

450.1806 Certificate of dissolution; filing; time of effectiveness; conditions; date stamp as evidence.

Sec. 806. (1) A certificate of dissolution filed with the administrator is effective at the time the certificate is first received by the administrator, not the date of filing, if all of the following are met:

(a) The dissolution is pursuant to an agreement under section 488 or is commenced under section 804.

(b) The administrator receives the certificate of dissolution after June 21, 2003 and before June 30, 2003.

(c) The corporation published notice of dissolution of the corporation under section 842a after June 21, 2003 and before June 30, 2003.

(d) The certificate does not set forth a subsequent effective time, not later than 90 days after the date the certificate is received by the administrator.

(2) For purposes of subsection (1), the administrator's date stamp on the certificate of dissolution is evidence of the date the administrator received the certificate. If there are multiple date stamps on the certificate, the earliest date stamp is evidence of the date the administrator first received the certificate.

450.2002 Foreign corporation with certificate of authority.

Sec. 1002. (1) A foreign corporation that receives a certificate of authority under this act, until a certificate of revocation or of withdrawal is issued under this act, has the same rights and privileges as a domestic corporation organized for the purposes set forth in the application pursuant to which the certificate of authority is issued. Except as otherwise provided in this act, the corporation is subject to the same duties, restrictions, penalties, and liabilities of a similar domestic corporation.

(2) This act does not authorize this state to regulate the organization or internal affairs of a foreign corporation authorized to transact business in this state.

450.2060 Fees.

Sec. 1060. (1) The fees a person shall pay to the administrator when the documents described in this subsection are delivered to him or her for filing are as follows:

(a) Articles of a domestic corporation, \$10.00.

(b) Application of a foreign corporation for a certificate of authority to transact business in this state, \$10.00.

(c) Amendment to the articles of a domestic corporation, \$10.00.

(d) Amended application for a certificate of authority to transact business in this state, \$10.00.

(e) Certificate of merger, conversion, or share exchange under chapter 7, \$50.00.

(f) Certificate attesting to the occurrence of a merger of a foreign corporation under section 1021, \$10.00.

(g) Certificate of dissolution, \$10.00.

(h) Application for withdrawal and issuance of a certificate of withdrawal of a foreign corporation, \$10.00.

(i) Application for reservation of corporate name, \$10.00.

(j) Certificate of assumed name or a certificate of termination of assumed name, \$10.00.

(k) Statement of change of registered office or resident agent, \$5.00.

(l) Restated articles of domestic corporations, \$10.00.

- (m) Certificate of abandonment, \$10.00.
 - (n) Certificate of correction, \$10.00.
 - (o) Certificate of revocation of dissolution proceedings, \$10.00.
 - (p) Certificate of renewal of corporate existence, \$10.00.
 - (q) For examining a special report required by law, \$2.00.
 - (r) Certificate of registration of corporate name of a foreign corporation, \$50.00.
 - (s) Certificate of renewal of registration of corporate name of a foreign corporation, \$50.00.
 - (t) Certificate of termination of registration of corporate name of a foreign corporation, \$10.00.
 - (u) Report required under section 911, \$15.00 if paid before October 1, 2003 or after September 30, 2012. After September 30, 2003 and before October 1, 2012, the fee is \$25.00.
- (2) The fees described in subsection (1) are in addition to any franchise fees prescribed in this act. The administrator shall not refund all or any part of a fee described in this section.
- (3) Except as provided in subsection (9), the administrator shall deposit all fees received and collected under this section in the state treasury to the credit of the administrator, who may only use the money credited pursuant to legislative appropriation and only in carrying out those duties of the department required by law.
- (4) The fees described in this section apply to documents filed by a domestic or foreign regulated investment company as defined in section 1064.
- (5) If any money received by the administrator from fees paid under subsection (1)(u) is not appropriated to the department in that fiscal year, the money remaining from those fees shall revert to the general fund of this state.
- (6) A minimum charge of \$1.00 for each certificate and 50 cents per folio shall be paid to the administrator for certifying a part of a file or record pertaining to a corporation if a fee for that service is not described in subsection (1). The administrator may furnish copies of documents, reports, and papers required or permitted by law to be filed with the administrator, and shall charge for those copies the fee established in a schedule of fees adopted by the administrator with the approval of the state administrative board. The administrator shall retain the revenue collected under this subsection, and the department shall use it to defray the costs for its copying and certifying services.
- (7) If a domestic or foreign corporation pays fees or penalties by check and the check is dishonored, the fee is unpaid and the administrator shall rescind the filing of all related documents.
- (8) The administrator may accept a credit card in lieu of cash or check as payment of a fee under this act. The administrator shall determine which credit cards he or she shall accept for payment.
- (9) The administrator may charge a nonrefundable fee of up to \$50.00 for any document submitted or certificate sent by facsimile or electronic transmission. The administrator shall retain the revenue collected under this subsection and the department shall use it to carry out its duties required by law.

Repeal of MCL 450.1790 to 450.1799.

Enacting section 1. Chapter 7B of the business corporation act, 1972 PA 284, MCL 450.1790 to 450.1799, is repealed.

This act is ordered to take immediate effect.

Approved January 5, 2009.

Filed with Secretary of State January 6, 2009.

[No. 403]**(HB 6613)**

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending sections 11135 and 11153 (MCL 324.11135 and 324.11153), as amended by 2007 PA 75.

The People of the State of Michigan enact:

324.11135 Manifest; user charge; payment; violations; contents; copy; certification; specified destination; determining status of specified waste; exception report; retention period for copy of manifest; extension.

Sec. 11135. (1) A hazardous waste generator shall provide a separate manifest to the transporter for each load of hazardous waste transported to property that is not on the site where it was generated. Until October 1, 2011, a person required to prepare a manifest shall submit to the department a manifest processing user charge of \$6.00 per manifest and his or her tax identification number. Each calendar year, the department may adjust the manifest processing user charge as necessary to ensure that the total cumulative amount of the user charges assessed pursuant to this section and sections 11153, 12103, 12109, and 12112 are consistent with the target revenue projection for the hazardous waste and liquid industrial waste users account as provided for in section 11130(5). However, the manifest processing user charge shall not exceed \$8.00 per manifest. Money collected under this subsection shall be forwarded to the state treasurer for deposit into the environmental pollution prevention fund created in section 11130 and credited to the hazardous waste and liquid industrial waste users account created in section 11130(5).

(2) Payment of the manifest processing user charges under subsection (1) shall be made using a form provided by the department. The department shall send a form to each person subject to the manifest processing user charge by March 30 of each year. The form for the 2009 billing cycle shall specify the number of manifests prepared by that person and processed by the department during the months of October, November, and December 2007 and calendar year 2008. The form for subsequent billing cycles shall specify the number of manifests prepared by that person and processed by the department during the previous calendar year. A person subject to the manifest processing user charge shall return the completed form and the appropriate payment to the department by April 30 of each year.

(3) A person who fails to provide timely and accurate information, a complete form, or the appropriate manifest processing user charge as provided for in this section is in violation of this part and is subject to both of the following:

(a) Payment of the manifest processing user charge and an administrative fine of 5% of the amount owed for each month that the payment is delinquent. Any payments received after the 15th of the month after the due date shall be considered delinquent for that month. However, the administrative fine shall not exceed 25% of the total amount owed.

(b) Beginning 5 months after the date payment of the manifest user charge is due, but not paid, at the request of the department, an action by the attorney general for the collection of

the amount owed under subdivision (a) and the actual cost to the department in attempting to collect the amount owed under subdivision (a).

(4) Any amounts collected under subsection (3) for a violation of this section shall be forwarded to the state treasurer and deposited in the environmental pollution prevention fund created in section 11130 and credited to the hazardous waste and liquid industrial waste users account created in section 11130(5).

(5) The department shall maintain information regarding the manifest processing user charges received under this section as necessary to satisfy the reporting requirements of subsection (6).

(6) The department shall evaluate the effectiveness and adequacy of the manifest processing user charges collected under this section relative to the overall revenue needs of the state's hazardous waste management program administered under this part. Not later than April 1 of each even-numbered year, the department shall summarize its findings under this subsection in a report and shall provide that report to the legislature.

(7) A generator shall include on the manifest details as specified by the department and shall at least include sufficient qualitative and quantitative analysis and physical description to evaluate toxicity and methods of transportation, storage, and disposal. The manifest also shall include safety precautions as necessary for each load of hazardous waste. The generator shall submit to the department a copy of the manifest within a period of 10 days after the end of the month for each load of hazardous waste transported within that month.

(8) The generator shall certify that the information contained on the manifest is factual.

(9) The specified destination of each load of hazardous waste identified on the manifest shall be a designated facility.

(10) If a generator does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days after the date on which the hazardous waste was accepted by the initial transporter, the generator shall contact the transporter to determine the status of the hazardous waste. If the generator is unable to determine the status of the hazardous waste upon contacting the transporter, the generator shall contact the owner or operator of the designated facility to which the hazardous waste was to be transported to determine the status of the hazardous waste.

(11) A generator shall submit an exception report to the department if the generator has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days after the date on which the hazardous waste was accepted by the initial transporter. The exception report shall include all of the following:

(a) A legible copy of the manifest for which the generator does not have confirmation of delivery.

(b) A cover letter signed by the generator or the generator's authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.

(12) A generator shall keep a copy of each manifest signed and dated by the initial transporter for 3 years or until the generator receives a signed and dated copy from the owner or operator of the designated facility that received the hazardous waste. The generator shall keep the copy of the manifest signed and dated by the owner or operator of the designated facility for 3 years. The retention periods required by this subsection shall be automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as required by the department.

324.11153 Site identification number; user charges; violations; suspension; definitions.

Sec. 11153. (1) A generator, transporter, or treatment, storage, or disposal facility shall obtain and utilize a site identification number assigned by the United States environmental

protection agency or the department. Until October 1, 2011, the department shall assess a site identification number user charge of \$50.00 for each site identification number it issues. The department shall not issue a site identification number under this subsection unless the site identification number user charge and the tax identification number for the person applying for the site identification number have been received by the department.

(2) Until October 1, 2011, except as provided in subsection (9), the department shall annually assess hazardous waste management program user charges as follows:

(a) A generator shall pay a handler user charge that is the highest of the following applicable fees:

(i) A generator who generates more than 100 kilograms but less than 1,000 kilograms of hazardous waste in any month during the calendar year shall pay to the department an annual handler user charge of \$100.00.

(ii) A generator who generates 1,000 kilograms or more of hazardous waste in any month during the calendar year and who generates less than 900,000 kilograms during the calendar year shall pay to the department an annual handler user charge of \$400.00.

(iii) A generator who generates 1,000 kilograms or more of hazardous waste in any month during the calendar year and who generates 900,000 kilograms or more of hazardous waste during the calendar year shall pay to the department an annual handler user charge of \$1,000.00.

(b) An owner or operator of a treatment, storage, or disposal facility for which an operating license is required under section 11123 or for which an operating license has been issued under section 11122 or 11125 shall pay to the department an annual handler user charge of \$2,000.00.

(c) A used oil processor or rerefiner, a used oil burner, or a used oil fuel marketer as defined in the rules promulgated under this part shall pay to the department an annual handler user charge of \$100.00.

(3) A handler shall pay the handler user charge specified in subsection (2)(a) to (c) for each of the activities conducted during the previous calendar year.

(4) Payment of the handler user charges shall be made using a form provided by the department. The handler shall certify that the information on the form is accurate. The department shall send forms to the handlers by March 30 of each year unless the handler user charges have been suspended as provided for in subsection (9). A handler shall return the completed forms and the appropriate payment to the department by April 30 of each year unless the handler user charges have been suspended as provided for in subsection (9).

(5) A handler who fails to provide timely and accurate information, a complete form, or the appropriate handler user charge is in violation of this part and is subject to both of the following:

(a) Payment of the handler user charge and an administrative fine of 5% of the amount owed for each month that the payment is delinquent. Any payments received after the 15th of the month after the due date shall be considered delinquent for that month. However, the administrative fine shall not exceed 25% of the total amount owed.

(b) Beginning 5 months after the date payment of the handler user charge is due, but not paid, at the request of the department, an action by the attorney general for the collection of the amount owed under subdivision (a) and the actual cost to the department in attempting to collect the amount owed under subdivision (a).

(6) The department shall maintain information regarding the site identification number user charges under subsection (1) and the handler user charges received under this section as necessary to satisfy the reporting requirements of subsection (8).

(7) The site identification number user charges and the handler user charges collected under this section and any amounts collected under subsection (5) for a violation of this section shall be forwarded to the state treasurer and deposited in the environmental pollution prevention fund created in section 11130 and credited to the hazardous waste and liquid industrial waste users account created in section 11130(5).

(8) The department shall evaluate the effectiveness and adequacy of the site identification number user charges and the handler user charges collected under this section relative to the overall revenue needs of the state's hazardous waste management program administered under this part. Not later than April 1 of each even-numbered year, the department shall summarize its findings under this subsection in a report and shall provide that report to the legislature.

(9) Notwithstanding any other provision in this section, if the balance of the hazardous waste and liquid industrial waste users account created in section 11130(5), as of December 31 of any year, exceeds \$3,200,000.00, the department shall suspend the handler user charges until October of the following year.

(10) As used in this section:

(a) "Handler" means the person required to pay the handler user charge.

(b) "Handler user charge" means the annual hazardous waste management program user charge provided for in subsection (2).

This act is ordered to take immediate effect.

Approved January 5, 2009.

Filed with Secretary of State January 6, 2009.

[No. 404]

(SB 1253)

AN ACT to amend 1943 PA 20, entitled "An act relative to the investment of funds of public corporations of the state; and to validate certain investments," (MCL 129.91 to 129.97) by adding section 7a.

The People of the State of Michigan enact:

129.97a Investment of assets of special revenue fund by investment officer; resolution granting authority; annual special revenue fund report.

Sec. 7a. (1) Notwithstanding any law or charter to the contrary, if a public corporation has a special revenue fund consisting of payments for park operations and maintenance, the governing body of the public corporation may by resolution provide its investment officer with the same authority to invest the assets of the special revenue fund as is granted an investment fiduciary under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140m.

