless prohibited by law other than this part, an examination under subsection (3) or (4) may include an examination of all medical and dental records or other sources of medical information pertaining to the donor or prospective donor, including those held by a medical examiner's office, correctional facility, physician's office, or other medical entity.

(6) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows that the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(7) Upon referral by a hospital under subsection (1), a procurement organization shall make a reasonable search for any person listed in section 10109 that has priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(8) Subject to section 10111(9), the rights of the person to which a body part passes under section 10111 are superior to the rights of all others with respect to the body part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this part, a person that accepts an anatomical gift of an entire body may allow embalming, burial, or cremation, and use of remains in a funeral service. If the gift is of a body part, the person to which the body part passes under section 10111, upon the death of the donor and before embalming, burial, or cremation, shall cause the body part to be removed without unnecessary mutilation.

(9) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a body part from the decedent.

(10) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

333.10115 Hospital agreements or affiliations with procurement organizations.

Sec. 10115. Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

333.10116 Purchase or sale of body part for transplantation or therapy; violation as felony; penalty; exception.

Sec. 10116. (1) Except as otherwise provided in subsection (2), a person that for valuable consideration knowingly purchases or sells a body part for transplantation or therapy if removal of the body part from an individual is intended to occur after the individual's death is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$50,000.00, or both.

(2) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a body part.

333.10117 Intentionally falsifying, forging, concealing, defacing, or obliterating document of gift; violation as felony; penalty.

Sec. 10117. A person that, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$50,000.00, or both.

333.10118 Good faith acts.

Sec. 10118. (1) A person that acts in good faith in accord with the terms of this part or with the anatomical gift laws of another state or a foreign country is not liable for damages in any civil or administrative action or subject to prosecution in any criminal proceeding.

(2) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(3) In determining whether an anatomical gift has been made, amended, or revoked under this part, a person may rely upon representations of an individual listed in section 10109(1)(b), (c), (d), (e), (f), (g), or (h) relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

333.10119 Validity of document of gift; execution; presumption.

Sec. 10119. (1) A document of gift is valid if executed pursuant to any of the following:

(a) This part.

(b) The laws of the state or country where it was executed.

(c) The laws of the state or country where the person making the anatomical gift was domiciled, had a place of residence, or was a national at the time the document of gift was executed.

(2) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

(3) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

333.10120 Donor registry; establishment by organ procurement organization; duties of secretary of state; requirements to be met by donor registry; disclosure of identifiable information; donor registry not established by or under contract with state.

Sec. 10120. (1) The organ procurement organization may establish or contract for the establishment of a donor registry.

(2) As provided for in section 2 of 1972 PA 222, MCL 28.292, and section 310 of the Michigan vehicle code, 1949 PA 300, MCL 257.310, the secretary of state shall inquire of each applicant, licensee, or state identification card holder, in person or by mail, whether the individual agrees to participate in a donor registry as described in this part. The secretary of state shall maintain a record of an individual who indicates a willingness to have his or her name placed on the donor registry. The secretary of state shall maintain the donor registry in a manner that provides electronic access, including, but not limited to, the transfer of data, to the organ procurement organization or its successor organization, tissue banks, and eye banks. The secretary of state shall administer the donor registry in a manner that complies with subsections (3) and (4).

(3) A donor registry under this section shall meet all of the following requirements:

(a) Be accessible to a procurement organization to allow it to obtain the name, address, and date of birth of persons on the donor registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made an anatomical gift.

(b) Provide electronic access, including, but not limited to, the transfer of data for purposes of subdivision (a) on a 7-day-a-week, 24-hour-a-day basis at no cost to the procurement organization.

(4) Personally identifiable information on a donor registry about a donor or prospective donor shall not be used or disclosed without the express consent of the donor, prospective donor, or person that made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift.

(5) This section does not prohibit any person from creating or maintaining a donor registry that is not established by or under contract with this state. A donor registry that is not established by or under contract with this state shall do all of the following:

(a) Comply with subsections (3) and (4).

(b) Within 30 days of its establishment, notify the organ procurement organization of its establishment.

(c) Within 30 days of its establishment, give the organ procurement organization full access to its records of anatomical gifts and amendments to or revocations of anatomical gifts.

333.10121 Definitions; medical suitability of body part; conflict with declaration or advance health care directive or enrollment in hospice program; resolution.

Sec. 10121. (1) As used in this section:

(a) “Advance health care directive” means a power of attorney for health care or a record signed or authorized by a prospective donor containing the prospective donor’s direction concerning a health care decision for the prospective donor. Advance health care directive includes a durable power of attorney and designation of patient advocate under part 5 of article V of the estates and protected individuals code, 1998 PA 386, MCL 700.5501 to 700.5520.

(b) “Declaration” means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.

(c) “Health care decision” means any decision regarding the health care of the prospective donor.

(2) If a prospective donor has a declaration or advance health care directive or is enrolled in a hospice program, and the terms of the declaration, directive, or enrollment and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a body part for transplantation or therapy, the prospective donor’s attending physician, the prospective donor, and, if appropriate, the hospice medical director shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor’s declaration, directive, or hospice enrollment, or, if none or the agent is not reasonably available, another person authorized by law other than this part to make health care decisions on behalf of the prospective donor, shall act for the donor to resolve the conflict. The authorized parties shall attempt to resolve the conflict as expeditiously as possible. Authorized parties may obtain information relevant to the resolution of the conflict from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under section 10109. Before resolution of the conflict, measures necessary to ensure the medical suitability of the body part are permissible if they are not contraindicated by appropriate end-of-life care as determined by the stated wishes of the prospective donor; by a written advance health care directive, or, if appropriate, by the hospice medical director.

333.10122 Uniformity of law among states.

Sec. 10122. In applying and construing this part, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

333.10123 Electronic signatures or electronic delivery of notices.

Sec. 10123. This part modifies, limits, and supersedes the electronic signatures in global and national commerce act, 15 USC 7001 to 7031, but does not modify, limit, or supersede 15 USC 7001(a), or authorize electronic delivery of any of the notices described in 15 USC 7003(b).

333.10204 Prohibited conduct; felony; permissible practices; definitions; rules.

Sec. 10204. (1) Except as otherwise provided in subsection (2), a person shall not knowingly acquire, receive, or otherwise transfer a human organ or part of a human organ for valuable consideration for any purpose, including but not limited to transplantation, implantation, infusion, injection, or other medical or scientific purpose. A person who violates this subsection is guilty of a felony.

(2) Subsection (1) does not prohibit 1 or more of the following practices:

(a) The removal and use of a human cornea pursuant to section 10202, or the removal and use of a human pituitary gland pursuant to section 2855.

(b) An anatomical gift pursuant to part 101, or the acquisition or distribution of bodies or parts by the department pursuant to sections 2652 to 2663.

(c) Financial assistance payments provided under a plan of insurance or other health care coverage.

(3) Except as otherwise provided in part 101, only an individual who is 1 of the following may surgically remove a human organ for transplantation, implantation, infusion, injection, or any other medical or scientific purpose:

(a) A physician licensed under article 15.

(b) An individual acting under the delegatory authority and supervision of a physician pursuant to section 16215(2), but not including an individual whose license has been suspended under article 15. This subdivision includes, but is not limited to, an individual described in section 16215(3).

(c) An individual residing in another state and authorized to practice allopathic medicine or osteopathic medicine and surgery in that state who is called into this state by a physician licensed under article 15 and is authorized by a hospital licensed under article 17 to surgically remove 1 or more of the following organs for transport back to the other state:

(i) A heart.

(ii) A liver.

(iii) A lung.

(iv) A pancreas.

(v) A kidney.

(vi) All or part of an intestine.

(vii) Any other human organ specified by rule promulgated by the department under subsection (6).

(4) An individual who violates subsection (3) is guilty of a felony.

(5) As used in this section:

(a) “Human organ” means the human kidney, liver, heart, lung, pancreas, intestine, bone marrow, cornea, eye, bone, skin, cartilage, dura mater, ligaments, tendons, fascia, pituitary gland, and middle ear structures and any other human organ specified by rule promulgated by the department under subsection (6). Human organ does not include whole blood, blood plasma, blood products, blood derivatives, other self-replicating body fluids, or human hair.