(2) The investment officer shall prepare and issue an annual special revenue fund report. The investment officer shall make the annual special revenue fund report available to the citizens of the public corporation. The annual special revenue fund report shall include all of the following:

(a) The name of the special revenue fund.

- (b) The special revenue fund's investment fiduciaries.
- (c) The special revenue fund's assets and liabilities.
- (d) The special revenue fund's funded ratio.
- (e) The special revenue fund's investment performance.
- (f) The special revenue fund's expenses.

This act is ordered to take immediate effect.
Approved January 5, 2009.
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[No. 405]

(SB 1419)

AN ACT to amend 1982 PA 294, entitled "An act to revise and consolidate the laws relating to the friend of the court; to provide for the appointment or removal of the friend of the court; to create the office of the friend of the court; to establish the rights, powers, and duties of the friend of the court and the office of the friend of the court; to establish a state friend of the court bureau and to provide the powers and duties of the bureau; to prescribe powers and duties of the circuit court and of certain state and local agencies and officers; to establish friend of the court citizen advisory committees; to prescribe certain duties of certain employers and former employers; and to repeal acts and parts of acts," by amending section 20 (MCL 552.520), as added by 1996 PA 366.

The People of the State of Michigan enact:

552.520 Information requested by department of human services.

Sec. 20. (1) If the department of human services requests information from an office of the friend of the court, that office may provide the information requested on a quarterly basis. Not less often than quarterly, the department of human services shall publish the information received under this section.

(2) If an office of the friend of the court receives notice from the department of human services under section 8 of the child protection law, 1975 PA 238, MCL 722.628, regarding a child as to whom the establishment or modification of custody or parenting time is pending in an open friend of the court case, the office shall notify the department of human services of procedural developments in the case until a final order regarding the pending custody or parenting time dispute is entered.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1418 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved January 5, 2009.
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[No. 406]**(HB 5969)**

AN ACT to amend 1927 PA 372, entitled “An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license or other authorization; to provide for the forfeiture of firearms under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act,” by amending sections 2, 5b, 5l, 5o, 8, 9a, and 9b (MCL 28.422, 28.425b, 28.425l, 28.425o, 28.428, 28.429a, and 28.429b), section 2 as amended by 2008 PA 195, section 5b as amended by 2006 PA 350, section 5l as amended by 2006 PA 456, section 5o as amended by 2008 PA 194, section 8 as amended by 2000 PA 381, and sections 9a and 9b as added by 1990 PA 320.

The People of the State of Michigan enact:

28.422 License to purchase, carry, possess, or transport pistol; issuance; qualifications; applications; sale of pistol; exemptions; nonresidents; basic pistol safety brochure; forging application; implementation during business hours.

Sec. 2. (1) Except as otherwise provided in this section, a person shall not purchase, carry, possess, or transport a pistol in this state without first having obtained a license for the pistol as prescribed in this section.

(2) A person who brings a pistol into this state who is on leave from active duty with the armed forces of the United States or who has been discharged from active duty with the armed forces of the United States shall obtain a license for the pistol within 30 days after his or her arrival in this state.

(3) The commissioner or chief of police of a city, township, or village police department that issues licenses to purchase, carry, possess, or transport pistols, or his or her duly authorized deputy, or the sheriff or his or her duly authorized deputy, in the parts of a county not included within a city, township, or village having an organized police department, in discharging the duty to issue licenses shall with due speed and diligence issue licenses to purchase, carry, possess, or transport pistols to qualified applicants residing within the city, village, township, or county, as applicable unless he or she has probable cause to believe that the applicant would be a threat to himself or herself or to other individuals, or would commit an offense with the pistol that would violate a law of this or another state or of the United States. An applicant is qualified if all of the following circumstances exist:

(a) The person is not subject to an order or disposition for which he or she has received notice and an opportunity for a hearing, and which was entered into the law enforcement information network pursuant to any of the following:

(i) Section 464a(1) of the mental health code, 1974 PA 258, MCL 330.1464a.

(ii) Section 5107 of the estates and protected individuals code, 1998 PA 386, MCL 700.5107, or section 444a of former 1978 PA 642.

(iii) Section 2950(10) of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950.

(iv) Section 2950a(7) of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950a.

(v) Section 14 of 1846 RS 84, MCL 552.14.

(vi) Section 6b(5) of chapter V of the code of criminal procedure, 1927 PA 175, MCL 765.6b, if the order has a condition imposed under section 6b(3) of chapter V of the code of criminal procedure, 1927 PA 175, MCL 765.6b.

(vii) Section 16b(1) of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16b.

(b) The person is 18 years of age or older or, if the seller is licensed under 18 USC 923, is 21 years of age or older.

(c) The person is a citizen of the United States and is a legal resident of this state. For the purposes of this section, a person shall be considered a legal resident of this state if any of the following apply:

(i) The person has a valid, lawfully obtained Michigan driver license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

(ii) The person is lawfully registered to vote in this state.

(iii) The person is on active duty status with the United States armed forces and is stationed outside of this state, but the person's home of record is in this state.

(iv) The person is on active duty status with the United States armed forces and is permanently stationed in this state, but the person's home of record is in another state.

(d) A felony charge or a criminal charge listed in section 5b against the person is not pending at the time of application.

(e) The person is not prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under section 224f of the Michigan penal code, 1931 PA 328, MCL 750.224f.

(f) The person has not been adjudged insane in this state or elsewhere unless he or she has been adjudged restored to sanity by court order.

(g) The person is not under an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.

(h) The person has not been adjudged legally incapacitated in this state or elsewhere. This subdivision does not apply to a person who has had his or her legal capacity restored by order of the court.

(i) The person correctly answers 70% or more of the questions on a basic pistol safety review questionnaire approved by the department of state police and provided to the individual free of charge by the licensing authority. If the person fails to correctly answer 70% or more of the questions on the basic pistol safety review questionnaire, the licensing authority shall inform the person of the questions he or she answered incorrectly and allow the person to attempt to complete another basic pistol safety review questionnaire. The person shall not be allowed to attempt to complete more than 2 basic pistol safety review questionnaires on any single day. The licensing authority shall allow the person to attempt to complete the questionnaire during normal business hours on the day the person applies for his or her license.

(4) Applications for licenses under this section shall be signed by the applicant under oath upon forms provided by the director of the department of state police. Licenses to purchase, carry, possess, or transport pistols shall be executed in quadruplicate upon forms provided by the director of the department of state police and shall be signed by the licensing authority. Four copies of the license shall be delivered to the applicant by the licensing authority. A license is void unless used within 10 days after the date it is issued.

(5) If an individual purchases or otherwise acquires a pistol, the seller shall fill out the license forms describing the pistol, together with the date of sale or acquisition, and sign his or her name in ink indicating that the pistol was sold to or otherwise acquired by the

purchaser. The purchaser shall also sign his or her name in ink indicating the purchase or other acquisition of the pistol from the seller. The seller may retain a copy of the license as a record of the transaction. The purchaser shall receive 3 copies of the license. The purchaser shall return 2 copies of the license to the licensing authority within 10 days after the date the pistol is purchased or acquired. The return of the copies to the licensing authority may be made in person or may be made by first-class mail or certified mail sent within the 10-day period to the proper address of the licensing authority. A purchaser who fails to comply with the requirements of this subsection is responsible for a state civil infraction and may be fined not more than \$250.00. If a purchaser is found responsible for a state civil infraction under this subsection, the court shall notify the department of state police of that determination.

(6) Within 48 hours after receiving the license copies returned under subsection (5), the licensing authority shall forward 1 copy of the license to the department of state police. The licensing authority shall retain the other copy of the license as an official record for not less than 6 years. Within 10 days after receiving the license copies returned under subsection (5), the licensing authority shall electronically enter the information into the pistol entry database as required by the department of state police if it has the ability to electronically enter that information. If the licensing authority does not have that ability, the licensing authority shall provide that information to the department of state police in a manner otherwise required by the department of state police. Any licensing authority that provided pistol descriptions to the department of state police under former section 9 of this act shall continue to provide pistol descriptions to the department of state police under this subsection. The purchaser has the right to obtain a copy of the information placed in the pistol entry database under this subsection to verify the accuracy of that information. The licensing authority may charge a fee not to exceed \$1.00 for the cost of providing the copy. The licensee may carry, use, possess, and transport the pistol for 30 days beginning on the date of purchase or acquisition only while he or she is in possession of his or her copy of the license. However, the person is not required to have the license in his or her possession while carrying, using, possessing, or transporting the pistol after this period.

(7) This section does not apply to the purchase of pistols from wholesalers by dealers regularly engaged in the business of selling pistols at retail, or to the sale, barter, or exchange of pistols kept as relics or curios not made for modern ammunition or permanently deactivated. This section does not prevent the transfer of ownership of pistols that are inherited if the license to purchase is approved by the commissioner or chief of police, sheriff, or their authorized deputies, and signed by the personal representative of the estate or by the next of kin having authority to dispose of the pistol.

(8) An individual who is not a resident of this state is not required to obtain a license under this section if all of the following conditions apply:

(a) The individual is licensed in his or her state of residence to purchase, carry, or transport a pistol.

(b) The individual is in possession of the license described in subdivision (a).

(c) The individual is the owner of the pistol he or she possesses, carries, or transports.

(d) The individual possesses the pistol for a lawful purpose as that term is defined in section 231a of the Michigan penal code, 1931 PA 328, MCL 750.231a.

(e) The individual is in this state for a period of 180 days or less and does not intend to establish residency in this state.

(9) An individual who is a nonresident of this state shall present the license described in subsection (8)(a) upon the demand of a police officer. An individual who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00, or both.

(10) The licensing authority may require a person claiming active duty status with the United States armed forces to provide proof of 1 or both of the following:

- (a) The person's home of record.
- (b) Permanent active duty assignment in this state.

(11) This section does not apply to a person who is younger than the age required under subsection (3)(b) and who possesses a pistol if all of the following conditions apply:

- (a) The person is not otherwise prohibited from possessing that pistol.
- (b) The person is at a recognized target range.
- (c) The person possesses the pistol for the purpose of target practice or instruction in the safe use of a pistol.
- (d) The person's parent or guardian is physically present and supervising the person.
- (e) The owner of the pistol is physically present.

(12) This section does not apply to a person who possesses a pistol if all of the following conditions apply:

- (a) The person is not otherwise prohibited from possessing a pistol.
- (b) The person is at a recognized target range or shooting facility.
- (c) The person possesses the pistol for the purpose of target practice or instruction in the safe use of a pistol.
- (d) The owner of the pistol is physically present and supervising the use of the pistol.

(13) The licensing authority shall provide a basic pistol safety brochure to each applicant for a license under this section before the applicant answers the basic pistol safety review questionnaire. A basic pistol safety brochure shall contain, but is not limited to providing, information on all of the following subjects:

- (a) Rules for safe handling and use of pistols.
- (b) Safe storage of pistols.
- (c) Nomenclature and description of various types of pistols.
- (d) The responsibilities of owning a pistol.

(14) The basic pistol safety brochure shall be supplied in addition to the safety pamphlet required by section 9b.

(15) The basic pistol safety brochure required in subsection (13) shall be produced by a national nonprofit membership organization that provides voluntary pistol safety programs that include training individuals in the safe handling and use of pistols.

(16) A person who forges any matter on an application for a license under this section is guilty of a felony, punishable by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(17) A licensing authority shall implement this section during all of the licensing authority's normal business hours and shall set hours for implementation that allow an applicant to use the license within the time period set forth in subsection (4).

28.425b License application; fee; verification of requirements; determination; circumstances for issuance; fingerprints; issuance or denial; temporary license; suspension or revocation of license; definitions.

Sec. 5b. (1) To obtain a license to carry a concealed pistol, an individual shall apply to the concealed weapon licensing board in the county in which that individual resides. The application shall be filed with the county clerk during the county clerk's normal business hours. The

application shall be on a form provided by the director of the department of state police and shall allow the applicant to designate whether the applicant seeks a temporary license. The application shall be signed under oath by the applicant. The oath shall be administered by the county clerk or his or her representative. The application shall contain all of the following information:

(a) The applicant's legal name and date of birth and the address of his or her primary residence. If the applicant resides in a city, village, or township that has a police department, the name of the police department. Information received under this subdivision is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.

(b) A statement by the applicant that the applicant meets the criteria for a license under this act to carry a concealed pistol.

(c) A statement by the applicant authorizing the concealed weapon licensing board to access any record, including any medical record, pertaining to the applicant's qualifications for a license to carry a concealed pistol under this act. The applicant may request that information received by the concealed weapon licensing board under this subdivision be reviewed in a closed session. If the applicant requests that the session be closed, the concealed weapon licensing board shall close the session only for purposes of this subdivision. The applicant and his or her representative have the right to be present in the closed session. Medical records and personal identifying information received by the concealed weapon licensing board under this subdivision is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes or if the applicant is convicted of a felony involving a pistol.

(d) A statement by the applicant regarding whether he or she has a history of mental illness that would disqualify him or her under subsection (7)(j) to (l) from receiving a license to carry a concealed pistol, and authorizing the concealed weapon licensing board to access the mental health records of the applicant relating to his or her mental health history. The applicant may request that information received by the concealed weapon licensing board under this subdivision be reviewed in a closed session. If the applicant requests that the session be closed, the concealed weapon licensing board shall close the session only for purposes of this subdivision. The applicant and his or her representative have the right to be present in the closed session. Medical records and personal identifying information received by the concealed weapon licensing board under this subdivision is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.

(e) A statement by the applicant regarding whether he or she has ever been convicted in this state or elsewhere for any of the following:

(i) Any felony.

(ii) A misdemeanor listed under subsection (7)(h) or (i), if the applicant was convicted of violating that misdemeanor in the 8 years immediately preceding the date of the application.

(f) A statement by the applicant whether he or she has been dishonorably discharged from the United States armed forces.

(g) If the applicant seeks a temporary license, the facts supporting the issuance of that temporary license.

(h) The names, residential addresses, and telephone numbers of 2 individuals who are references for the applicant. Information received under this subdivision is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.

(i) A passport-quality photograph of the applicant provided by the applicant at the time of application.

(j) A certificate stating that the applicant has completed the training course prescribed by this act.

(2) The application form shall contain a conspicuous warning that the application is executed under oath and that intentionally making a material false statement on the application is a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,500.00, or both.

(3) An individual who intentionally makes a material false statement on an application under subsection (1) is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,500.00, or both.

(4) The concealed weapon licensing board shall retain a copy of each application for a license to carry a concealed pistol as an official record. One year after the expiration of a concealed pistol license, the county clerk may destroy the record and maintain only a name index of the record.

(5) Each applicant shall pay a nonrefundable fee of \$105.00 by any method of payment accepted by that county for payments of other fees and penalties. Except for a local police agency as provided in subsection (9), a unit of local government, an agency of a unit of local government, or an agency or department of this state shall not charge an additional fee, assessment, or other amount in connection with a license under this section. The fee shall be payable to the county. The county treasurer shall deposit \$41.00 of each fee collected under this section in the general fund of the county and credit \$26.00 of that deposit to the credit of the county clerk and \$15.00 of that deposit to the credit of the county sheriff and forward the balance to the state treasurer. The state treasurer shall deposit the balance of the fee in the general fund to the credit of the department of state police. The department of state police shall use the money received under this act to process the fingerprints and to reimburse the federal bureau of investigation for the costs associated with processing fingerprints submitted under this act. The balance of the money received under this act shall be credited to the department of state police.

(6) The county sheriff on behalf of the concealed weapon licensing board shall verify the requirements of subsection (7)(d), (e), (f), (h), (i), (j), (k), (l), and (m) through the law enforcement information network and report his or her finding to the concealed weapon licensing board. If the applicant resides in a city, village, or township that has a police department, the concealed weapon licensing board shall contact that city, village, or township police department to determine only whether that city, village, or township police department has any information relevant to the investigation of whether the applicant is eligible under this act to receive a license to carry a concealed pistol. The concealed weapon licensing board may require a person claiming active duty status with the United States armed forces under this section to provide proof of 1 or both of the following:

(a) The person's home of record.

(b) Permanent active duty assignment in this state.

(7) The concealed weapon licensing board shall issue a license to an applicant to carry a concealed pistol within the period required under this act after the applicant properly

submits an application under subsection (1) and the concealed weapon licensing board determines that all of the following circumstances exist:

(a) The applicant is 21 years of age or older.

(b) The applicant is a citizen of the United States or is an alien lawfully admitted into the United States, is a legal resident of this state, and has resided in this state for not less than the 6 months immediately preceding the date of application. The concealed weapon licensing board may waive the 6-month residency requirement for a temporary license under section 5a(8) if the concealed weapon licensing board determines there is probable cause to believe the safety of the applicant or the safety of a member of the applicant's family is endangered by the applicant's inability to immediately obtain a license to carry a concealed pistol. If the applicant holds a valid concealed pistol license issued by another state at the time the applicant's residency in this state is established, the concealed weapon licensing board may waive the 6-month waiting period and the applicant may apply for a concealed pistol license at the time the applicant's residency in this state is established. The concealed weapon licensing board shall immediately issue a temporary license to that applicant. The temporary license shall be valid until the concealed weapon licensing board decides whether to grant or deny the application. For the purposes of this section, a person shall be considered a legal resident of this state if any of the following apply:

(i) The person has a valid, lawfully obtained Michigan driver license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

(ii) The person is lawfully registered to vote in this state.

(iii) The person is on active duty status with the United States armed forces and is stationed outside of this state, but the person's home of record is in this state.

(iv) The person is on active duty status with the United States armed forces and is permanently stationed in this state, but the person's home of record is in another state.

(c) The applicant has knowledge and has had training in the safe use and handling of a pistol by the successful completion of a pistol safety training course or class that meets the requirements of section 5j, and that is available to the general public and presented by a law enforcement agency, junior or community college, college, or public or private institution or organization or firearms training school.

(d) The applicant is not the subject of an order or disposition under any of the following:

(i) Section 464a of the mental health code, 1974 PA 258, MCL 330.1464a.

(ii) Section 5107 of the estates and protected individuals code, 1998 PA 386, MCL 700.5107.

(iii) Sections 2950 and 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a.

(iv) Section 6b of chapter V of the code of criminal procedure, 1927 PA 175, MCL 765.6b, if the order has a condition imposed pursuant to section 6b(3) of chapter V of the code of criminal procedure, 1927 PA 175, MCL 765.6b.

(v) Section 16b of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16b.

(e) The applicant is not prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under section 224f of the Michigan penal code, 1931 PA 328, MCL 750.224f.

(f) The applicant has never been convicted of a felony in this state or elsewhere, and a felony charge against the applicant is not pending in this state or elsewhere at the time he or she applies for a license described in this section.

(g) The applicant has not been dishonorably discharged from the United States armed forces.

(h) The applicant has not been convicted of a misdemeanor violation of any of the following in the 8 years immediately preceding the date of application:

(i) Section 617a of the Michigan vehicle code, 1949 PA 300, MCL 257.617a (failing to stop when involved in a personal injury accident).

(ii) Section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625, punishable as provided in subsection (9)(b) of that section (operating while intoxicated, second offense).

(iii) Section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625m punishable under subsection (4) of that section (operating a commercial vehicle with alcohol content, second offense).

(iv) Section 626 of the Michigan vehicle code, 1949 PA 300, MCL 257.626 (reckless driving).

(v) Section 904(1) of the Michigan vehicle code, 1949 PA 300, MCL 257.904 (operating while license suspended or revoked), punishable as a second or subsequent offense.

(vi) Section 185 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.185 (operating aircraft while under the influence of intoxicating liquor or a controlled substance with prior conviction).

(vii) Section 29 of the weights and measures act, 1964 PA 283, MCL 290.629 (hindering or obstructing certain persons performing official weights and measures duties).

(viii) Section 10 of the motor fuels quality act, 1984 PA 44, MCL 290.650 (hindering, obstructing, assaulting, or committing bodily injury upon director or authorized representative).

(ix) Section 81134 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134, punishable under subsection (5) or (6) of that section (operating ORV under the influence of intoxicating liquor or a controlled substance, second or subsequent offense).

(x) Section 82127 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82127 (operating a snowmobile under the influence of intoxicating liquor or a controlled substance), punishable as a second or subsequent offense under section 82128(1)(b) or (c) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82128.

(xi) Section 80176 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, and punishable under section 80177(1)(b) (operating vessel under the influence of intoxicating liquor or a controlled substance, second or subsequent offense).

(xii) Section 7403 of the public health code, 1978 PA 368, MCL 333.7403.

(xiii) Section 353 of the railroad code of 1993, 1993 PA 354, MCL 462.353 (operating locomotive under the influence of intoxicating liquor or a controlled substance, or while visibly impaired), punishable under subsection (4) of that section.

(xiv) Section 7 of 1978 PA 33, MCL 722.677 (displaying sexually explicit matter to minors).

(xv) Section 81 of the Michigan penal code, 1931 PA 328, MCL 750.81 (assault or domestic assault).

(xvi) Section 81a(1) or (2) of the Michigan penal code, 1931 PA 328, MCL 750.81a (aggravated assault or aggravated domestic assault).

(xvii) Section 115 of the Michigan penal code, 1931 PA 328, MCL 750.115 (breaking and entering or entering without breaking).

(xviii) Section 136b(6) of the Michigan penal code, 1931 PA 328, MCL 750.136b (fourth degree child abuse).

(*xix*) Section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a (accosting, enticing, or soliciting a child for immoral purposes).

(*xx*) Section 145n of the Michigan penal code, 1931 PA 328, MCL 750.145n (vulnerable adult abuse).

(*xxi*) Section 157b(3)(b) of the Michigan penal code, 1931 PA 328, MCL 750.157b (solicitation to commit a felony).

(*xxii*) Section 215 of the Michigan penal code, 1931 PA 328, MCL 750.215 (impersonating peace officer or medical examiner).

(*xxiii*) Section 223 of the Michigan penal code, 1931 PA 328, MCL 750.223 (illegal sale of a firearm or ammunition).

(*xxiv*) Section 224d of the Michigan penal code, 1931 PA 328, MCL 750.224d (illegal use or sale of a self-defense spray).

(*xxv*) Section 226a of the Michigan penal code, 1931 PA 328, MCL 750.226a (sale or possession of a switchblade).

(*xxvi*) Section 227c of the Michigan penal code, 1931 PA 328, MCL 750.227c (improper transportation of a loaded firearm).

(*xxvii*) Section 228 of the Michigan penal code, 1931 PA 328, MCL 750.228 (failure to have a pistol inspected).

(*xxviii*) Section 229 of the Michigan penal code, 1931 PA 328, MCL 750.229 (accepting a pistol in pawn).

(*xxix*) Section 232 of the Michigan penal code, 1931 PA 328, MCL 750.232 (failure to register the purchase of a firearm or a firearm component).

(*xxx*) Section 232a of the Michigan penal code, 1931 PA 328, MCL 750.232a (improperly obtaining a pistol, making a false statement on an application to purchase a pistol, or using false identification to purchase a pistol).

(*xxxi*) Section 233 of the Michigan penal code, 1931 PA 328, MCL 750.233 (intentionally aiming a firearm without malice).

(*xxxii*) Section 234 of the Michigan penal code, 1931 PA 328, MCL 750.234 (intentionally discharging a firearm aimed without malice).

(*xxxiii*) Section 234d of the Michigan penal code, 1931 PA 328, MCL 750.234d (possessing a firearm on prohibited premises).

(*xxxiv*) Section 234e of the Michigan penal code, 1931 PA 328, MCL 750.234e (brandishing a firearm in public).

(*xxxv*) Section 234f of the Michigan penal code, 1931 PA 328, MCL 750.234f (possession of a firearm by an individual less than 18 years of age).

(*xxxvi*) Section 235 of the Michigan penal code, 1931 PA 328, MCL 750.235 (intentionally discharging a firearm aimed without malice causing injury).

(*xxxvii*) Section 235a of the Michigan penal code, 1931 PA 328, MCL 750.235a (parent of a minor who possessed a firearm in a weapon free school zone).

(*xxxviii*) Section 236 of the Michigan penal code, 1931 PA 328, MCL 750.236 (setting a spring gun or other device).

(*xxxix*) Section 237 of the Michigan penal code, 1931 PA 328, MCL 750.237 (possessing a firearm while under the influence of intoxicating liquor or a drug).

(*xl*) Section 237a of the Michigan penal code, 1931 PA 328, MCL 750.237a (weapon free school zone violation).

(*xli*) Section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a (indecent exposure).

(*xlii*) Section 411h of the Michigan penal code, 1931 PA 328, MCL 750.411h (stalking).

(*xliii*) Section 520e of the Michigan penal code, 1931 PA 328, MCL 750.520e (fourth degree criminal sexual conduct).

(*xliv*) Section 1 of 1952 PA 45, MCL 752.861 (reckless, careless, or negligent use of a firearm resulting in injury or death).

(*xlv*) Section 2 of 1952 PA 45, MCL 752.862 (careless, reckless, or negligent use of a firearm resulting in property damage).

(*xlvi*) Section 3a of 1952 PA 45, MCL 752.863a (reckless discharge of a firearm).

(*xlvii*) A violation of a law of the United States, another state, or a local unit of government of this state or another state substantially corresponding to a violation described in subparagraphs (*i*) to (*xlvi*).

(*i*) The applicant has not been convicted of a misdemeanor violation of any of the following in the 3 years immediately preceding the date of application unless the misdemeanor violation is listed under subdivision (*h*):

(*i*) Section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625 (operating under the influence).

(*ii*) Section 625a of the Michigan vehicle code, 1949 PA 300, MCL 257.625a (refusal of commercial vehicle operator to submit to a chemical test).

(*iii*) Section 625k of the Michigan vehicle code, 1949 PA 300, MCL 257.625k (ignition interlock device reporting violation).

(*iv*) Section 625l of the Michigan vehicle code, 1949 PA 300, MCL 257.625l (circumventing an ignition interlocking device).

(*v*) Section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625m, punishable under subsection (3) of that section (operating a commercial vehicle with alcohol content).

(*vi*) Section 185 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.185 (operating aircraft under the influence).

(*vii*) Section 81134 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 (operating ORV under the influence).

(*viii*) Section 81135 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81135 (operating ORV while visibly impaired).

(*ix*) Section 82127 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82127 (operating a snowmobile under the influence).

(*x*) Part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461 (controlled substance violation).

(*xi*) Section 353 of the railroad code of 1993, 1993 PA 354, MCL 462.353 (operating locomotive under the influence), punishable under subsection (3) of that section.

(*xii*) Section 167 of the Michigan penal code, 1931 PA 328, MCL 750.167 (disorderly person).

(*xiii*) Section 174 of the Michigan penal code, 1931 PA 328, MCL 750.174 (embezzlement).

(*xiv*) Section 218 of the Michigan penal code, 1931 PA 328, MCL 750.218 (false pretenses with intent to defraud).

(*xv*) Section 356 of the Michigan penal code, 1931 PA 328, MCL 750.356 (larceny).

(xvi) Section 356d of the Michigan penal code, 1931 PA 328, MCL 750.356d (second degree retail fraud).

(xvii) Section 359 of the Michigan penal code, 1931 PA 328, MCL 750.359 (larceny-vacant building).

(xviii) Section 362 of the Michigan penal code, 1931 PA 328, MCL 750.362 (larceny by conversion).

(xix) Section 362a of the Michigan penal code, 1931 PA 328, MCL 750.362a (larceny-defrauding lessor).

(xx) Section 377a of the Michigan penal code, 1931 PA 328, MCL 750.377a (malicious destruction of property).

(xxi) Section 380 of the Michigan penal code, 1931 PA 328, MCL 750.380 (malicious destruction of real property).

(xxii) Section 535 of the Michigan penal code, 1931 PA 328, MCL 750.535 (receiving stolen property).

(xxiii) Section 540e of the Michigan penal code, 1931 PA 328, MCL 750.540e (malicious use of telephones).

(xxiv) A violation of a law of the United States, another state, or a local unit of government of this state or another state substantially corresponding to a violation described in subparagraphs (i) to (xxiii).

(j) The applicant has not been found guilty but mentally ill of any crime and has not offered a plea of not guilty of, or been acquitted of, any crime by reason of insanity.

(k) The applicant has never been subject to an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.