(b) “Valuable consideration” does not include the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ or the medical expenses and expenses of travel, housing, and lost wages incurred by the donor of a human organ in connection with the donation of the human organ.

(6) The department may promulgate rules to specify human organs in addition to the human organs listed in subsection (3)(c) or (5)(a).

333.20165 Denying, limiting, suspending, or revoking license or certification; notice of intent; imposition of administrative fine.

Sec. 20165. (1) Except as otherwise provided in this section, after notice of intent to an applicant or licensee to deny, limit, suspend, or revoke the applicant’s or licensee’s license or certification and an opportunity for a hearing, the department may deny, limit, suspend, or revoke the license or certification or impose an administrative fine on a licensee if 1 or more of the following exist:

(a) Fraud or deceit in obtaining or attempting to obtain a license or certification or in the operation of the licensed health facility or agency.

(b) A violation of this article or a rule promulgated under this article.

(c) False or misleading advertising.

(d) Negligence or failure to exercise due care, including negligent supervision of employees and subordinates.

(e) Permitting a license or certificate to be used by an unauthorized health facility or agency.

(f) Evidence of abuse regarding a patient’s health, welfare, or safety or the denial of a patient’s rights.

(g) Failure to comply with section 10115.

(h) Failure to comply with part 222 or a term, condition, or stipulation of a certificate of need issued under part 222, or both.

(i) A violation of section 20197(1).

(2) The department may deny an application for a license or certification based on a finding of a condition or practice that would constitute a violation of this article if the applicant were a licensee.

(3) Denial, suspension, or revocation of an individual emergency medical services personnel license under part 209 is governed by section 20958.

(4) If the department determines under subsection (1) that a health facility or agency has violated section 20197(1), the department shall impose an administrative fine of \$5,000,000.00 on the health facility or agency.

Effective date.

Enacting section 1. This amendatory act takes effect May 1, 2008.

Conditional effective date.

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

- (a) House Bill No. 4941.
- (b) House Bill No. 4945.
- (c) Senate Bill No. 712.
- (d) Senate Bill No. 713.
- (e) Senate Bill No. 714.

Repeal of MCL 333.10102a.

Enacting section 3. Section 10102a of the public health code, 1978 PA 368, MCL 333.10102a, is repealed.

This act is ordered to take immediate effect.

Approved March 13, 2008.

Filed with Secretary of State March 17, 2008.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:

House Bill No. 4941 was filed with the Secretary of State March 17, 2008, and became 2008 PA 40, Imd. Eff. Mar. 17, 2008.
 House Bill No. 4945 was filed with the Secretary of State March 17, 2008, and became 2008 PA 41, Imd. Eff. Mar. 17, 2008.
 Senate Bill No. 712 was filed with the Secretary of State March 17, 2008, and became 2008 PA 36, Imd. Eff. Mar. 17, 2008.
 Senate Bill No. 713 was filed with the Secretary of State March 17, 2008, and became 2008 PA 37, Imd. Eff. Mar. 17, 2008.
 Senate Bill No. 714 was filed with the Secretary of State March 17, 2008, and became 2008 PA 38, Imd. Eff. Mar. 17, 2008.

[No. 40]**(HB 4941)**

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 2 (MCL 28.292), as amended by 2005 PA 143.

The People of the State of Michigan enact:

28.292 Official state personal identification card; contents; duties of secretary of state; methods; form; emergency medical information card; fingerprint or finger image; retention and use of person's digital photographic image; limitation; evidence of blindness; placement on donor registry; information; issuance; manufacture; fees; expiration; renewal; waiver of fee; correction for change of name or address; application for renewal; other information; emancipated minor; participation in anatomical gift donor registry; validity.

Sec. 2. (1) The official state personal identification card shall contain the following:

- (a) An identification number permanently assigned to the person.
- (b) The full legal name, date of birth, sex, residence address, height, weight, eye color, digital photographic image, signature of the applicant, and expiration date of the official state personal identification card.

(c) An indication that the identification card contains 1 or more of the following:

- (i) The blood type of the person.
- (ii) Immunization data of the person.
- (iii) Medication data of the person.
- (iv) A statement that the person is deaf.

(d) In the case of a holder of an official state personal identification card who has indicated his or her wish to participate in the anatomical gift donor registry under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123, a heart insignia on the front of the official state personal identification card.

(e) Physical security features designed to prevent tampering, counterfeiting, or duplication of the official state personal identification card for fraudulent purposes.

(2) In conjunction with the application for an official state personal identification card, the secretary of state shall do all of the following:

(a) Provide the applicant with all of the following:

(i) Information explaining the applicant's right to make an anatomical gift in the event of death under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123, and in accordance with this section.

(ii) Information describing the donor registry program maintained by Michigan's federally designated organ procurement organization or its successor organization under section 10120 of the public health code, 1978 PA 368, MCL 333.10120. The information required under this subparagraph includes the address and telephone number of Michigan's federally designated organ procurement organization or its successor organization as defined in section 10120 of the public health code, 1978 PA 368, MCL 333.10120.

(iii) Information giving the applicant the opportunity to have his or her name placed on the registry described in subparagraph (i).

(b) Provide the applicant with the opportunity to specify on his or her official state personal identification card that he or she is willing to make an anatomical gift in the event of death pursuant to part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123, and in accordance with this section.

(c) Inform the applicant that, if he or she indicates to the secretary of state under this section a willingness to have his or her name placed on the donor registry described in subdivision (a)(ii), the secretary of state will mark the applicant's record for the donor registry.

(3) The secretary of state may fulfill the requirements of subsection (2) by 1 or more of the following methods:

(a) Providing printed material enclosed with a mailed notice for the issuance or renewal of an official state personal identification card.

(b) Providing printed material to an applicant who personally appears at a secretary of state branch office.

(c) Through electronic information transmittals for applications processed by electronic means.

(4) The secretary of state shall prescribe the form of the identification card. The secretary of state shall designate on the identification card a space where the applicant may place a sticker or decal of the uniform size as the secretary may specify to indicate that the cardholder carries a separate emergency medical information card. The sticker or decal may be provided by any person, hospital, school, medical group, or association interested in assisting

in implementing the emergency medical information card, but shall meet the specifications of the secretary of state. The sticker or decal also may be used to indicate that the cardholder has designated 1 or more patient advocates in accordance with section 5506 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506. The emergency medical information card, carried separately by the cardholder, may contain the information described in subsection (2)(c), information concerning the cardholder's patient advocate designation, other emergency medical information, or an indication as to where the cardholder has stored or registered emergency medical information. An original identification card or the renewal of an existing identification card issued to a person less than 21 years of age shall be portrait or vertical in form and an identification card issued to a person 21 years of age or over shall be landscape or horizontal in form. Except as otherwise required in this act, other information required on the identification card under this act may appear on the identification card in a form prescribed by the secretary of state.

(5) The identification card shall not contain a fingerprint or finger image of the applicant.

(6) Except as provided in this subsection, the secretary of state shall retain and use a person's digital photographic image and signature described in subsection (1)(b) only for programs administered by the secretary of state as specifically authorized by law. A person's digital photographic image or signature shall only be used as follows:

(a) By a federal, state, or local governmental agency for a law enforcement purpose authorized by law.

(b) By the secretary of state for a use specifically authorized by law.

(c) The secretary of state shall forward to the department of state police the images of persons required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, upon the department of state police providing the secretary of state an updated list of those persons.

(d) As necessary to comply with a law of this state or the United States.

(7) If a person presents evidence of statutory blindness as provided in 1978 PA 260, MCL 393.351 to 393.368, and is issued or is the holder of an official state personal identification card, the secretary of state shall mark the person's identification card in a manner that clearly indicates that the cardholder is legally blind.

(8) The secretary of state shall maintain a record of an individual who indicates a willingness to have his or her name placed on the donor registry described in subsection (2)(a)(ii). Information about a person's indication of a willingness to have his or her name placed on the donor registry that is obtained by the secretary of state and forwarded under this section is exempt from disclosure under section 13(1)(d) of the freedom of information act, 1976 PA 442, MCL 15.243. As required in section 10120 of the public health code, 1978 PA 368, MCL 333.10120, the secretary of state shall establish and maintain the donor registry in a manner that complies with that section and that provides electronic access, including, but not limited to, the transfer of data to this state's federally designated organ procurement organization or its successor organization, tissue banks, and eye banks.

(9) An official state personal identification card may contain an identifier for voter registration purposes.

(10) An official state personal identification card shall contain information appearing in electronic or machine readable codes needed to conduct a transaction with the secretary of state. The information shall be limited to the person's identification card number, birth date, expiration date, full legal name, date of transaction, gender, address, state of issuance,

and other information necessary for use with electronic devices, machine readers, or automatic teller machines and shall not contain the person's driving record or other personal identifier. The identification card shall identify the encoded information.

(11) An official state personal identification card shall be issued only upon authorization of the secretary of state, and shall be manufactured in a manner to prohibit as nearly as possible the ability to reproduce, alter, counterfeit, forge, or duplicate the identification card without ready detection.

(12) Except as otherwise provided in this act, an applicant shall pay a fee of \$10.00 to the secretary of state for each original or renewal identification card issued. The department of treasury shall deposit the fees received and collected under this section in the state treasury to the credit of the general fund. The legislature shall appropriate the fees credited to the general fund under this act to the secretary of state for the administration of this act. Appropriations from the Michigan transportation fund created under section 10 of 1951 PA 51, MCL 247.660, shall not be used to compensate the secretary of state for costs incurred and services performed under this section.

(13) An original or renewal official state personal identification card expires on the birthday of the person to whom it is issued in the fourth year following the date of issuance or on the date the person is no longer considered to be legally present in the United States under section 1, whichever is earlier. The secretary of state shall not issue an official state personal identification card under this act for a period greater than 4 years. Except as provided in this subsection, a person may apply for a renewal of an official state personal identification card by mail or by other methods prescribed by the secretary of state. The secretary of state shall require renewal in person by a person required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card.

(14) The secretary of state shall waive the fee under this section if the applicant is any of the following:

(a) A person 65 years of age or older.

(b) A person who has had his or her operator's or chauffeur's license suspended, revoked, or denied under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, because of a mental or physical infirmity or disability.

(c) A person who presents evidence of statutory blindness as provided in 1978 PA 260, MCL 393.351 to 393.368.

(d) A person who presents other good cause for a fee waiver.

(e) A person who wishes to add or remove a heart insignia described in subsection (1)(d).

(15) A person who has been issued an official state personal identification card shall apply for a renewal official state personal identification card if the person changes his or her name.

(16) A person who has been issued an official state personal identification card shall apply for a corrected identification card if he or she changes his or her residence address. The secretary of state may correct the address on an identification card by a method prescribed by the secretary of state. A fee shall not be charged for a change of residence address.

(17) Except as otherwise provided in subsections (15) and (16), a person who has been issued an official state personal identification card may apply for a renewal official state personal identification card for 1 or more of the following reasons:

(a) The person wants to change any information on the identification card.

(b) An identification card issued under this act is lost, destroyed, or mutilated, or becomes illegible.

(18) A person may indicate on an official state personal identification card in a place designated by the secretary of state his or her blood type, emergency contact information, immunization data, medication data, or a statement that the person is deaf.

(19) If an applicant provides proof to the secretary of state that he or she is a minor who has been emancipated under 1968 PA 293, MCL 722.1 to 722.6, the official state personal identification card shall bear the designation of the individual's emancipated status in a manner prescribed by the secretary of state.

(20) The secretary of state shall inquire of each person who applies for or who holds an official state personal identification card, in person or by mail, whether he or she agrees to participate in the anatomical gift donor registry under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123. A person who has agreed to participate in the donor registry shall not be considered to have revoked that agreement solely because the person's official state personal identification card has expired. Enrollment in the donor registry constitutes a legal agreement that remains binding and in effect after the donor's death regardless of the expressed desires of the deceased donor's next of kin who may oppose the donor's anatomical gift.

(21) A valid official state personal identification card presented by the person to whom the card is issued shall be considered the same as a valid state of Michigan driver license when identification is requested except as otherwise specifically provided by law.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4940 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved March 13, 2008.

Filed with Secretary of State March 17, 2008.

Compiler's note: House Bill No. 4940, referred to in enacting section 1, was filed with the Secretary of State March 17, 2008, and became 2008 PA 39, Eff. May 1, 2008.

[No. 41]

(HB 4945)

AN ACT to amend 1998 PA 386, entitled "An act to codify, revise, consolidate, and classify aspects of the law relating to wills and intestacy, relating to the administration and distribution of estates of certain individuals, relating to trusts, and relating to the affairs of certain individuals under legal incapacity; to provide for the powers and procedures of the court that has jurisdiction over these matters; to provide for the validity and effect of certain transfers, contracts, and deposits that relate to death; to provide procedures to facilitate enforcement of certain trusts; and to repeal acts and parts of acts," by amending sections 3206, 5506, 5507, 5508, and 5510 (MCL 700.3206, 700.5506, 700.5507, 700.5508, and 700.5510), section 3206 as added by 2006 PA 299 and sections 5506, 5507, 5508, and 5510 as amended by 2004 PA 532.

The People of the State of Michigan enact:

700.3206 Right and power to make decisions about funeral arrangements and handling, disposition, or disinterment of decedent's body; presumption; priority; shared rights and powers; personal representative or nominated personal representative; guardian; special personal representative; additional persons; reasonable attempt to locate person; effect of section on anatomical gift; "nominated personal representative" defined.

Sec. 3206. (1) Subject to 1953 PA 181, MCL 52.201 to 52.216, and to part 28 and article 10 of the public health code, 1978 PA 368, MCL 333.2801 to 333.2899 and 333.10101 to 333.11101, a person with priority under subsections (2) to (4) or acting under subsection (5), (6), (7), or (8) is presumed to have the right and power to make decisions about funeral arrangements and the handling, disposition, or disinterment of a decedent's body, including, but not limited to, decisions about cremation, and the right to possess cremated remains of the decedent. The handling, disposition, or disinterment of a body shall be under the supervision of a person licensed to practice mortuary science in this state.

(2) The surviving spouse or, if there is no surviving spouse, the individual or individuals 18 years of age or older, in the highest order of priority under section 2103, and related to the decedent in the closest degree of consanguinity, have the rights and powers under subsection (1).

(3) If the surviving spouse or the individual or individuals with the highest priority as determined under subsection (2) do not exercise their rights or powers under subsection (1) or cannot be located after a good-faith effort to contact them, the rights and powers under subsection (1) may be exercised by the individual or individuals in the same order of priority under section 2103 who are related to the decedent in the next closest degree of consanguinity. If the individual or each of the individuals in an order of priority as determined under this subsection similarly does not exercise his or her rights or powers or cannot be located, the rights or powers under subsection (1) pass to the next order of priority, with the order of priority being determined by first taking the individuals in the highest order of priority under section 2103 and then taking the individuals related to the decedent in the closest or, as applicable, next closest degree of consanguinity in that order of priority.

(4) If 2 or more individuals share the rights and powers described in subsection (1) as determined under subsection (2) or (3), the rights and powers shall be exercised as decided by a majority of the individuals. If a majority cannot agree, any of the individuals may file a petition under section 3207.

(5) If no individual described in subsections (2) and (3) exists, exercises the rights or powers under subsection (1), or can be located after a sufficient attempt as described in subsection (9), and if subsection (6) does not apply, then the personal representative or nominated personal representative may exercise the rights and powers under subsection (1), either before or after his or her appointment.

(6) If no individual described in subsections (2) and (3) exists, exercises the rights or powers under subsection (1), or can be located after a sufficient attempt as described in subsection (9), and if the decedent was under a guardianship at the time of death, the guardian may exercise the rights and powers under subsection (1) and may make a claim for the reimbursement of burial expenses as provided in section 5216 or 5315, as applicable.

(7) If no individual described in subsections (2) and (3) exists, exercises the rights or powers under subsection (1), or can be located after a sufficient attempt as described in subsection (9), if the decedent died intestate, and if subsection (6) does not apply, a special personal representative appointed under section 3614(c) may exercise the rights and powers under subsection (1).

(8) If there is no person under subsections (2) to (7) to exercise the rights and powers under subsection (1), 1 of the following, as applicable, shall exercise the rights and powers under subsection (1):

(a) Unless subdivision (b) applies, the county public administrator, if willing, or the medical examiner for the county where the decedent was domiciled at the time of his or her death.