(l) The applicant does not have a diagnosed mental illness at the time the application is made regardless of whether he or she is receiving treatment for that illness.

(m) The applicant is not under a court order of legal incapacity in this state or elsewhere.

(n) Issuing a license to the applicant to carry a concealed pistol in this state is not detrimental to the safety of the applicant or to any other individual. A determination under this subdivision shall be based on clear and convincing evidence of repeated violations of this act, crimes, personal protection orders or injunctions, or police reports or other clear and convincing evidence of the actions of, or statements of, the applicant that bear directly on the applicant's ability to carry a concealed pistol.

(8) Upon entry of a court order or conviction of 1 of the enumerated prohibitions for using, transporting, selling, purchasing, carrying, shipping, receiving or distributing a firearm in this section the department of state police shall immediately enter the order or conviction into the law enforcement information network. For purposes of this act, information of the court order or conviction shall not be removed from the law enforcement information network, but may be moved to a separate file intended for the use of the county concealed weapon licensing boards, the courts, and other government entities as necessary and exclusively to determine eligibility to be licensed under this act.

(9) An individual, after submitting an application and paying the fee prescribed under subsection (5), shall request and have classifiable fingerprints taken by the county sheriff or a local police agency if that local police agency maintains fingerprinting capability. If the individual requests that classifiable fingerprints be taken by a local police agency, the individual shall also pay to that local police agency a fee of \$15.00 by any method of payment accepted by the unit of local government for payments of other fees and penalties. The

county sheriff or local police agency shall take the fingerprints within 5 business days after the request.

(10) The fingerprints shall be taken, under subsection (9), on forms and in a manner prescribed by the department of state police. The fingerprints shall be immediately forwarded to the department of state police for comparison with fingerprints already on file with the department of state police. The department of state police shall forward the fingerprints to the federal bureau of investigation. Within 10 days after receiving a report of the fingerprints from the federal bureau of investigation, the department of state police shall provide a copy to the submitting sheriff's department or local police agency as appropriate and the clerk of the appropriate concealed weapon licensing board. Except as provided in subsection (14), the concealed weapon licensing board shall not issue a concealed pistol license until it receives the fingerprint comparison report prescribed in this subsection. The concealed weapon licensing board may deny a license if an individual's fingerprints are not classifiable by the federal bureau of investigation.

(11) The concealed weapon licensing board shall deny a license to an applicant to carry a concealed pistol if the applicant is not qualified under subsection (7) to receive that license.

(12) A license to carry a concealed pistol that is issued based upon an application that contains a material false statement is void from the date the license is issued.

(13) Subject to subsections (10) and (14), the concealed weapon licensing board shall issue or deny issuance of a license within 45 days after the concealed weapon licensing board receives the fingerprint comparison report provided under subsection (10). If the concealed weapon licensing board denies issuance of a license to carry a concealed pistol, the concealed weapon licensing board shall within 5 business days do both of the following:

(a) Inform the applicant in writing of the reasons for the denial. Information under this subdivision shall include all of the following:

(i) A statement of the specific and articulable facts supporting the denial.

(ii) Copies of any writings, photographs, records, or other documentary evidence upon which the denial is based.

(b) Inform the applicant in writing of his or her right to appeal the denial to the circuit court as provided in section 5d.

(14) If the fingerprint comparison report is not received by the concealed weapon licensing board within 60 days after the fingerprint report is forwarded to the department of state police by the federal bureau of investigation, the concealed weapon licensing board shall issue a temporary license to carry a concealed pistol to the applicant if the applicant is otherwise qualified for a license. A temporary license issued under this section is valid for 180 days or until the concealed weapon licensing board receives the fingerprint comparison report provided under subsection (10) and issues or denies issuance of a license to carry a concealed pistol as otherwise provided under this act. Upon issuance or the denial of issuance of the license to carry a concealed pistol to an applicant who received a temporary license under this section, the applicant shall immediately surrender the temporary license to the concealed weapon licensing board that issued that temporary license.

(15) If an individual licensed under this act to carry a concealed pistol moves to a different county within this state, his or her license remains valid until it expires or is otherwise suspended or revoked under this act. A license to carry a concealed pistol that is lost, stolen, or defaced may be replaced by the issuing county clerk for a replacement fee of \$10.00.

(16) If a concealed weapons licensing board suspends or revokes a license issued under this act, the license is forfeited and shall be returned to the concealed weapon licensing board forthwith. An individual who fails to return a license as required under this subsection

after he or she was notified that his or her license was suspended or revoked is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(17) An applicant or an individual licensed under this act to carry a concealed pistol may be furnished a copy of his or her application under this section upon request and the payment of a reasonable fee.

(18) This section does not prohibit the concealed weapon licensing board from making public and distributing to the public at no cost lists of individuals who are certified as qualified instructors as prescribed under section 5j.

(19) As used in this section:

(a) “Convicted” means a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt for a criminal law violation or a juvenile adjudication or disposition by the juvenile division of probate court or family division of circuit court for a violation that if committed by an adult would be a crime.

(b) “Felony” means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1, or a violation of a law of the United States or another state that is designated as a felony or that is punishable by death or by imprisonment for more than 1 year.

(c) “Mental illness” means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life, and includes, but is not limited to, clinical depression.

(d) “Misdemeanor” means a violation of a penal law of this state or violation of a local ordinance substantially corresponding to a violation of a penal law of this state that is not a felony or a violation of an order, rule, or regulation of a state agency that is punishable by imprisonment or a fine that is not a civil fine, or both.

(e) “Treatment” means care or any therapeutic service, including, but not limited to, the administration of a drug, and any other service for the treatment of a mental illness.

28.425/ License; validity; duration; renewal; waiver of educational requirements; fingerprints.

Sec. 5l. (1) A license to carry a concealed pistol issued on or after July 1, 2003 but before July 1, 2006 is valid for 5 years.

(2) A license to carry a concealed pistol issued or renewed on or after July 1, 2006 is valid until the applicant’s date of birth that falls not less than 4 years or more than 5 years after the license is issued or renewed, as applicable. Except as provided in subsections (7) and (8), a renewal of a license under section 5b shall, except as provided in this section, be issued in the same manner as an original license issued under section 5b.

(3) The concealed weapon licensing board shall issue or deny issuance of a renewal license within 60 days after the application for renewal is properly submitted. The county clerk shall issue the applicant a receipt for his or her renewal application at the time the application is submitted. The receipt shall contain all of the following:

- (a) The name of the applicant.
- (b) The date and time the receipt is issued.
- (c) The amount paid.
- (d) A statement that the receipt is for a license renewal.
- (e) A statement of whether the applicant qualifies for an extension under subsection (4).
- (f) The name of the county in which the receipt is issued.
- (g) An impression of the county seal.

(4) If the concealed weapon licensing board fails to deny or issue a renewal license to the person within 60 days as required under subsection (3), the expiration date of the current license is extended by 180 days or until the renewal license is issued, whichever occurs first. This subsection does not apply unless the person pays the renewal fee at the time the renewal application is submitted and the person has submitted a receipt from a police agency that confirms that a background check has been requested by the applicant.

(5) A person carrying a concealed pistol after the expiration date of his or her license pursuant to an extension under subsection (4) shall keep the receipt issued by the county clerk under subsection (3) and his or her expired license in his or her possession at all times that he or she is carrying the pistol. For the purposes of this act, the receipt is considered to be part of the license to carry a concealed pistol until a renewal license is issued or denied. Failing to have the receipt and expired license in possession while carrying a concealed pistol or failing to display the receipt to a peace officer upon request is a violation of this act.

(6) The educational requirements under section 5b(7)(c) are waived for an applicant who is a retired police officer or retired law enforcement officer.

(7) The educational requirements under section 5b(7)(c) for an applicant who is applying for a renewal of a license under this act are waived except that the applicant shall certify that he or she has completed at least 3 hours' review of the training described under section 5b(7)(c) and has had at least 1 hour of firing range time in the 6 months immediately preceding the subsequent application.

(8) Beginning January 1, 2007, an applicant who is applying for a renewal of a license issued under section 5b is not required to have fingerprints taken again under section 5b(9) if all of the following conditions have been met:

(a) There has been established a system for the department of state police to save and maintain in its automated fingerprint identification system (AFIS) database all fingerprints that are submitted to the department of state police under section 5b.

(b) The applicant's fingerprints have been submitted to and maintained by the department of state police as described in subdivision (a) for ongoing comparison with the automated fingerprint identification system (AFIS) database.

28.425o Premises on which carrying concealed weapon prohibited; "premises" defined; exceptions to subsection (1); violation; penalties.

Sec. 50. (1) Subject to subsection (4), an individual licensed under this act to carry a concealed pistol, or who is exempt from licensure under section 12a(1)(f), shall not carry a concealed pistol on the premises of any of the following:

(a) A school or school property except that a parent or legal guardian of a student of the school is not precluded from carrying a concealed pistol while in a vehicle on school property, if he or she is dropping the student off at the school or picking up the child from the school. As used in this section, "school" and "school property" mean those terms as defined in section 237a of the Michigan penal code, 1931 PA 328, MCL 750.237a.

(b) A public or private child care center or day care center, public or private child caring institution, or public or private child placing agency.

(c) A sports arena or stadium.

(d) A bar or tavern licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, where the primary source of income of the business is the sale of alcoholic liquor by the glass and consumed on the premises. This subdivision does not apply to an owner or employee of the business. The Michigan liquor control commission shall develop and make available to holders of licenses under the Michigan liquor control

code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, an appropriate sign stating that “This establishment prohibits patrons from carrying concealed weapons”. The owner or operator of an establishment licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, may, but is not required to, post the sign developed under this subdivision. A record made available by an establishment licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, necessary to enforce this subdivision is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(e) Any property or facility owned or operated by a church, synagogue, mosque, temple, or other place of worship, unless the presiding official or officials of the church, synagogue, mosque, temple, or other place of worship permit the carrying of concealed pistol on that property or facility.

(f) An entertainment facility with a seating capacity of 2,500 or more individuals that the individual knows or should know has a seating capacity of 2,500 or more individuals or that has a sign above each public entrance stating in letters not less than 1-inch high a seating capacity of 2,500 or more individuals.

(g) A hospital.

(h) A dormitory or classroom of a community college, college, or university.

(2) An individual licensed under this act to carry a concealed pistol, or who is exempt from licensure under section 12a(1)(f), shall not carry a concealed pistol in violation of R 432.1212 or a successor rule of the Michigan administrative code promulgated under the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.

(3) As used in subsection (1), “premises” does not include parking areas of the places identified under subsection (1).

(4) Subsection (1) does not apply to any of the following:

(a) An individual licensed under this act who is a retired police officer or retired law enforcement officer. The concealed weapon licensing board may require a letter from the law enforcement agency stating that the retired police officer or law enforcement officer retired in good standing.

(b) An individual who is licensed under this act and who is employed or contracted by an entity described under subsection (1) to provide security services and is required by his or her employer or the terms of a contract to carry a concealed firearm on the premises of the employing or contracting entity.

(c) An individual who is licensed as a private investigator or private detective under the professional investigator licensure act, 1965 PA 285, MCL 338.821 to 338.851.

(d) An individual who is licensed under this act and who is a corrections officer of a county sheriff’s department.

(e) An individual who is licensed under this act and who is a motor carrier officer or capitol security officer of the department of state police.

(f) An individual who is licensed under this act and who is a member of a sheriff’s posse.

(g) An individual who is licensed under this act and who is an auxiliary officer or reserve officer of a police or sheriff’s department.

(h) An individual who is licensed under this act and who is a parole or probation officer of the department of corrections.

(5) An individual who violates this section is responsible for a state civil infraction or guilty of a crime as follows:

(a) Except as provided in subdivisions (b) and (c), the individual is responsible for a state civil infraction and may be fined not more than \$500.00. The court shall order the individual’s license to carry a concealed pistol suspended for 6 months.

(b) For a second violation, the individual is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00. The court shall order the individual's license to carry a concealed pistol revoked.

(c) For a third or subsequent violation, the individual is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$5,000.00, or both. The court shall order the individual's license to carry a concealed pistol revoked.

28.428 Revocation of licenses; grounds; hearing; suspension; order; notice.

Sec. 8. (1) The concealed weapon licensing board that issued a license to an individual to carry a concealed pistol may revoke that license if the board determines that the individual committed any violation of this act other than a violation of section 5f(4). If the board determines that the individual has been found responsible for 3 or more state civil infraction violations of this act during the license period, the board shall conduct a hearing and may suspend the individual's license for not more than 1 year.

(2) Except as provided in subsections (3), (4), and (5), a license shall not be revoked under this section except upon written complaint and an opportunity for a hearing before the board. The board shall give the individual at least 10 days' notice of a hearing under this section. The notice shall be by personal service or by certified mail delivered to the individual's last known address.

(3) If the concealed weapon licensing board is notified by a law enforcement agency or prosecuting official that an individual licensed to carry a concealed pistol is charged with a felony or misdemeanor as defined in this act, the concealed weapon licensing board shall immediately suspend the individual's license until there is a final disposition of the charge for that offense and send notice of that suspension to the individual's last known address as indicated in the records of the concealed weapon licensing board. The notice shall inform the individual that he or she is entitled to a prompt hearing on the suspension, and the concealed weapon licensing board shall conduct a prompt hearing if requested in writing by the individual. The requirements of subsection (2) do not apply to this subsection.

(4) The concealed weapon licensing board that issued a license to an individual to carry a concealed pistol shall revoke that license if the board determines that the individual is not eligible under this act to receive a license to carry a concealed pistol. The concealed weapon licensing board shall immediately send notice of the fact of and the reason for the revocation under this subsection by first-class mail to the individual's last known address as indicated on the records of the concealed weapon licensing board. The requirements of subsection (2) do not apply to this subsection.

(5) If the concealed weapon licensing board determines by clear and convincing evidence based on specific articulable facts that the applicant poses a danger to the applicant or to any other person, the concealed weapon licensing board shall immediately suspend the individual's license pending a revocation hearing under this section. The concealed weapon licensing board shall send notice of the suspension to the individual's last known address as indicated in the records of the concealed weapon licensing board. The notice shall inform the individual that he or she is entitled to a prompt hearing on the suspension, and the concealed weapon licensing board shall conduct a prompt hearing if requested in writing by the individual. The requirements of subsection (2) do not apply to this subsection.