(b) If the decedent was incarcerated in a state correctional facility at the time of his or her death, the director of the department of corrections or the designee of the director.

(9) An attempt to locate a person described in subsection (2) or (3) is sufficient if a reasonable attempt is made in good faith by a family member, personal representative, or nominated personal representative of the decedent to contact the person at his or her last known address, telephone number, or electronic mail address.

(10) This section does not void or otherwise affect an anatomical gift made under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123.

(11) As used in this section, “nominated personal representative” means a person nominated to act as personal representative in a will that the nominated person reasonably believes to be the valid will of the decedent.

700.5506 Designation of patient advocate; “community mental health services program or hospital” defined.

Sec. 5506. (1) An individual 18 years of age or older who is of sound mind at the time a patient advocate designation is made may designate in writing another individual who is 18 years of age or older to exercise powers concerning care, custody, and medical or mental health treatment decisions for the individual making the patient advocate designation. An individual making a patient advocate designation under this subsection may include in the patient advocate designation the authority for the designated individual to make an anatomical gift of all or part of the individual’s body in accordance with this act and part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123. The authority regarding an anatomical gift under this subsection may include the authority to resolve a conflict between the terms of the advance health care directive and the administration of means necessary to ensure the medical suitability of the anatomical gift.

(2) For purposes of this section and sections 5507 to 5515, an individual who is named in a patient advocate designation to exercise powers concerning care, custody, and medical or mental health treatment decisions is known as a patient advocate and an individual who makes a patient advocate designation is known as a patient.

(3) A patient advocate designation under this section must be in writing, signed, witnessed as provided in subsection (4), dated, executed voluntarily, and, before its implementation, made part of the patient’s medical record with, as applicable, the patient’s attending physician, the mental health professional providing treatment to the patient, the facility where the patient is located, or the community mental health services program or hospital that is providing mental health services to the patient. The patient advocate designation must include a statement that the authority conferred under this section is exercisable only when the patient is unable to participate in medical or mental health treatment decisions, as applicable, and, in the case of the authority to make an anatomical gift as described in subsection (1), a statement that the authority remains exercisable after the patient’s death.

(4) A patient advocate designation under this section must be executed in the presence of and signed by 2 witnesses. A witness under this section shall not be the patient’s spouse, parent, child, grandchild, sibling, presumptive heir, known devisee at the time of the witnessing, physician, or patient advocate or an employee of a life or health insurance provider

for the patient, of a health facility that is treating the patient, or of a home for the aged as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106, where the patient resides, or of a community mental health services program or hospital that is providing mental health services to the patient. A witness shall not sign the patient advocate designation unless the patient appears to be of sound mind and under no duress, fraud, or undue influence.

(5) As used in this section, “community mental health services program or hospital” means a community mental health services program as that term is defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a, or a hospital as that term is defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.

700.5507 Patient advocate designation; statement; acceptance.

Sec. 5507. (1) A patient advocate designation may include a statement of the patient’s desires on care, custody, and medical treatment or mental health treatment, or both. A patient advocate designation may also include a statement of the patient’s desires on the making of an anatomical gift of all or part of the patient’s body under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123. The statement regarding an anatomical gift under this subsection may include a statement of the patient’s desires regarding the resolution of a conflict between the terms of the advance health care directive and the administration of means necessary to ensure the medical suitability of the anatomical gift. The patient may authorize the patient advocate to exercise 1 or more powers concerning the patient’s care, custody, medical treatment, mental health treatment, the making of an anatomical gift, or the resolution of a conflict between the terms of the advance health care directive and the administration of means necessary to ensure the medical suitability of the anatomical gift that the patient could have exercised on his or her own behalf.

(2) A patient may designate in the patient advocate designation a successor individual as a patient advocate who may exercise the powers described in subsection (1) for the patient if the first individual named as patient advocate does not accept, is incapacitated, resigns, or is removed.

(3) Before a patient advocate designation is implemented, a copy of the patient advocate designation must be given to the proposed patient advocate and must be given to a successor patient advocate before the successor acts as patient advocate. Before acting as a patient advocate, the proposed patient advocate must sign an acceptance of the patient advocate designation.

(4) The acceptance of a designation as a patient advocate must include substantially all of the following statements:

1. This patient advocate designation is not effective unless the patient is unable to participate in decisions regarding the patient’s medical or mental health, as applicable. If this patient advocate designation includes the authority to make an anatomical gift as described in section 5506, the authority remains exercisable after the patient’s death.

2. A patient advocate shall not exercise powers concerning the patient’s care, custody, and medical or mental health treatment that the patient, if the patient were able to participate in the decision, could not have exercised on his or her own behalf.

3. This patient advocate designation cannot be used to make a medical treatment decision to withhold or withdraw treatment from a patient who is pregnant that would result in the pregnant patient’s death.

4. A patient advocate may make a decision to withhold or withdraw treatment that would allow a patient to die only if the patient has expressed in a clear and convincing manner that the patient advocate is authorized to make such a decision, and that the patient acknowledges that such a decision could or would allow the patient’s death.

5. A patient advocate shall not receive compensation for the performance of his or her authority, rights, and responsibilities, but a patient advocate may be reimbursed for actual and necessary expenses incurred in the performance of his or her authority, rights, and responsibilities.

6. A patient advocate shall act in accordance with the standards of care applicable to fiduciaries when acting for the patient and shall act consistent with the patient's best interests. The known desires of the patient expressed or evidenced while the patient is able to participate in medical or mental health treatment decisions are presumed to be in the patient's best interests.

7. A patient may revoke his or her patient advocate designation at any time and in any manner sufficient to communicate an intent to revoke.

8. A patient may waive his or her right to revoke the patient advocate designation as to the power to make mental health treatment decisions, and if such a waiver is made, his or her ability to revoke as to certain treatment will be delayed for 30 days after the patient communicates his or her intent to revoke.

9. A patient advocate may revoke his or her acceptance of the patient advocate designation at any time and in any manner sufficient to communicate an intent to revoke.

10. A patient admitted to a health facility or agency has the rights enumerated in section 20201 of the public health code, 1978 PA 368, MCL 333.20201.

700.5508 Determination of advocate's authority to act.

Sec. 5508. (1) Except as provided under subsection (3), the authority under a patient advocate designation is exercisable by a patient advocate only when the patient is unable to participate in medical treatment or, as applicable, mental health treatment decisions. The patient's attending physician and another physician or licensed psychologist shall determine upon examination of the patient whether the patient is unable to participate in medical treatment decisions, shall put the determination in writing, shall make the determination part of the patient's medical record, and shall review the determination not less than annually. If the patient's religious beliefs prohibit an examination and this is stated in the designation, the patient must indicate in the designation how the determination under this subsection shall be made. The determination of the patient's ability to make mental health treatment decisions shall be made under section 5515.

(2) If a dispute arises as to whether the patient is unable to participate in medical or mental health treatment decisions, a petition may be filed with the court in the county in which the patient resides or is located requesting the court's determination as to whether the patient is unable to participate in decisions regarding medical treatment or mental health treatment, as applicable. If a petition is filed under this subsection, the court shall appoint a guardian ad litem to represent the patient for the purposes of this subsection. The court shall conduct a hearing on a petition under this subsection as soon as possible and not later than 7 days after the court receives the petition. As soon as possible and not later than 7 days after the hearing, the court shall determine whether or not the patient is able to participate in decisions regarding medical treatment or mental health treatment, as applicable. If the court determines that the patient is unable to participate in the decisions, the patient advocate's authority, rights, and responsibilities are effective. If the court determines that the patient is able to participate in the decisions, the patient advocate's authority, rights, and responsibilities are not effective.

(3) In the case of a patient advocate designation that authorizes a patient advocate to make an anatomical gift of all or part of the patient's body, the patient advocate shall act

on the patient's behalf in accordance with part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123, and may do so only after the patient has been declared unable to participate in medical treatment decisions as provided in subsection (1) or declared dead by a licensed physician. The patient advocate's authority to make an anatomical gift remains exercisable after the patient's death.