(6) If the concealed weapon licensing board orders a license suspended or revoked under this section or amends a suspension or revocation order, the concealed weapon licensing board shall immediately notify a law enforcement agency having jurisdiction in the county in which the concealed weapon licensing board is located to enter the order or amended order into

the law enforcement information network. A law enforcement agency that receives notice of an order or amended order under this subsection from a concealed weapon licensing board shall immediately enter the order or amended order into the law enforcement information network as requested by that concealed weapon licensing board.

(7) A suspension or revocation order or amended order issued under this section is immediately effective. However, an individual is not criminally liable for violating the order or amended order unless he or she has received notice of the order or amended order.

(8) If an individual is carrying a pistol in violation of a suspension or revocation order or amended order issued under this section but has not previously received notice of the order or amended order, the individual shall be informed of the order or amended order and be given an opportunity to properly store the pistol or otherwise comply with the order or amended order before an arrest is made for carrying the pistol in violation of this act.

(9) If a law enforcement agency or officer notifies an individual of a suspension or revocation order or amended order issued under this section who has not previously received notice of the order or amended order, the law enforcement agency or officer shall enter a statement into the law enforcement information network that the individual has received notice of the order or amended order under this section.

(10) The clerk of the concealed weapon licensing board is authorized to administer an oath to any individual testifying before the board at a hearing under this section.

28.429a Duties of state police; questionnaire; pamphlet.

Sec. 9a. The department of state police shall do all of the following:

(a) Approve a pamphlet on basic pistol safety for distribution to entities authorized to issue licenses under section 2.

(b) Approve basic pistol safety questionnaires for distribution to entities authorized to issue licenses under section 2. The department of state police shall approve a questionnaire under this subdivision only if both of the following circumstances exist:

(i) The questionnaire only addresses material covered in the pamphlet approved under subdivision (a).

(ii) The questionnaire reasonably examines the knowledge of pistol safety of individuals who are required to answer questionnaires.

28.429b Basic pistol safety pamphlet and questionnaires; printing and distribution.

Sec. 9b. The department of state police shall print the basic pistol safety pamphlet and basic pistol safety questionnaires approved by the department of state police, and shall distribute the pamphlet and the questionnaires free of charge to entities authorized to issue licenses under section 2.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 505 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved January 5, 2009.

Filed with Secretary of State January 6, 2009.

[No. 407]**(SB 505)**

AN ACT to amend 1927 PA 372, entitled “An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license or other authorization; to provide for the forfeiture of firearms under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act,” by amending sections 1 and 5o (MCL 28.421 and 28.425o), section 1 as amended by 2002 PA 719 and section 5o as amended by 2008 PA 194.

The People of the State of Michigan enact:

28.421 Definitions.

Sec. 1. As used in this act:

(a) “Felony” means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1, or a violation of a law of the United States or another state that is designated as a felony or that is punishable by death or by imprisonment for more than 1 year.

(b) “Firearm” means a weapon from which a dangerous projectile may be propelled by an explosive, or by gas or air. Firearm does not include a smooth bore rifle or handgun designed and manufactured exclusively for propelling by a spring, or by gas or air, BB’s not exceeding .177 caliber.

(c) “Misdemeanor” means a violation of a penal law of this state or violation of a local ordinance substantially corresponding to a violation of a penal law of this state that is not a felony or a violation of an order, rule, or regulation of a state agency that is punishable by imprisonment or a fine that is not a civil fine, or both.

(d) “Peace officer” means, except as otherwise provided in this act, an individual who is employed as a law enforcement officer; as that term is defined under section 2 of the commission on law enforcement standards act, 1965 PA 203, MCL 28.602, by this state or another state, a political subdivision of this state or another state, or the United States, and who is required to carry a firearm in the course of his or her duties as a law enforcement officer.

(e) “Pistol” means a loaded or unloaded firearm that is 30 inches or less in length, or a loaded or unloaded firearm that by its construction and appearance conceals it as a firearm.

(f) “Purchaser” means a person who receives a pistol from another person by purchase or gift.

(g) “Reserve peace officer”, “auxiliary officer”, or “reserve officer” means, except as otherwise provided in this act, an individual authorized on a voluntary or irregular basis by a duly authorized police agency of this state or a political subdivision of this state to act as a law enforcement officer, who is responsible for the preservation of the peace, the prevention and detection of crime, and the enforcement of the general criminal laws of this state, and who is otherwise eligible to possess a firearm under this act.

(h) “Retired police officer” or “retired law enforcement officer” means an individual who was a police officer or law enforcement officer who was certified as described under section 9a of the commission on the law enforcement standards act, 1965 PA 203, MCL 28.609a, and retired in good standing from his or her employment as a police officer or law enforcement officer.

(i) “Seller” means a person who sells or gives a pistol to another person.

(j) “State court judge” means a judge of the district court, circuit court, probate court, or court of appeals or justice of the supreme court of this state who is serving either by election or appointment.

(k) “State court retired judge” means a judge or justice described in subdivision (j) who is retired, or a retired judge of the recorders court.

28.425o Premises on which carrying concealed weapon prohibited; “premises” defined; exceptions to subsection (1); violation; penalties.

Sec. 5o. (1) Subject to subsection (4), an individual licensed under this act to carry a concealed pistol, or who is exempt from licensure under section 12a(1)(f), shall not carry a concealed pistol on the premises of any of the following:

(a) A school or school property except that a parent or legal guardian of a student of the school is not precluded from carrying a concealed pistol while in a vehicle on school property, if he or she is dropping the student off at the school or picking up the child from the school. As used in this section, “school” and “school property” mean those terms as defined in section 237a of the Michigan penal code, 1931 PA 328, MCL 750.237a.

(b) A public or private child care center or day care center, public or private child caring institution, or public or private child placing agency.

(c) A sports arena or stadium.

(d) A bar or tavern licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, where the primary source of income of the business is the sale of alcoholic liquor by the glass and consumed on the premises. This subdivision does not apply to an owner or employee of the business. The Michigan liquor control commission shall develop and make available to holders of licenses under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, an appropriate sign stating that “This establishment prohibits patrons from carrying concealed weapons”. The owner or operator of an establishment licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, may, but is not required to, post the sign developed under this subdivision. A record made available by an establishment licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, necessary to enforce this subdivision is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(e) Any property or facility owned or operated by a church, synagogue, mosque, temple, or other place of worship, unless the presiding official or officials of the church, synagogue, mosque, temple, or other place of worship permit the carrying of concealed pistol on that property or facility.

(f) An entertainment facility with a seating capacity of 2,500 or more individuals that the individual knows or should know has a seating capacity of 2,500 or more individuals or that has a sign above each public entrance stating in letters not less than 1-inch high a seating capacity of 2,500 or more individuals.

(g) A hospital.

(h) A dormitory or classroom of a community college, college, or university.

(2) An individual licensed under this act to carry a concealed pistol, or who is exempt from licensure under section 12a(1)(f), shall not carry a concealed pistol in violation of R 432.1212 or a successor rule of the Michigan administrative code promulgated under the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.

(3) As used in subsection (1), “premises” does not include parking areas of the places identified under subsection (1).

(4) Subsection (1) does not apply to any of the following:

(a) An individual licensed under this act who is a retired police officer or retired law enforcement officer. The concealed weapon licensing board may require a letter from the law enforcement agency stating that the retired police officer or law enforcement officer retired in good standing.

(b) An individual who is licensed under this act and who is employed or contracted by an entity described under subsection (1) to provide security services and is required by his or her employer or the terms of a contract to carry a concealed firearm on the premises of the employing or contracting entity.

(c) An individual who is licensed as a private investigator or private detective under the professional investigator licensure act, 1965 PA 285, MCL 338.821 to 338.851.

(d) An individual who is licensed under this act and who is a corrections officer of a county sheriff's department.

(e) An individual who is licensed under this act and who is a motor carrier officer or capitol security officer of the department of state police.

(f) An individual who is licensed under this act and who is a member of a sheriff's posse.

(g) An individual who is licensed under this act and who is an auxiliary officer or reserve officer of a police or sheriff's department.

(h) An individual who is licensed under this act and who is a parole or probation officer of the department of corrections.

(i) A state court judge or state court retired judge who is licensed under this act. The concealed weapon licensing board may require a state court retired judge to obtain and carry a letter from the judicial tenure commission stating that the state court retired judge is in good standing as authorized under section 30 of article VI of the state constitution of 1963, and rules promulgated under that section, in order to qualify under this subdivision.

(5) An individual who violates this section is responsible for a state civil infraction or guilty of a crime as follows:

(a) Except as provided in subdivisions (b) and (c), the individual is responsible for a state civil infraction and may be fined not more than \$500.00. The court shall order the individual's license to carry a concealed pistol suspended for 6 months.

(b) For a second violation, the individual is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00. The court shall order the individual's license to carry a concealed pistol revoked.

(c) For a third or subsequent violation, the individual is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$5,000.00, or both. The court shall order the individual's license to carry a concealed pistol revoked.

Effective date.

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

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5969 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved January 5, 2009.

Filed with Secretary of State January 6, 2009.

[No. 408]**(SB 635)**

AN ACT to amend 1917 PA 167, entitled “An act to promote the health, safety and welfare of the people by regulating the maintenance, alteration, health, safety, and improvement of dwellings; to define the classes of dwellings affected by the act, and to establish administrative requirements; to prescribe procedures for the maintenance, improvement, or demolition of certain commercial buildings; to establish remedies; to provide for enforcement; to provide for the demolition of certain dwellings; and to fix penalties for the violation of this act,” by amending sections 1 and 126 (MCL 125.401 and 125.526), section 126 as amended by 2000 PA 479.

The People of the State of Michigan enact:

125.401 Short title; scope of act.

Sec. 1. This act shall be known as the housing law of Michigan and shall apply to every city and organized village in this state which, by the last regular or special federal census, had a population of 100,000 or more, and to every city or village as its population shall reach 100,000 thereafter and also to that territory immediately adjacent and contiguous to the boundaries of such a city or village and extending for a radial distance of 2-1/2 miles beyond their boundaries in all directions. This act shall also apply to any city and organized village in this state which, as determined by the last regular or special federal census, has or shall hereafter attain a population of 10,000 or more. This act relating to private dwellings and 2-family dwellings does not apply to any city or organized village lying outside the 2-1/2 mile radius and having a population of less than 100,000 unless the legislative body of the city or village by resolution, passed by a majority vote of the members elect of the legislative body, adopt the provisions. In the case of charter townships and townships the provisions of this act relating to private dwellings and 2-family dwellings may be applied to those areas by ordinance of the respective township board adopting the provisions. This act applies to all dwellings within the classes defined in the following sections, except that in sections where specific reference is made to 1 or more specific classes of dwellings, those provisions shall apply only to those classes to which specific reference is made. All other provisions that relate to dwellings shall apply to all classes of dwellings.

125.526 Inspection; intervals; inspection by federal government as substitute; basis; inspectors; hours of inspection; permission to enter leasehold; duties of owner; ordinance; multiple lessees; discrimination prohibited; fees; report; dwelling or rooming house with child residing; definitions.

Sec. 126. (1) The enforcing agency shall inspect multiple dwellings and rooming houses regulated by this act in accordance with this act. Except as provided in subsection (2), the period between inspections shall not be longer than 4 years. All other dwellings regulated by this act may be inspected at reasonable intervals. Inspections of multiple dwellings or rooming houses conducted by the United States department of housing and urban development under the real estate assessment center inspection process or other government agencies may be accepted by a local governmental unit and an enforcing agency as a substitute for inspections required by a local enforcing agency. To the extent permitted under applicable law, a local enforcing agency or its designee is authorized to exercise inspection authority delegated by law or agreement from other agencies or authorities that perform inspections required under other state law or federal law.

(2) A local governmental unit may provide by ordinance for a maximum period between inspections of a multiple dwelling or rooming house that is not longer than 6 years if the most recent inspection of the premises found no violations of the act and the multiple dwelling or rooming house has not changed ownership during the 6-year period.

(3) An inspection shall be conducted in the manner best calculated to secure compliance with the act and appropriate to the needs of the community, including, but not limited to, on 1 or more of the following bases:

(a) An area basis, such that all the regulated premises in a predetermined geographical area will be inspected simultaneously, or within a short period of time.

(b) A complaint basis, such that complaints of violations will be inspected within a reasonable time.

(c) A recurrent violation basis, such that premises that are found to have a high incidence of recurrent or uncorrected violations will be inspected more frequently.

(d) A compliance basis, such that a premises brought into compliance before the expiration of a certificate of compliance or any requested repair order may be issued a certificate of compliance for the maximum renewal certification period authorized by the local governmental unit.

(e) A percentage basis, such that a local governmental unit may establish a percentage of units in a multiple dwelling to be inspected in order to issue a certificate of compliance for the multiple dwelling.

(4) An inspection shall be carried out by the enforcing agency, or by the enforcing agency and representatives of other agencies that form a team to undertake an inspection under this and other applicable acts.

(5) Except as provided in subsection (7), an inspector, or team of inspectors, shall request and receive permission to enter before entering a leasehold regulated by this act at reasonable hours to undertake an inspection. In the case of an emergency, as defined under rules promulgated by the enforcing agency, or upon presentment of a warrant, the inspector or team of inspectors may enter at any time.

(6) Except in an emergency, before entering a leasehold regulated by this act, the owner of the leasehold shall request and obtain permission to enter the leasehold. In the case of an emergency, including, but not limited to, fire, flood, or other threat of serious injury or death, the owner may enter at any time.

(7) The enforcing agency may require the owner of a leasehold to do 1 or more of the following:

(a) Provide the enforcing agency access to the leasehold if the lease provides the owner a right of entry.

(b) Provide access to areas other than a leasehold or areas open to public view, or both.

(c) Notify a tenant of the enforcing agency's request to inspect a leasehold, make a good faith effort to obtain permission for an inspection, and arrange for the inspection. If a tenant vacates a leasehold after the enforcing agency has requested to inspect that leasehold, an owner of the leasehold shall notify the enforcing agency of that fact within 10 days after the leasehold is vacated.

(d) Provide access to the leasehold if a tenant of that leasehold has made a complaint to the enforcing agency.

(8) A local governmental unit may adopt an ordinance to implement subsection (7).

(9) For multiple lessees in a leasehold, notifying at least 1 lessee and requesting and obtaining the permission of at least 1 lessee satisfies subsections (5) and (7).

(10) Neither the enforcing agency nor the owner may discriminate against an occupant on the basis of whether the occupant requests, permits, or refuses entry to the leasehold.

(11) The enforcing agency shall not discriminate against an owner who has met the requirements of subsection (7) but has been unable to obtain the permission of the occupant, based on the owner's inability to obtain that permission.

(12) The enforcing agency may establish and charge a reasonable fee for inspections conducted under this act. The fee shall not exceed the actual, reasonable cost of providing the inspection for which the fee is charged. An owner or property manager shall not be liable for an inspection fee if the inspection is not performed and the enforcing agency is the direct cause of the failure to perform.

(13) An enforcing agency or a local governmental unit shall produce a report to a requesting party on the income and expenses of the inspection program for the preceding fiscal year. The report shall contain the fees assessed by the enforcing agency, the costs incurred in performing inspections, and the number of units inspected. The report shall be provided to the requesting party within 90 days of the request. The enforcing agency or local governmental unit may produce the report electronically. If the enforcing agency does not have readily available access to the information required for the report, the enforcing agency may charge the requesting party a fee no greater than the actual reasonable cost of providing the information. If an enforcing agency charges a fee under this subsection, the enforcing agency shall include the costs of providing and compiling the information contained in the report.

(14) If a complaint identifies a dwelling or rooming house regulated under this act in which a child is residing, the dwelling or rooming house shall be inspected prior to inspection of any nonemergency complaint.

(15) As used in this section:

(a) "Child" means an individual under 18 years of age.

(b) "Leasehold" means a private dwelling or separately occupied apartment, suite, or group of rooms in a 2-family dwelling or in a multiple dwelling if the private dwelling or separately occupied apartment, suite, or group of rooms is leased to the occupant under the terms of either an oral or written lease.

This act is ordered to take immediate effect.

Approved January 5, 2009.

Filed with Secretary of State January 6, 2009.

[No. 409]

(SB 84)

AN ACT to amend 2001 PA 142, entitled "An act to consolidate prior acts naming certain Michigan highways; to provide for the naming of certain highways; to prescribe certain duties of the state transportation department; and to repeal acts and parts of acts and certain resolutions," (MCL 250.1001 to 250.2080) by adding section 1067.

The People of the State of Michigan enact:

250.2067 “Gold Star Mothers Memorial Highway”.

Sec. 1067. Highway M-55 from the point of beginning in Manistee county and continuing east to the intersection of M-55 and M-115 in Wexford county shall be known as the “Gold Star Mothers Memorial Highway”.

This act is ordered to take immediate effect.

Approved January 5, 2009.

Filed with Secretary of State January 6, 2009.

[No. 410]

(HB 5089)

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 16 of chapter X (MCL 770.16), as amended by 2005 PA 4.

The People of the State of Michigan enact:

CHAPTER X

770.16 DNA testing; petition; filing; availability of biological material; court order; findings; costs; results; granting or denying request for new trial; notice of petition to victim; preservation of biological material identified.

Sec. 16. (1) Notwithstanding the limitations of section 2 of this chapter, a defendant convicted of a felony at trial before January 8, 2001 who is serving a prison sentence for the felony conviction may petition the circuit court to order DNA testing of biological material identified during the investigation leading to his or her conviction, and for a new trial based

on the results of that testing. The petition shall be filed not later than January 1, 2012. A defendant convicted of a felony at trial on or after January 8, 2001 who establishes that all of the following apply may petition the circuit court to order DNA testing of biological material identified during the investigation leading to his or her conviction, and for a new trial based on the results of that testing:

- (a) That DNA testing was done in the case or under this act.
- (b) That the results of the testing were inconclusive.
- (c) That testing with current DNA technology is likely to result in conclusive results.

(2) A petition under this section shall be filed in the circuit court for the county in which the defendant was sentenced and shall be assigned to the sentencing judge or his or her successor. The petition shall be served on the prosecuting attorney of the county in which the defendant was sentenced.

(3) A petition under this section shall allege that biological material was collected and identified during the investigation of the defendant's case. If the defendant, after diligent investigation, is unable to discover the location of the identified biological material or to determine whether the biological material is no longer available, the defendant may petition the court for a hearing to determine whether the identified biological material is available. If the court determines that identified biological material was collected during the investigation, the court shall order appropriate police agencies, hospitals, or the medical examiner to search for the material and to report the results of the search to the court.

(4) The court shall order DNA testing if the defendant does all of the following:

(a) Presents prima facie proof that the evidence sought to be tested is material to the issue of the convicted person's identity as the perpetrator of, or accomplice to, the crime that resulted in the conviction.

(b) Establishes all of the following by clear and convincing evidence:

(i) A sample of identified biological material described in subsection (1) is available for DNA testing.

(ii) The identified biological material described in subsection (1) was not previously subjected to DNA testing or, if previously tested, will be subject to DNA testing technology that was not available when the defendant was convicted.

(iii) The identity of the defendant as the perpetrator of the crime was at issue during his or her trial.

(5) The court shall state its findings of fact on the record or shall make written findings of fact supporting its decision to grant or deny a petition brought under this section.

(6) If the court grants a petition for DNA testing under this section, the identified biological material and a biological sample obtained from the defendant shall be subjected to DNA testing by a laboratory approved by the court. If the court determines that the applicant is indigent, the cost of DNA testing ordered under this section shall be borne by the state. The results of the DNA testing shall be provided to the court and to the defendant and the prosecuting attorney. Upon motion by either party, the court may order that copies of the testing protocols, laboratory procedures, laboratory notes, and other relevant records compiled by the testing laboratory be provided to the court and to all parties.

(7) If the results of the DNA testing are inconclusive or show that the defendant is the source of the identified biological material, the court shall deny the motion for new trial. If the DNA test results show that the defendant is the source of the identified biological material, the defendant's DNA profile shall be provided to the Michigan state police for inclusion under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176.

(8) If the results of the DNA testing show that the defendant is not the source of the identified biological material, the court shall appoint counsel pursuant to MCR 6.505(a) and hold a hearing to determine by clear and convincing evidence all of the following:

(a) That only the perpetrator of the crime or crimes for which the defendant was convicted could be the source of the identified biological material.

(b) That the identified biological material was collected, handled, and preserved by procedures that allow the court to find that the identified biological material is not contaminated or is not so degraded that the DNA profile of the tested sample of the identified biological material cannot be determined to be identical to the DNA profile of the sample initially collected during the investigation described in subsection (1).

(c) That the defendant's purported exclusion as the source of the identified biological material, balanced against the other evidence in the case, is sufficient to justify the grant of a new trial.

(9) Upon motion of the prosecutor, the court shall order retesting of the identified biological material and shall stay the defendant's motion for new trial pending the results of the DNA retesting.

(10) The court shall state its findings of fact on the record or make written findings of fact supporting its decision to grant or deny the defendant a new trial under this section. Notwithstanding section 3 of this chapter, an aggrieved party may appeal the court's decision to grant or deny the petition for DNA testing and for new trial by application for leave granted by the court of appeals.

(11) If the name of the victim of the felony conviction described in subsection (1) is known, the prosecuting attorney shall give written notice of a petition under this section to the victim. The notice shall be by first-class mail to the victim's last known address. Upon the victim's request, the prosecuting attorney shall give the victim notice of the time and place of any hearing on the petition and shall inform the victim of the court's grant or denial of a new trial to the defendant.

(12) Effective January 1, 2001, the investigating law enforcement agency shall preserve any biological material identified during the investigation of a crime or crimes for which any person may file a petition for DNA testing under this section. The identified biological material shall be preserved for the period of time that any person is incarcerated in connection with that case.

This act is ordered to take immediate effect.

Approved January 5, 2009.

Filed with Secretary of State January 6, 2009.

[No. 411]

(HB 6092)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 750.1 to 750.568) by adding section 422a.

The People of the State of Michigan enact:

750.422a Making intentional material false statement in petition as felony; penalty; consecutive terms of imprisonment.

Sec. 422a. (1) An individual who intentionally makes a material false statement in a petition filed under section 16 of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.16, 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.

(2) The court may order a term of imprisonment imposed under this section to be served consecutively to any other term of imprisonment being served by the individual.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5089 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved January 5, 2009.

Filed with Secretary of State January 6, 2009.

Compiler's note: House Bill No. 5089, referred to in enacting section 1, was filed with the Secretary of State January 6, 2009, and became 2008 PA 410, Imd. Eff. Jan. 6, 2009.

[No. 412]

(HB 6093)

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 16v of chapter XVII (MCL 777.16v), as amended by 2002 PA 123.

The People of the State of Michigan enact:

CHAPTER XVII

777.16v MCL 750.422 to 750.443; felonies to which chapter applicable.

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

M.C.L.	Category	Class	Description	Stat Max
750.422	Pub trst	C	Perjury committed in court — noncapital crime	15
	Pub trst	B	Perjury committed in court — capital crime	Life
750.422a	Pub trst	E	Material false statement in petition seeking review of DNA evidence	5
750.423	Pub trst	E	Perjury by falsely swearing	15
750.424	Pub trst	C	Subornation of perjury	15
750.425	Pub trst	E	Inciting or procuring perjury but perjury not committed	5
750.430a	Person	D	Human cloning	10
750.436(2)(a)	Pub saf	C	Poisoning food, drink, medicine, or water supply	15
750.436(2)(b)	Property	B	Poisoning food, drink, medicine, or water supply causing property damage	20
750.436(2)(c)	Person	A	Poisoning food, drink, medicine, or water supply causing injury	25
750.436(2)(d)	Person	A	Poisoning food, drink, medicine, or water supply causing serious impairment	Life
750.436(3)(a)	Pub ord	F	False report of poisoning food, drink, medicine, or water supply	4
750.436(3)(b)	Pub ord	D	False report of poisoning food, drink, medicine, or water supply with prior conviction	10
750.439	Pub ord	G	Polygamy	4
750.440	Pub ord	G	Polygamy — knowingly entering a prohibited marriage	4
750.441	Pub ord	G	Teaching or advocating polygamy	4
750.442	Pub ord	G	Participating in prizefights	4
750.443	Pub ord	G	Prizefights — training	4

Conditional effective date.

Enacting section 1. 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. 5089.

(b) House Bill No. 6092.

This act is ordered to take immediate effect.

Approved January 5, 2009.

Filed with Secretary of State January 6, 2009.

Compiler's note: House Bill No. 5089, referred to in enacting section 1, was filed with the Secretary of State January 6, 2009, and became 2008 PA 410, Imd. Eff. Jan. 6, 2009.

House Bill No. 6092, also referred to in enacting section 1, was filed with the Secretary of State January 6, 2009, and became 2008 PA 411, Imd. Eff. Jan. 6, 2009.

[No. 413]

(HB 5361)

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 383a (MCL 750.383a).

The People of the State of Michigan enact:

750.383a Destruction of certain property used in connection with appliance or component of electric, telecommunication, or natural gas infrastructure that is property of utility; violation; penalty; “utility” defined.

Sec. 383a. A person, without lawful authority, shall not willfully cut, break, obstruct, injure, destroy, tamper with or manipulate, deface, or steal any machinery, tools, equipment, telephone line or post, telegraph line or post, telecommunication line, tower, or post, electric line, post, tower or supporting structures, electric wire, insulator, switch, or signal, natural gas pipeline, water pipeline, steam heat pipeline or the valves or other appliances or equipment appertaining to or used in connection with those lines, or any other appliance or component of the electric, telecommunication, or natural gas infrastructure that is the property of a utility. A person who violates this section is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$5,000.00, or both. As used in this section, “utility” includes any pipeline, gas, electric, heat, water, oil, sewer, telephone, telegraph, telecommunication, radio, railway, railroad, airplane, transportation, communication or other system, whether or not publicly owned, that is operated for the public use.

Effective date.

Enacting section 1. This amendatory act takes effect March 1, 2009.

This act is ordered to take immediate effect.

Approved January 5, 2009.

Filed with Secretary of State January 6, 2009.

[No. 414]**(HB 5362)**

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 16s of chapter XVII (MCL 777.16s), as amended by 2005 PA 106.

The People of the State of Michigan enact:

CHAPTER XVII

777.16s MCL 750.377a(1)(a) to 750.406; felonies to which chapter applicable.

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

M.C.L.	Category	Class	Description	Stat Max
750.377a(1)(a)	Property	D	Malicious destruction of personal property involving \$20,000 or more or with prior convictions	10
750.377a(1)(b)	Property	E	Malicious destruction of personal property involving \$1,000 to \$20,000 or with prior convictions	5
750.377b	Property	F	Malicious destruction of fire/police property	4
750.377c	Property	E	School bus — intentional damage	5
750.378	Property	F	Malicious destruction of property — dams/canals/mills	4
750.379	Property	F	Malicious destruction of property — bridges/railroads/locks	4

750.380(2)	Property	D	Malicious destruction of building involving \$20,000 or more or with prior convictions	10
750.380(3)	Property	E	Malicious destruction of a building involving \$1,000 to \$20,000 or with prior convictions	5
750.382(1)(c)	Property	E	Malicious destruction of plants or turf involving \$1,000 to \$20,000 or with prior convictions	5
750.382(1)(d)	Property	D	Malicious destruction of plants or turf involving \$20,000 or more or with prior convictions	10
750.383a	Property	E	Malicious destruction of utility equipment or utility infrastructure component	5
750.386	Property	E	Malicious destruction of mine property	20
750.387(5)	Property	E	Malicious destruction of a tomb or memorial involving \$1,000 to \$20,000 or with prior convictions	5
750.387(6)	Property	D	Malicious destruction of a tomb or memorial involving \$20,000 or more or with prior convictions	10
750.392	Property	E	Malicious destruction of property — vessels	10
750.394(2)(c)	Person	F	Throwing or dropping dangerous object at vehicle causing injury	4
750.394(2)(d)	Person	D	Throwing or dropping dangerous object at vehicle causing serious impairment	10
750.394(2)(e)	Person	C	Throwing or dropping dangerous object at vehicle causing death	15
750.395(2)(c)	Property	E	Damaging or destroying research property with a value between \$1,000 and \$20,000 or with prior convictions	5
750.395(2)(d)	Property	E	Damaging or destroying research property with a value of \$20,000 or more or 2 or more prior convictions	5
750.395(2)(e)	Person	E	Damaging or destroying research property resulting in physical injury	5
750.395(2)(f)	Person	D	Damaging or destroying research property resulting in serious impairment of body function	10
750.395(2)(g)	Person	C	Damaging or destroying research property resulting in death	15

750.397	Person	D	Mayhem	10
750.397a	Person	D	Placing harmful objects in food	10
750.405	Pub saf	E	Inciting soldiers to desert	5
750.406	Pub saf	E	Military stores — larceny, embezzlement or destruction	5

Effective date.