700.5510 Revocation of patient advocate designation.

Sec. 5510. (1) A patient advocate designation is revoked by 1 or more of the following:

(a) The patient's death, except that part of the patient advocate designation, if any, that authorizes the patient advocate to make an anatomical gift of all or part of the deceased patient's body in accordance with this act and part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123.

(b) An order of removal by the probate court under section 5511(5).

(c) The patient advocate's resignation or removal by the court, unless a successor patient advocate has been designated.

(d) The patient's revocation of the patient advocate designation. Subject to section 5515, even if the patient is unable to participate in medical treatment decisions, a patient may revoke a patient advocate designation at any time and in any manner by which he or she is able to communicate an intent to revoke the patient advocate designation. If there is a dispute as to the intent of the patient to revoke the patient advocate designation, the court may make a determination on the patient's intent to revoke the patient advocate designation. If the revocation is not in writing, an individual who witnesses a revocation of a patient advocate designation shall describe in writing the circumstances of the revocation, must sign the writing, and shall notify, if possible, the patient advocate of the revocation. If the patient's physician, mental health professional, or health facility has notice of the patient's revocation of a patient advocate designation, the physician, mental health professional, or health facility shall note the revocation in the patient's records and bedside chart and shall notify the patient advocate.

(e) A subsequent patient advocate designation that revokes the prior patient advocate designation either expressly or by inconsistency.

(f) The occurrence of a provision for revocation contained in the patient advocate designation.

(g) If a patient advocate designation is executed during a patient's marriage naming the patient's spouse as the patient advocate, the patient advocate designation is suspended during the pendency of an action for separate maintenance, annulment, or divorce and is revoked upon the entry of a judgment of separate maintenance, annulment, or divorce, unless the patient has named a successor individual to serve as a patient advocate. If a successor patient advocate is named, that individual acts as the patient advocate.

(2) The revocation of a patient advocate designation under subsection (1) does not revoke or terminate the agency as to the patient advocate or other person who acts in good faith under the patient advocate designation and without actual knowledge of the revocation. Unless the action is otherwise invalid or unenforceable, an action taken without knowledge of the revocation binds the patient and his or her heirs, devisees, and personal representatives. A sworn statement executed by the patient advocate stating that, at the time of doing an act in accordance with the patient advocate designation, he or she did not have actual knowledge of the revocation of the patient advocate designation is, in the absence of fraud, conclusive proof that the patient advocate did not have actual knowledge of the revocation at the time of the act.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4940 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved March 13, 2008.

Filed with Secretary of State March 17, 2008.

Compiler's note: House Bill No. 4940, referred to in enacting section 1, was filed with the Secretary of State March 17, 2008, and became 2008 PA 39, Eff. May 1, 2008.

[No. 42]**(HB 5184)**

AN ACT to authorize the state administrative board to accept and convey certain real property in Ingham county; to prescribe certain conditions for the conveyance; and to provide for disposition of the revenue derived from the conveyance.

The People of the State of Michigan enact:

Conveyance of property from Lansing school district to state; consideration; description; conveyance of property from state to Lansing school district; consideration; description; adjustment; provisions; quitclaim deed.

Sec. 1. (1) The state administrative board, on behalf of the state, subject to and contingent upon the conveyance of the property to the Lansing school district as provided in subsection (2), may accept from the Lansing school district, for consideration of \$1.00, certain real property that was originally conveyed to the city of Lansing in the April 16, 1999 quitclaim deed to the city of Lansing recorded in Liber 2753 page 397, Ingham county records, and was later conveyed to the Lansing school district in the December 16, 1999 quitclaim deed from the city of Lansing to the Lansing school district recorded in Liber 2837, page 685, Ingham County records, and is located in Ingham county, Michigan, and more particularly described as:

That part of the Northwest 1/4 of the Northeast 1/4 and that part of the Northeast 1/4 of the Northwest 1/4 of Section 15, Town 4 North, Range 2 West, city of Lansing, Ingham County Michigan, bounded on the North by Orchard Street and on the West by Pennsylvania Avenue; being more particularly described as follows:

Commencing at the North 1/4 Corner of Section 15, Town 4 North, Range 2 West, City of Lansing, Ingham County Michigan; thence S 01 degree 21 minutes 25 seconds W, 40.00 feet along a line to an angle point in the Southerly right-of-way of Saginaw Street (M-43); thence N 88 degrees 33 minutes 00 seconds W, 331.99 feet along said Southerly right-of-way line of Saginaw Street to a point; thence N 88 degrees 29 minutes 30 seconds W, 3.86 feet continuing along said Southerly right-of-way line of Saginaw Street to a point on the Easterly line of the plat of Jones and Porter's addition, as recorded in Liber 2 of Plats, page 20 in the Ingham County Records, said point being 7.00 feet Southerly of the Northeast Corner of the Plats of Jones and Porter's addition; thence S 01 degree 52 minutes 30 seconds W, 395.00 feet along the Easterly line of said plat of Jones and Porter's addition, and the plat of Fairview Subdivision, as recorded in Liber 3 of Plats page 46 of the Ingham County Records, to the

point of beginning of the following described parcel, said point being the Southeast Corner of said Fairview Subdivision; thence S 01 degree 52 minutes 30 seconds W, 432.89 feet along the extension of the Easterly line of said Fairview Subdivision and Jones and Porter's addition to a point; thence N 88 degrees 08 minutes 00 seconds W, 130.41 feet to a point; thence S 01 degree 52 minutes 00 seconds W, 60.00 feet along a line parallel with the Easterly right-of-way line of Pennsylvania Avenue; thence N 88 degrees 05 minutes 06 seconds W, 810.00 feet to a point on the Easterly right-of-way line of said Pennsylvania Avenue, said point being N 01 degree 52 minutes 00 seconds E, 1288.00 feet along the right-of-way line of Pennsylvania Avenue from the Northeasterly intersection of Pennsylvania Avenue and Jerome Street; thence N 01 degree 52 minutes 00 seconds E, 485.60 feet along the Easterly right-of-way line of said Pennsylvania Avenue to the Southwest Corner of said Fairview Subdivision; thence S 88 degrees 32 minutes 10 seconds E, 940.50 feet along the Southerly right-of-way line of Orchard Street to the Southeast Corner of said Fairview Subdivision, and the point of beginning, containing 10.384 acres, more or less.

(2) The state administrative board, on behalf of the state, after receiving the conveyance authorized in subsection (1), may convey to the Lansing School District, for consideration of \$1.00, real property located in Ingham County, Michigan, and more particularly described as:

That part of the Northwest 1/4 of the Northeast 1/4 and that part of the Northeast 1/4 of the Northwest 1/4 of Section 15, Town 4 North, Range 2 West, city of Lansing, Ingham County Michigan, bounded on the North by Orchard Street and on the West by Pennsylvania Avenue; being more particularly described as follows:

Commencing at the North 1/4 Corner of Section 15, Town 4 North, Range 2 West, City of Lansing, Ingham County Michigan; thence S 01 degree 21 minutes 25 seconds W, 40.00 feet along a line to an angle point in the Southerly right-of-way of Saginaw Street (M-43); thence N 88 degrees 33 minutes 00 seconds W, 331.99 feet along said Southerly right-of-way line of Saginaw Street to a point; thence N 88 degrees 29 minutes 30 seconds W, 3.86 feet continuing along said Southerly right-of-way line of Saginaw Street to a point on the Easterly line of the plat of Jones and Porter's addition, as recorded in Liber 2 of Plats, page 20 in the Ingham County Records, said point being 7.00 feet Southerly of the Northeast Corner of the Plats of Jones and Porter's addition; thence S 01 degree 52 minutes 30 seconds W, 395.00 feet along the Easterly line of said plat of Jones and Porter's addition, and the plat of Fairview Subdivision, as recorded in Liber 3 of Plats page 46 of the Ingham County Records, to the point of beginning of the following described parcel, said point being the Southeast Corner of said Fairview Subdivision; thence S 01 degree 52 minutes 30 seconds W, 432.89 feet along the extension of the Easterly line of said Fairview Subdivision and Jones and Porter's addition to a point; thence N 88 degrees 08 minutes 00 seconds W, 130.41 feet to a point; thence S 01 degree 52 minutes 00 seconds W, 60.00 feet along a line parallel with the Easterly right-of-way line of Pennsylvania Avenue; thence N 88 degrees 05 minutes 06 seconds W, 810.00 feet to a point on the Easterly right-of-way line of said Pennsylvania Avenue, said point being N 01 degree 52 minutes 00 seconds E, 1288.00 feet along the right-of-way line of Pennsylvania Avenue from the Northeasterly intersection of Pennsylvania Avenue and Jerome Street; thence N 01 degree 52 minutes 00 seconds E, 485.60 feet along the Easterly right-of-way line of said Pennsylvania Avenue to the Southwest Corner of said Fairview Subdivision; thence S 88 degrees 32 minutes 10 seconds E, 940.50 feet along the Southerly right-of-way line of Orchard Street to the Southeast Corner of said Fairview Subdivision, and the point of beginning, containing 10.384 acres, more or less.