Enacting section 1. This amendatory act takes effect March 1, 2009.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5361 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved January 5, 2009.

Filed with Secretary of State January 6, 2009.

Compiler's note: House Bill No. 5361, referred to in enacting section 2, was filed with the Secretary of State January 6, 2009, and became 2008 PA 413, Eff. Mar. 1, 2009.

[No. 415]**(HB 5862)**

AN ACT to amend 1933 PA 167, entitled “An act to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act,” by amending section 4a (MCL 205.54a), as amended by 2004 PA 173.

The People of the State of Michigan enact:

205.54a Sales exempt from tax; limitation.

Sec. 4a. (1) Subject to subsection (2), the following are exempt from the tax under this act:

(a) A sale of tangible personal property not for resale to a nonprofit school, nonprofit hospital, or nonprofit home for the care and maintenance of children or aged persons operated by an entity of government, a regularly organized church, religious, or fraternal organization, a veterans' organization, or a corporation incorporated under the laws of this state, if the income or benefit from the operation does not inure, in whole or in part, to an individual or private shareholder, directly or indirectly, and if the activities of the entity or agency are carried on exclusively for the benefit of the public at large and are not limited to the advantage, interests, and benefits of its members or any restricted group. A sale of tangible personal property to a parent cooperative preschool is exempt from taxation under this act. As used in this subdivision, “parent cooperative preschool” means a nonprofit, nondiscriminatory educational institution, maintained as a community service and administered by parents of children currently enrolled in the preschool, that provides an educational and developmental program for children younger than compulsory school age, that provides an educational program for parents, including active participation with children in preschool activities, that is directed

by qualified preschool personnel, and that is licensed pursuant to 1973 PA 116, MCL 722.111 to 722.128.

(b) A sale of tangible personal property not for resale to a regularly organized church or house of religious worship, except the following:

(i) Sales in activities that are mainly commercial enterprises.

(ii) Sales of vehicles licensed for use on public highways other than a passenger van or bus with a manufacturer's rated seating capacity of 10 or more that is used primarily for the transportation of persons for religious purposes.

(c) The sale of food to bona fide enrolled students by a school or other educational institution not operated for profit.

(d) The sale of a vessel designated for commercial use of registered tonnage of 500 tons or more, if produced upon special order of the purchaser, and bunker and galley fuel, provisions, supplies, maintenance, and repairs for the exclusive use of the vessel engaged in interstate commerce.

(e) A sale of tangible personal property to persons engaged in a business enterprise and using or consuming the tangible personal property in the tilling, planting, caring for, or harvesting of the things of the soil; in the breeding, raising, or caring for livestock, poultry, or horticultural products, including transfers of livestock, poultry, or horticultural products for further growth; or in the direct gathering of fish, by net, line, or otherwise only by an owner-operator of the business enterprise, not including a charter fishing business enterprise. This exemption includes business machinery that is capable of simultaneously harvesting grain or other crops and biomass and machinery used for the purpose of harvesting biomass. This exemption includes agricultural land tile, which means fired clay or perforated plastic tubing used as part of a subsurface drainage system for land, and subsurface irrigation pipe, if the land tile or irrigation pipe is used in the production of agricultural products as a business enterprise. This exemption includes a portable grain bin, which means a structure that is used or is to be used to shelter grain and that is designed to be disassembled without significant damage to its component parts. This exemption also includes grain drying equipment and natural or propane gas used to fuel that equipment for agricultural purposes. This exemption does not include transfers of food, fuel, clothing, or any similar tangible personal property for personal living or human consumption. This exemption does not include tangible personal property permanently affixed and becoming a structural part of real estate. As used in this subdivision, "biomass" means crop residue used to produce energy or agricultural crops grown specifically for the production of energy.

(f) The sale of a copyrighted motion picture film or a newspaper or periodical admitted under federal postal laws and regulations effective September 1, 1985 as second-class mail matter or as a controlled circulation publication or qualified to accept legal notices for publication in this state, as defined by law, or any other newspaper or periodical of general circulation, established not less than 2 years, and published not less than once a week. Tangible personal property used or consumed in producing a copyrighted motion picture film, a newspaper published more than 14 times per year, or a periodical published more than 14 times per year, and not becoming a component part of that film, newspaper, or periodical is subject to the tax. Tangible personal property used or consumed in producing a newspaper published 14 times or less per year or a periodical published 14 times or less per year and that portion or percentage of tangible personal property used or consumed in producing an advertising supplement that becomes a component part of a newspaper or periodical is exempt from the tax under this subdivision. A claim for a refund for taxes paid before January 1, 1999, under this subdivision shall be made before June 30, 1999. For purposes of this subdivision, tangible personal property that becomes a component part of a newspaper or periodical and consequently not subject to tax includes an advertising supplement inserted into and circulated with a newspaper or periodical that is otherwise exempt from tax under this

subdivision, if the advertising supplement is delivered directly to the newspaper or periodical by a person other than the advertiser, or the advertising supplement is printed by the newspaper or periodical.

(g) A sale of tangible personal property to persons licensed to operate commercial radio or television stations if the property is used in the origination or integration of the various sources of program material for commercial radio or television transmission. This subdivision does not include a vehicle licensed and titled for use on public highways or property used in the transmission to or receiving from an artificial satellite.

(h) The sale of a prosthetic device, durable medical equipment, or mobility enhancing equipment.

(i) The sale of a vehicle not for resale to a Michigan nonprofit corporation organized exclusively to provide a community with ambulance or fire department services.

(j) A sale of tangible personal property to inmates in a penal or correctional institution purchased with scrip or its equivalent issued and redeemed by the institution.

(k) A sale of textbooks sold by a public or nonpublic school to or for the use of students enrolled in any part of a kindergarten through twelfth grade program.

(l) A sale of tangible personal property installed as a component part of a water pollution control facility for which a tax exemption certificate is issued pursuant to part 37 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.3701 to 324.3708, or an air pollution control facility for which a tax exemption certificate is issued pursuant to part 59 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5901 to 324.5908.

(m) The sale or lease of the following to an industrial laundry after December 31, 1997:

(i) Textiles and disposable products including, but not limited to, soap, paper, chemicals, tissues, deodorizers and dispensers, and all related items such as packaging, supplies, hangers, name tags, and identification tags.

(ii) Equipment, whether owned or leased, used to repair and dispense textiles including, but not limited to, roll towel cabinets, slings, hardware, lockers, mop handles and frames, and carts.

(iii) Machinery, equipment, parts, lubricants, and repair services used to clean, process, and package textiles and related items, whether owned or leased.

(iv) Utilities such as electric, gas, water, or oil.

(v) Production washroom equipment and mending and packaging supplies and equipment.

(vi) Material handling equipment including, but not limited to, conveyors, racks, and elevators and related control equipment.

(vii) Wastewater pretreatment equipment and supplies and related maintenance and repair services.

(n) A sale of tangible personal property to a person holding a direct payment permit under section 8 of the use tax act, 1937 PA 94, MCL 205.98.

(2) The tangible personal property under subsection (1) is exempt only to the extent that that property is used for the exempt purpose if one is stated in subsection (1). The exemption is limited to the percentage of exempt use to total use determined by a reasonable formula or method approved by the department.

This act is ordered to take immediate effect.

Approved January 5, 2009.

Filed with Secretary of State January 6, 2009.

[No. 416]**(HB 5771)**

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending section 40501 (MCL 324.40501), as added by 1995 PA 57.

The People of the State of Michigan enact:

324.40501 Wildlife restoration, management, and research projects; authority of department to cooperate with federal government; use of hunters’ license fees.

Sec. 40501. The department shall perform such acts as may be necessary to conduct and establish wildlife restoration, management, and research projects and areas in cooperation with the federal government under the Pittman-Robertson wildlife restoration act, 16 USC 669 to 669i, and regulations promulgated by the United States secretary of the interior under that act. In compliance with that act, funds accruing to this state from license fees paid by hunters shall not be used for any purpose other than game and fish activities under the administration of the department.

This act is ordered to take immediate effect.

Approved January 5, 2009.

Filed with Secretary of State January 6, 2009.

[No. 417]**(SB 677)**

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending sections 21556 and 21559 (MCL 324.21556 and 324.21559), section 21556 as added by 2006 PA 321 and section 21559 as added by 2006 PA 322.

The People of the State of Michigan enact:

324.21556 First round precertification application; submission; form; date of receipt; eligibility requirements; consideration of application; time period for corrective actions; costs considered for reimbursement; limitation; submission of work invoices; rate of reimbursement; unexpended amount held in reserve.

Sec. 21556. (1) To be considered for eligibility for reimbursement under the first round of the temporary reimbursement program, a person shall submit to the department a completed

first round precertification application on a form provided by the department. A person may submit more than 1 first round precertification application if he or she possesses more than 1 approved claim for releases that meet the eligibility requirements in subsection (3)(a) to (d).

(2) To be considered for approval, first round precertification applications shall be received by the department at or before 5 p.m. on the one hundred eightieth day following the department's initiation date of the application period.

(3) In order for a person to be eligible for reimbursement under the first round of the temporary reimbursement program, the completed first round precertification application shall demonstrate all of the following:

(a) That the person was the owner or operator who submitted and had an approved claim or that the person received a valid assignment of an approved claim in accordance with section 21516.

(b) That the release for which the approved claim was obtained has not been closed pursuant to part 213.

(c) That the release for which the approved claim was obtained caused the site to be classified as a class 1 or class 2 site, based on the most recently submitted data or reports prior to May 9, 2005, or as otherwise determined by the department prior to May 9, 2005.

(d) For underground storage tank systems that are operating at the location from which the release occurred, that the owner or operator, if he or she is the applicant, is currently in compliance with the registration and fee requirements of part 211.

(4) All applications for the temporary reimbursement program shall be considered on a first-come, first-served basis. If the first round precertification application received by the department successfully demonstrates eligibility in accordance with subsections (2) and (3), the department shall approve the first round precertification application. Not more than 900 precertification applications shall be approved by the department.

(5) Only corrective action costs incurred after the date of approval of the precertification application and up to September 30, 2009 shall be considered for reimbursement by the department. Corrective action costs incurred after September 30, 2009 are not eligible for reimbursement.

(6) An eligible person may receive up to \$50,000.00 or such additional amount as may be made available pursuant to section 21557(8), for approved corrective action costs for each approved precertification application.

(7) An eligible person shall submit all work invoices for which reimbursement is being sought to the department not later than December 29, 2009. An eligible person shall not submit a request for reimbursement that totals less than \$3,000.00 for the costs of corrective action, except for the last reimbursement request.

(8) Eligible persons shall receive reimbursement of 80% of the amount of each approved work invoice until the maximum reimbursement amount is reached. The remaining 20% shall be considered the co-pay amount. Proof of payment of the co-pay amount is required with each work invoice submittal.

(9) Corrective actions for which reimbursement is sought shall conform to the requirements of part 213 and section 21558. Requests for reimbursement are subject to sections 21559 to 21561.

(10) Any allocated amount for reimbursement in the first round that is not expended, but subject to appeal pursuant to section 21561, shall be held in reserve until the appeal is exhausted and a final reimbursement determination is made.

324.21559 Temporary reimbursement program; receipt of money for corrective action; conditions; determination by department; denial of payment of work invoice; notice of determination; records of approved precertification applications and work invoices; payment upon receipt of approved payment voucher; affidavit; liability; withholding partial payment.

Sec. 21559. (1) For an eligible person to receive money under the temporary reimbursement program for corrective action, all of the following conditions shall be met:

(a) The eligible person, and the consultant retained by the eligible person, shall follow the procedures outlined in this section and shall submit reports, work plans, feasibility analyses, hydrogeological studies, and corrective action plans prepared under part 213 to the department, and shall provide other information required by the department relevant to determining compliance with this part and part 213.

(b) The eligible person shall submit a work invoice to the department, with an attached summary report of the work performed under the invoice and results of the work performed, including, but not limited to, laboratory results, soil boring logs, construction logs, site investigation results, and other information that may be requested by the department.

(c) Work invoices shall comply with all of the following:

(i) Be submitted on a standardized work invoice form provided by the department.

(ii) Contain complete information in accordance with the form and the requirements of this section and as requested by the department.

(iii) Be in an amount consistent with the requirements of section 21556.

(2) Upon receipt of a work invoice pursuant to subsection (1), the department shall make all of the following determinations:

(a) Whether the work performed is necessary and appropriate considering conditions at the site of the release.

(b) Whether the cost of performing the work is reasonable.

(c) Whether the eligible person is eligible to receive funding under this part.

(d) Whether the consultant retained by the eligible person has complied with section 21558.

(3) The department shall deny payment of a work invoice if the department determines that the corrective action work performed is not consistent with the requirements of part 213 or does not comply with the requirements of this part.

(4) Within 45 days after receipt of a work invoice, the department shall determine whether the work invoice complies with subsections (1) to (3). The department shall notify the eligible person in writing of such a determination.

(5) The department shall keep records of approved precertification applications and work invoices. If the eligible person has not exceeded the allowable amount of expenditure provided in sections 21556 and 21557, the department shall forward an approved payment voucher to the state treasurer within 45 days after approval of the work invoice.