(3) The description of the parcel in subsections (1) and (2) is approximate and for purposes of the conveyances is subject to adjustment as the state administrative board or attorney general considers necessary by survey or other legal description.

(4) Any conveyance of property under subsection (2) shall provide for both the following:

(a) The property shall be used exclusively for school purposes, which includes, but is not limited to, facilities or areas for sporting and recreational use and partnerships or cooperative arrangements with private or parochial schools for the purpose of carrying out school purposes. If any fee, term, or condition for the use of the property is imposed on members of the public, or if any of those fees, terms, or conditions are waived for use of this property, resident and nonresident members of the public shall be subject to the same fees, terms, conditions, and waivers except for any fees, terms, conditions, and waivers included in a partnership or cooperative arrangement with private or parochial schools for the purpose of carrying out school purposes. Upon termination of the school purpose use described in this subdivision or in the event of use for any nonschool purpose, the state may reenter and repossess the property, terminating the grantee's estate in the property. If the grantee disputes the state's exercise of its right of reentry and fails to promptly deliver possession of the property to the state, the attorney general, on behalf of the state, may bring an action to quiet title to, and regain possession of, the property. If the state reenters and repossesses the property, the state has no liability for any improvements made on the property.

(b) The state reserves all aboriginal antiquities including mounds, earthworks, forts, burial and village sites, mines, and other relics, on, within, or under the property, with power to the state, and all others acting under its authority, to enter the property for any purpose related to exploring, excavating, and taking away aboriginal antiquities.

(5) The conveyance authorized by subsection (2) shall be by quitclaim deed or other instrument approved by the attorney general.

This act is ordered to take immediate effect.

Approved March 20, 2008.

Filed with Secretary of State March 20, 2008.

[No. 43]

(SB 82)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 710e (MCL 257.710e), as amended by 1999 PA 29.

The People of the State of Michigan enact:

257.710e Safety belt required; driver or passenger to which section inapplicable; transporting child 4 years of age but less than 16 years of age; enforcement of section; violation as evidence of negligence; reduction of recovery for damages; violation as civil infraction; reports of police harassment; effect of primary enforcement; report of findings; intent; assessment of points prohibited.

Sec. 710e. (1) This section does not apply to an operator or passenger of any of the following:

(a) A motor vehicle manufactured before January 1, 1965.

(b) A bus.

(c) A motorcycle.

(d) A moped.

(e) A motor vehicle if the operator or passenger possesses a written verification from a physician that the operator or passenger is unable to wear a safety belt for physical or medical reasons.

(f) A motor vehicle that is not required to be equipped with safety belts under federal law.

(g) A commercial or United States postal service vehicle that makes frequent stops for the purpose of pickup or delivery of goods or services.

(h) A motor vehicle operated by a rural carrier of the United States postal service while serving his or her rural postal route.

(2) This section does not apply to a passenger of a school bus.

(3) Each operator and front seat passenger of a motor vehicle operated on a street or highway in this state shall wear a properly adjusted and fastened safety belt except as follows:

(a) A child who is less than 4 years of age shall be protected as required in section 710d.

(b) A child who is 4 years of age or older but less than 8 years of age and who is less than 4 feet 9 inches in height shall be properly secured in a child restraint system in accordance with the child restraint manufacturer's and vehicle manufacturer's instructions and the standards prescribed in 49 CFR 571.213.

(4) If there are more passengers than safety belts available for use, and all safety belts in the motor vehicle are being utilized in compliance with this section, the operator of the motor vehicle is in compliance with this section.

(5) Except as otherwise provided in subsection (3)(b), each operator of a motor vehicle transporting a child 4 years of age or older but less than 16 years of age in a motor vehicle shall secure the child in a properly adjusted and fastened safety belt and seated as required under this section. If the motor vehicle is transporting more children than there are safety belts available for use, all safety belts available in the motor vehicle are being utilized in compliance with this section, and the operator and all front seat passengers comply with subsection (3), the operator of a motor vehicle transporting a child 8 years of age or older but less than 16 years of age for which there is not an available safety belt is in compliance with this subsection if that child is seated in other than the front seat of the motor vehicle. However, if that motor vehicle is a pickup truck without an extended cab or jump seats, and all safety belts in the front seat are being used, the operator may transport the child in the front seat without a safety belt.

(6) If after December 31, 2005 the office of highway safety planning certifies that there has been less than 80% compliance with the safety belt requirements of this section during the preceding year, enforcement of this section by state or local law enforcement agencies shall be accomplished only as a secondary action when an operator of a motor vehicle has been detained for a suspected violation of another section of this act.

(7) Failure to wear a safety belt in violation of this section may be considered evidence of negligence and may reduce the recovery for damages arising out of the ownership, maintenance, or operation of a motor vehicle. However, that negligence shall not reduce the recovery for damages by more than 5%.

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

(9) A law enforcement agency shall conduct an investigation for all reports of police harassment that result from the enforcement of this section.

(10) The secretary of state shall engage an independent organization to conduct a 3-year study to determine the effect that the primary enforcement of this section has on the number of incidents of police harassment of motor vehicle operators. The organization that conducts the study shall submit a report to the legislature not later than June 30, 2001 and an annual report not later than June 30 each year thereafter.

(11) The secretary of state shall promote compliance with the safety belt requirements of this section at the branch offices and through any print or visual media determined appropriate by the secretary of state.

(12) It is the intent of the legislature that the enforcement of this section be conducted in a manner calculated to save lives and not in a manner that results in the harassment of the citizens of this state.

(13) Points shall not be assessed under section 320a for a violation of this section.

Effective date.

Enacting section 1. This amendatory act takes effect July 1, 2008.

This act is ordered to take immediate effect.

Approved March 27, 2008.

Filed with Secretary of State March 27, 2008.

[No. 44]

(SB 364)

AN ACT to amend 2005 PA 280, entitled "An act to provide for the establishment of a corridor improvement authority; to prescribe the powers and duties of the authority; to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans and development areas in the districts; to promote the economic growth of the districts; to create a board; to prescribe the powers and duties of the board; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to prescribe powers and duties of certain state officials; to provide for rule promulgation; and to provide for enforcement of the act," by amending sections 2, 5, 6, 9, 18, 20, 22, 23, and 27 (MCL 125.2872, 125.2875, 125.2876, 125.2879, 125.2888, 125.2890, 125.2892, 125.2893, and 125.2897), sections 5 and 18 as amended by 2007 PA 44.

The People of the State of Michigan enact:

125.2872 Definitions; A to M.

Sec. 2. As used in this act:

(a) “Advance” means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority. Evidence of the intent to repay an advance may include, but is not limited to, an executed agreement to repay, provisions contained in a tax increment financing plan approved prior to the advance, or a resolution of the authority or the municipality.

(b) “Assessed value” means the taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(c) “Authority” means a corridor improvement authority created under this act.

(d) “Board” means the governing body of an authority.

(e) “Business district” means an area of a municipality zoned and used principally for business.

(f) “Captured assessed value” means the amount in any 1 year by which the current assessed value of the development area, including the assessed value of property for which specific local taxes are paid in lieu of property taxes as determined in section 3(d), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value.

(g) “Chief executive officer” means the mayor of a city, the president of a village, or the supervisor of a township.

(h) “Development area” means that area described in section 5 to which a development plan is applicable.

(i) “Development plan” means that information and those requirements for a development area set forth in section 21.

(j) “Development program” means the implementation of the development plan.

(k) “Fiscal year” means the fiscal year of the authority.

(l) “Governing body” or “governing body of a municipality” means the elected body of a municipality having legislative powers.

(m) “Initial assessed value” means the assessed value, as equalized, of all the taxable property within the boundaries of the development area at the time the resolution establishing the tax increment financing plan is approved, as shown by the most recent assessment roll of the municipality for which equalization has been completed at the time the resolution is adopted. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. For the purpose of determining initial assessed value, property for which a specific local tax is paid in lieu of a property tax shall not be considered to be property that is exempt from taxation. The initial assessed value of property for which a specific local tax was paid in lieu of a property tax shall be determined as provided in section 3(d).

(n) “Land use plan” means a plan prepared under former 1921 PA 207, former 1943 PA 184, or a site plan under the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702.

(o) “Municipality” means 1 of the following:

(i) A city.

(ii) A village.

(iii) A township.

125.2875 Development area; establishment in municipality; exception; criteria; compliance.

Sec. 5. A development area shall only be established in a municipality and, except for a development area located in a qualified development area, shall comply with all of the following criteria:

(a) Is adjacent to or is within 500 feet of a road classified as an arterial or collector according to the federal highway administration manual “Highway Functional Classification - Concepts, Criteria and Procedures”.

(b) Contains at least 10 contiguous parcels or at least 5 contiguous acres.

(c) More than 1/2 of the existing ground floor square footage in the development area is classified as commercial real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(d) Residential use, commercial use, or industrial use has been allowed and conducted under the zoning ordinance or conducted in the entire development area, for the immediately preceding 30 years.

(e) Is presently served by municipal water or sewer.

(f) Is zoned to allow for mixed use that includes high-density residential use.

(g) The municipality agrees to all of the following:

(i) To expedite the local permitting and inspection process in the development area.

(ii) To modify its master plan to provide for walkable nonmotorized interconnections, including sidewalks and streetscapes throughout the development area.

125.2876 Creation of authority; resolution by governing body; notice of public hearing; adoption of resolution designating boundaries; alteration or amendment; interlocal agreement.

Sec. 6. (1) If the governing body of a municipality determines that it is necessary for the best interests of the public to redevelop its commercial corridors and to promote economic growth, the governing body may, by resolution, declare its intention to create and provide for the operation of an authority.

(2) In the resolution of intent, the governing body shall state that the proposed development area meets the criteria in section 5, set a date for a public hearing on the adoption of a proposed resolution creating the authority, and designate the boundaries of the development area. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 or more than 40 days before the date of the hearing. Not less than 20 days before the hearing, the governing body proposing to create the authority shall also mail notice of the hearing to the property taxpayers of record in the proposed development area, to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved, and to the state tax commission. Failure of a property taxpayer to receive the notice does not invalidate these proceedings. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the proposed development area not less than 20 days before the hearing. The notice shall state the date, time, and place of the hearing and shall describe the boundaries of the proposed development area. A citizen, taxpayer, or property owner of the municipality or an official from a taxing jurisdiction with millage that would be subject to capture has the right to be heard in regard to the establishment of the authority and the boundaries of the proposed development area. The governing body of the municipality shall not incorporate land into the development area not included in the description contained in the notice of public hearing, but it may eliminate described lands from the development area in the final determination of the boundaries.

(3) Not less than 60 days after the public hearing, if the governing body of the municipality intends to proceed with the establishment of the authority it shall adopt, by majority vote of its members, a resolution establishing the authority and designating the boundaries of the development area within which the authority shall exercise its powers. The adoption of the resolution is subject to any applicable statutory or charter provisions in respect to the approval or disapproval by the chief executive or other officer of the municipality and the adoption of a resolution over his or her veto. This resolution shall be filed with the secretary of state promptly after its adoption and shall be published at least once in a newspaper of general circulation in the municipality.

(4) The governing body of the municipality may alter or amend the boundaries of the development area to include or exclude lands from the development area in the same manner as adopting the resolution creating the authority.

(5) A municipality that has created an authority may enter into an agreement with an adjoining municipality that has created an authority to jointly operate and administer those authorities under an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512. The interlocal agreement shall include, but is not limited to, a plan to coordinate and expedite local inspections and permit approvals, a plan to address contradictory zoning requirements, and a date certain to implement all provisions of these plans. If a municipality enters into an interlocal agreement under this subsection, the municipality shall provide a copy of that interlocal agreement to the state tax commission within 60 days of entering into the interlocal agreement.

125.2879 Director, treasurer, secretary, legal counsel, other personnel; compensation; duties.

Sec. 9. (1) The board may employ and fix the compensation of a director, subject to the approval of the governing body of the municipality. The director shall serve at the pleasure of the board. A member of the board is not eligible to hold the position of director. Before beginning his or her duties, the director shall take and subscribe to the constitutional oath, and furnish bond, by posting a bond in the sum determined in the resolution establishing the authority payable to the authority for use and benefit of the authority, approved by the board, and filed with the municipal clerk. The premium on the bond shall be considered an operating expense of the authority, payable from funds available to the authority for expenses of operation. The director shall be the chief executive officer of the authority. Subject to the approval of the board, the director shall supervise and be responsible for the preparation of plans and the performance of the functions of the authority in the manner authorized by this act. The director shall attend the meetings of the board and shall provide to the board and to the governing body of the municipality a regular report covering the activities and financial condition of the authority. If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before beginning his or her duties, the acting director shall take and subscribe to the oath, and furnish bond, as required of the director. The director shall furnish the board with information or reports governing the operation of the authority as the board requires.

(2) The board may employ and fix the compensation of a treasurer, who shall keep the financial records of the authority and who, together with the director, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform all duties delegated to him or her by the board and shall furnish bond in an amount prescribed by the board.

(3) The board may employ and fix the compensation of a secretary, who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the board and keep a record of its proceedings and shall perform other duties delegated by the board.

(4) The board may retain legal counsel to advise the board in the proper performance of its duties. The legal counsel shall represent the authority in actions brought by or against the authority.

(5) The board may employ other personnel considered necessary by the board.

125.2888 Tax increment financing plan.

Sec. 18. (1) If the authority determines that it is necessary for the achievement of the purposes of this act, the authority shall prepare and submit a tax increment financing plan to the governing body of the municipality. The plan shall include a development plan as provided in section 21, a detailed explanation of the tax increment procedure, the maximum amount of bonded indebtedness to be incurred, and the duration of the program, and shall be in compliance with section 19. The plan shall contain a statement of the estimated impact of tax increment financing on the assessed values of all taxing jurisdictions in which the development area is located. The plan may provide for the use of part or all of the captured assessed value, but the portion intended to be used by the authority shall be clearly stated in the tax increment financing plan. The authority or municipality may exclude from captured assessed value growth in property value resulting solely from inflation. The plan shall set forth the method for excluding growth in property value resulting solely from inflation.

(2) Approval of the tax increment financing plan shall comply with the notice, hearing, and disclosure provisions of section 22. If the development plan is part of the tax increment financing plan, only 1 hearing and approval procedure is required for the 2 plans together.

(3) Before the public hearing on the tax increment financing plan, the governing body shall provide a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture to meet with the governing body. The authority shall fully inform the taxing jurisdictions of the fiscal and economic implications of the proposed development area. The taxing jurisdictions may present their recommendations at the public hearing on the tax increment financing plan. The authority may enter into agreements with the taxing jurisdictions and the governing body of the municipality in which the development area is located to share a portion of the captured assessed value of the development area.

(4) A tax increment financing plan may be modified if the modification is approved by the governing body upon notice and after public hearings and agreements as are required for approval of the original plan.

(5) Except for a development area located in a qualified development area, not more than 60 days after the public hearing on the tax increment financing plan, the governing body in a taxing jurisdiction levying ad valorem property taxes that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality proposing to create the authority. The resolution shall take effect when filed with the clerk and remains effective until a copy of a resolution rescinding that resolution is filed with that clerk.

125.2890 Financing development program of tax increment financing plan; authorization, issuance, and sale of general obligation bonds; estimate of anticipated tax increment revenues; resolution; security; lien.

Sec. 20. (1) The municipality may by resolution of its governing body authorize, issue, and sell limited general obligation bonds subject to the limitations set forth in this subsection to finance the development program of the tax increment financing plan and shall pledge its

full faith and credit for the payment of the bonds. The municipality may pledge as additional security for the bonds any money received by the authority or the municipality under section 14. The bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Before the municipality may authorize the borrowing, the authority shall submit an estimate of the anticipated tax increment revenues and other revenue available under section 14 to be available for payment of principal and interest on the bonds, to the governing body of the municipality. This estimate shall be approved by the governing body of the municipality by resolution adopted by majority vote of the members of the governing body in the resolution authorizing the bonds. If the governing body of the municipality adopts the resolution authorizing the bonds, the estimate of the anticipated tax increment revenues and other revenue available under section 14 to be available for payment of principal and interest on the bonds shall be conclusive for purposes of this section. The bonds issued under this subsection shall be considered a single series for the purposes of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) By resolution of its governing body, the authority may authorize, issue, and sell tax increment bonds subject to the limitations set forth in this subsection to finance the development program of the tax increment financing plan. The tax increment bonds issued by the authority under this subsection shall pledge solely the tax increment revenues of a development area in which the project is located or a development area from which tax increment revenues may be used for this project, or both. In addition or in the alternative, the bonds issued by the authority under this subsection may be secured by any other revenues identified in section 14 as sources of financing for activities of the authority that the authority shall specifically pledge in the resolution. However, the full faith and credit of the municipality shall not be pledged to secure bonds issued under this subsection. The bond issue may include a sum sufficient to pay interest on the tax increment bonds until full development of tax increment revenues from the project and also a sum to provide a reasonable reserve for payment of principal and interest on the bonds. The resolution authorizing the bonds shall create a lien on the tax increment revenues and other revenues pledged by the resolution that shall be a statutory lien and shall be a first lien subject only to liens previously created. The resolution may provide the terms upon which additional bonds may be issued of equal standing and parity of lien as to the tax increment revenues and other revenues pledged under the resolution. Bonds issued under this subsection that pledge revenue received under section 15 for repayment of the bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

125.2892 Development plan; public hearing; notice; contents; opportunity to speak; hearing record.

Sec. 22. (1) The governing body, before adoption of a resolution approving a development plan or tax increment financing plan, shall hold a public hearing on the development plan. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which shall be not less than 20 days before the date set for the hearing. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the development area not less than 20 days before the hearing. Notice shall also be mailed to all property taxpayers of record in the development area and to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the tax increment financing plan is approved not less than 20 days before the hearing. The notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the tax increment financing plan is approved.

(2) Notice of the time and place of hearing on a development plan shall contain all of the following:

(a) A description of the proposed development area in relation to highways, streets, streams, or otherwise.

(b) A statement that maps, plats, and a description of the development plan, including the method of relocating families and individuals who may be displaced from the area, are available for public inspection at a place designated in the notice.

(c) A statement that all aspects of the development plan will be open for discussion at the public hearing.

(d) Other information that the governing body considers appropriate.

(3) At the time set for the hearing, the governing body shall provide an opportunity for interested persons to speak and shall receive and consider communications in writing. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for consideration of documentary evidence pertinent to the development plan. The governing body shall make and preserve a record of the public hearing, including all data presented at the hearing.

125.2893 Approval, rejection, or approval with modification; considerations.

Sec. 23. The governing body after a public hearing on the development plan or the tax increment financing plan, or both, with notice given under section 22, shall determine whether the development plan or tax increment financing plan constitutes a public purpose. If it determines that the development plan or tax increment financing plan constitutes a public purpose, it shall by resolution approve or reject the plan, or approve it with modification, based on the following considerations:

(a) The plan meets the requirements under section 20(2).

(b) The proposed method of financing the development is feasible and the authority has the ability to arrange the financing.

(c) The development is reasonable and necessary to carry out the purposes of this act.

(d) The land included within the development area to be acquired is reasonably necessary to carry out the purposes of the plan and of this act in an efficient and economically satisfactory manner.

(e) The development plan is in reasonable accord with the land use plan of the municipality.

(f) Public services, such as fire and police protection and utilities, are or will be adequate to service the project area.

(g) Changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the project and for the municipality.

125.2897 Dissolution.

Sec. 27. An authority that has completed the purposes for which it was organized shall be dissolved by resolution of the governing body. The property and assets of the authority remaining after the satisfaction of the obligations of the authority belong to the municipality.

This act is ordered to take immediate effect.

Approved March 27, 2008.

Filed with Secretary of State March 27, 2008.

[No. 45]**(HB 4763)**

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending section 5453 (MCL 333.5453), as amended by 2002 PA 644.

The People of the State of Michigan enact:

333.5453 Definitions; A.

Sec. 5453. (1) “Abatement”, except as otherwise provided in subsection (2), means a measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes all of the following:

(a) The removal of lead-based paint and dust lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, the removal or covering of soil lead hazards, and all preparation, cleanup, disposal, and postabatement clearance testing activities associated with such measures.

(b) A project for which there is a written contract or other documentation that provides that a person will be conducting activities in or to a residential dwelling or child occupied facility that will result in the permanent elimination of lead-based paint hazards or that are designed to permanently eliminate lead-based paint hazards.

(c) A project resulting in the permanent elimination of lead-based paint hazards, conducted by a person certified under this part, except a project that is exempt from this part.

(d) A project resulting in the permanent elimination of lead-based paint hazards, conducted by a person who, through their company name or promotional literature, represents, advertises, or holds themselves out to be in the business of performing lead-based paint activities except a project that is exempt from this part.

(e) A project resulting in the permanent elimination of lead-based paint hazards that is conducted in response to a state or local government abatement order.

(2) Abatement does not include any of the following:

(a) Renovation, remodeling, landscaping, or other activity, if the activity is not designed to permanently eliminate lead-based paint hazards, but is instead designed to repair, restore,

or remodel a structure, target housing, or dwelling even though the activity may incidentally result in a reduction or elimination of a lead-based paint hazard.

(b) An interim control, operation, and maintenance activity, or other measure or activity designed to temporarily, but not permanently, reduce a lead-based paint hazard.

(c) Any lead-based paint activity performed by the owner of an owner-occupied residential dwelling or an owner-occupied multifamily dwelling containing 4 or fewer units if the activity is performed only in that owner-occupied unit of the multifamily dwelling.

(d) The scraping or removal of paint, painting over paint, or other similar activity that may incidentally result in a reduction or elimination of a lead-based paint hazard, if the activity meets all of the following:

(i) The activity is performed only on residential or multifamily dwellings containing 4 or fewer units.

(ii) The activity is coordinated by a nonprofit charitable or volunteer organization that meets all of the following:

(A) Is in compliance with the procedures established under subpart J of part 35 of title 24 of the code of federal regulations, 24 CFR 35.900 to 35.940.

(B) Has written guidelines in place to ensure safe work practices to protect residents and volunteers from hazards including, but not limited to, lead exposure and asbestos exposure.

(C) In writing, discloses to the owner of the residential or multifamily dwelling all of the following:

(I) The presence of any known lead-based paint and lead-based paint hazards.

(II) Information regarding the lead safe housing registry maintained by the department under section 5474b.

(III) Information regarding the owner's obligations under the federal lead-based paint or lead-based paint hazard disclosure rule under subpart F of part 745 of title 40 of the code of federal regulations, 40 CFR 745.100 to 745.119.

(D) Notifies the department that the residential or multifamily dwelling may be required to be on the lead safe housing registry maintained by the department.

(iii) The activity is performed only by unpaid volunteers and the organization receives no remuneration directly from the owner or occupant of the residential dwelling or multifamily dwelling.

(iv) The activity does not involve the use of a lead-based paint encapsulating product that requires certification from the department.

(v) The activity does not involve the use of high-pressure water or compressed air cleaning equipment on, the dry sanding of, or the scraping of, asbestos siding prior to painting.

(3) "Accredited training program" means a training program that has been accredited by the department under this part to provide training for individuals engaged in lead-based paint activities.

(4) "Adequate quality control" means a plan or design that ensures the authenticity, integrity, and accuracy of a sample including, but not limited to, a dust sample, a soil or paint chip sample, or a paint film sample. Adequate quality control also includes a provision in a plan or design described in this subsection for representative sampling.

This act is ordered to take immediate effect.

Approved March 27, 2008.

Filed with Secretary of State March 27, 2008.