(6) Except as provided in subsection (7) or as otherwise provided in this subsection, upon receipt of an approved payment voucher, the state treasurer shall make a payment jointly to the eligible person and the consultant within 30 days. However, the eligible person may submit to the department a signed affidavit stating that the consultant listed on a work invoice has been paid in full. The affidavit shall list the work invoice number and precertification application to which the affidavit applies, a statement that the eligible person has mailed a copy of the affidavit by first-class mail to the consultant listed on the work invoice, and

the date that the affidavit was mailed to the consultant. The department is not required to verify affidavits submitted under this subsection. If, within 14 days after the affidavit was mailed to the consultant under this subsection, the department has not received an objection in writing from the consultant listed on the work invoice, the state treasurer shall make the payment directly to the eligible person. If a check has already been issued to the eligible person and the consultant, the eligible person shall return the original check to the department along with the affidavit. If, within 14 days after the affidavit was mailed to the consultant, the department has not received an objection from the consultant listed on the check, the state treasurer shall reissue a check to the eligible person. If a consultant objects to an affidavit received under this subsection and notifies the department in writing within 14 days after the affidavit was mailed to the consultant, the department shall notify the state treasurer, and the state treasurer shall issue or reissue the check to the eligible person and the consultant. The grounds for an objection by a consultant under this subsection shall be that the consultant has not been paid in full and the objection shall be made by affidavit. The state treasurer shall issue checks under this subsection within 60 days after an affidavit has been received by the department. Once payment has been made under this section, the refined petroleum fund is not liable for any claim on the basis of that payment.

(7) The temporary reimbursement program is subject to section 21548.

(8) Upon direction of the department, the state treasurer may withhold partial payment of money on payment vouchers if there is reasonable cause to believe that there are violations of section 21548 or if necessary to assure acceptable completion of the corrective actions.

This act is ordered to take immediate effect.

Approved January 5, 2009.

Filed with Secretary of State January 6, 2009.

[No. 418]

(SB 1345)

AN ACT to amend 1909 PA 278, entitled “An act to provide for the incorporation of villages and for revising and amending their charters; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness; to validate bonds issued and obligations previously incurred; and to prescribe penalties and provide remedies,” by amending section 12 (MCL 78.12).

The People of the State of Michigan enact:

78.12 Village charter; rejection; effect; president de facto; resubmission; revert to prior status.

Sec. 12. (1) If the proposed charter is rejected at an election, the election of officers is void, except that the elector who receives the highest number of votes cast for the office of president shall be a de facto officer of the village until a president for the village is elected and qualified pursuant to a charter which the electors have approved. The president elected shall, after the lapse of 10 days within which petitions for the selection of a new charter commission may be filed, if a petition has not been filed with him or her, by notice, require the charter commission to reconvene and upon notice the charter commission shall reconvene and, within 60 days after the notice, provide any revision, amendment, or amendments to the original draft of the charter previously prepared by the commission as the commission considers necessary.

(2) The proposed charter, with amendment or amendments, shall be resubmitted to the qualified electors of the village in the same manner and with the same notice and proceedings as required in the first instance, which proceedings shall continue until the qualified electors of the village have, by a majority vote, approved a charter for the village.

(3) Any proposed charter, as originally submitted or resubmitted with any amendment or amendments, shall not be submitted more than 3 times to the qualified electors of the village, and if rejected 3 times, or in the event that a charter is not adopted by the electors of the village during a period of 3 years following the election on the question of the incorporation of the village, the township clerk of the township in which the village is located, or of that township having the largest portion of the population thereof, shall certify that fact to the secretary of state and to the county clerk, register of deeds, and circuit court of the county in which the village is located. The territory of the village shall thereupon revert to the status existing prior to the filing of the petition required by section 2, and the office of each charter commissioner and de facto officer of the village shall terminate and cease to exist.

This act is ordered to take immediate effect.

Approved January 5, 2009.

Filed with Secretary of State January 6, 2009.

[No. 419]

(SB 1346)

AN ACT to amend 1968 PA 191, entitled “An act to create a state boundary commission; to prescribe its powers and duties; to provide for municipal incorporation, consolidation, and annexation; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending sections 10 and 17 (MCL 123.1010 and 123.1017).

The People of the State of Michigan enact:

123.1010 Denial or approval of proposed incorporation; revision of boundaries; referendum on question of incorporation.

Sec. 10. (1) After the public hearing on a proposed incorporation and review thereof by the commission, the commission may deny the proposed incorporation, approve the petition, or revise the boundaries of the area proposed for incorporation and approve the proposal as revised.

(2) If an incorporation proposal is denied by the commission, its order is final immediately and the secretary shall transmit a certified copy of the order to the petitioner and the clerk of each city, village, and township affected.

(3) If an incorporation proposal is approved with or without a revision of the boundaries, the commission's order is final 45 days after the date of the order unless within that 45 days a petition for a referendum is filed with the commission that contains the signatures of at least 5% of the registered electors residing in the area to be incorporated as approved by the commission. If a petition is not filed and the commission's order becomes final, the secretary shall send a certified copy of the order to the petitioner, to the clerk of each county, city, village, or township affected, and to the secretary of state. Charter commission elections and proceedings under the home rule village act, 1909 PA 278, MCL 78.1 to 78.28, or the home rule city act, 1909 PA 279, MCL 117.1 to 117.38, shall follow.

(4) If a referendum petition is filed, the commission, after determining the validity of the petition, shall order a referendum on the question of incorporation to be held in the area approved for incorporation and shall specify a date later than the referendum on which the commission's order shall become final if the proposal is approved at the referendum.

(5) If a majority of the electorate voting on the question in the territory approved for incorporation voting collectively approves the incorporation, the commission's order shall become final on the date specified therein, the secretary shall send a certified copy of the order to the petitioner; to the clerk of each county, city, village, or township affected, and to the secretary of state. Charter commission elections and proceedings under the home rule village act, 1909 PA 278, MCL 78.1 to 78.28, or the home rule city act, 1909 PA 279, MCL 117.1 to 117.38, and except as provided in subsection (6), shall follow. Otherwise the incorporation shall not take effect and no further proceedings on the petition shall take place.

(6) If on submission of a second charter, a favorable vote by a majority of the electors residing in the area proposed for incorporation is not obtained, the incorporation proceedings shall end and the charter commission shall have no further authority to act or to submit another charter to the electors. If a charter has not been adopted within a period of 3 years following the date the commission's order becomes final, or if within the 3-year period the charter commission does not reconvene within 90 days after the election at which the first proposed charter was defeated, the incorporation proceedings are ended.

123.1017 Corporate status of municipalities; submission of revised charter to electors; effect of unfavorable vote; termination of proceedings.

Sec. 17. (1) The corporate status of the cities and villages proposed for consolidation shall not be changed or in any way affected until the charter takes effect.

(2) If the charter first submitted for adoption is not approved on the first vote taken by the electors, the charter commission may reconvene and prepare a new charter or prepare modifications or amendments to the first charter as they consider necessary, and shall submit the revised charter to the electors in the same manner and on a date to be fixed as in the first instance.

(3) If on submission of the second charter a favorable vote by a majority of the electors voting separately in the municipalities proposed for consolidation is not obtained, the consolidation proceedings shall end and the charter commission shall have no further authority to act or to submit another charter to the electors.

(4) If a charter has not been adopted within 3 years following the date the commission's order became final, or if within the 3-year period the charter commission does not reconvene within 90 days after the election at which the first proposed charter was defeated, the consolidation proceedings shall end.

This act is ordered to take immediate effect.

Approved January 5, 2009.

Filed with Secretary of State January 6, 2009.

[No. 420]

(SB 1347)

AN ACT to amend 1909 PA 279, entitled "An act to provide for the incorporation of cities and for revising and amending their charters; to provide for certain powers and duties; to

provide for the levy and collection of taxes by cities, borrowing of money, and issuance of bonds or other evidences of indebtedness; to validate actions taken, bonds issued, and obligations heretofore incurred; to prescribe penalties and provide remedies; and to repeal acts and parts of acts on specific dates,” by amending section 16 (MCL 117.16).

The People of the State of Michigan enact:

117.16 Incorporation; rejection of charter; de facto mayor; duties; resubmission of charter, procedure; effect of nonadoption within 3 years of election to incorporate.

Sec. 16. (1) If the proposed charter is rejected at an election, the election of officers is void, except that the elector who receives the highest number of votes cast for the office of mayor shall be a de facto officer of the proposed city until a mayor for the proposed city is elected and qualified pursuant to a charter which the electors have approved. The mayor elected shall, after the lapse of 10 days within which petitions for the selection of a new charter commission may be filed, if the petition has not been filed with him or her, by notice, require the charter commission to reconvene and within 90 days after the notice provide any revision, amendment, or amendments to the original draft of the charter previously prepared by them as they consider necessary.

(2) The proposed charter, with amendment or amendments, shall be resubmitted to the qualified electors of the proposed city in the same manner and with the same notice and proceedings as required in the first instance, which proceedings shall continue until the qualified electors of the proposed city have, by a majority vote, approved a charter for the proposed city.

(3) Any proposed charter, as originally submitted or resubmitted with any amendment or amendments, shall not be submitted more than 3 times to the qualified electors of the proposed city, and if rejected 3 times, or in the event that a charter is not adopted by the electors of the proposed city during a period of 3 years following the election on the question of the incorporation of the proposed city, the township clerk of the township in which the proposed city is located, or of that township having the largest portion of the population thereof, shall certify that fact to the secretary of state and to the county clerk, register of deeds, and circuit court of the county in which the proposed city is located. The territory of the proposed city shall thereupon revert to the status existing prior to the filing of the petition required by section 6, and the office of each charter commissioner and de facto officer of the proposed city shall terminate and cease to exist. Any sum of money deposited with the county clerk according to section 6 shall be paid by the county clerk into the general fund of the county.

This act is ordered to take immediate effect.

Approved January 5, 2009.

Filed with Secretary of State January 6, 2009.

[No. 421]

(SB 1622)

AN ACT to amend 1977 PA 72, entitled “An act to prohibit fraud in the obtaining of benefits or payments in connection with the medical assistance program; to prohibit kick-backs or bribes in connection with the program; to prohibit conspiracies in obtaining benefits or payments; to authorize the attorney general to investigate alleged violations of this act;

to provide for the appointment of investigators by the attorney general; to ratify prior appointments of attorney general investigators; to provide for civil actions to recover money received by reason of fraudulent conduct; to provide for receiverships of residential health care facilities; to prohibit retaliation; to provide for certain civil fines; and to prescribe remedies and penalties,” by amending sections 2, 7, 10a, 10c, 11, and 12 (MCL 400.602, 400.607, 400.610a, 400.610c, 400.611, and 400.612), sections 2 and 7 as amended by 1984 PA 333 and sections 10a and 10c as added and section 11 as amended by 2005 PA 337, and by adding sections 14 and 15.

The People of the State of Michigan enact:

400.602 Definitions.

Sec. 2. As used in this act:

(a) “Benefit” means the receipt of money, goods, or anything of pecuniary value.

(b) “Claim” means any attempt to cause the department of community health to pay out sums of money under the social welfare act.

(c) “Deceptive” means making a claim or causing a claim to be made under the social welfare act that contains a statement of fact or that fails to reveal a fact, which statement or failure leads the department to believe the represented or suggested state of affair to be other than it actually is.

(d) “False” means wholly or partially untrue or deceptive.

(e) “Health facility or agency” means a health facility or agency, as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(f) “Knowing” and “knowingly” means that a person is in possession of facts under which he or she is aware or should be aware of the nature of his or her conduct and that his or her conduct is substantially certain to cause the payment of a medicaid benefit. Knowing or knowingly includes acting in deliberate ignorance of the truth or falsity of facts or acting in reckless disregard of the truth or falsity of facts. Proof of specific intent to defraud is not required.

(g) “Medicaid benefit” means a benefit paid or payable under a program for medical assistance for the medically indigent in accordance with the social welfare act.

(h) “Person” means an individual, corporation, association, partnership, or other legal entity.

(i) “Social welfare act” means the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b.

400.607 Making or presenting false claims or false record or statement; violations as separate offenses; liability of health facility or agency; violation as felony; penalty.

Sec. 7. (1) A person shall not make or present or cause to be made or presented to an employee or officer of this state a claim under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, upon or against the state, knowing the claim to be false.

(2) A person shall not make or present or cause to be made or presented a claim under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, that he or she knows falsely represents that the goods or services for which the claim is made were medically necessary in accordance with professionally accepted standards. Each claim violating this subsection is a separate offense. A health facility or agency is not liable under this subsection unless the health facility or agency, pursuant to a conspiracy, combination, or collusion with a physician or other provider, falsely represents the medical necessity of the particular goods or services for which the claim was made.

(3) A person shall not knowingly make, use, or cause to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the state pertaining to a claim presented under the social welfare act.

(4) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$50,000.00, or both.

400.610a Civil action in name of state; initiation; complaint; intervention; pleadings; discovery; stay; alternative remedy; award; share of proceeds; court finding of frivolous claim; civil fine.

Sec. 10a. (1) Any person may bring a civil action in the name of this state under this section to recover losses that this state suffers from a violation of this act. A suit filed under this section shall not be dismissed unless the attorney general has been notified and had an opportunity to appear and oppose the dismissal. The attorney general waives the opportunity to oppose the dismissal if it is not exercised within 28 days of receiving notice.

(2) If a person other than the attorney general initiates an action under this section, the complaint shall remain under seal and the clerk shall not issue the summons for service on the defendant until after the time for the attorney general's election under subsection (3) expires. At the time of filing the complaint, the person shall serve a copy of the complaint on the attorney general and shall disclose, in writing, substantially all material evidence and information in the person's possession supporting the complaint to the attorney general.

(3) The attorney general may elect to intervene in an action under this section. Before the expiration of the later of 90 days after service of the complaint and related materials or any extension of the 90 days that is requested by the attorney general and granted by the court, the attorney general shall notify the court and the person initiating the action of 1 of the following:

(a) That the attorney general will proceed with the action for this state and have primary responsibility for proceeding with the action.

(b) That the attorney general declines to take over the action and the person initiating the action has the right to proceed with the action.

(4) If an action is filed under this section, a person other than the attorney general shall not intervene in the action or bring another action on behalf of this state based on the facts underlying the action.

(5) If the attorney general elects to proceed with the action under subsection (3) or (6), the attorney general has primary responsibility for prosecuting the action and may do all of the following:

(a) Agree to dismiss the action, notwithstanding the objection of the person initiating the action, but only if that person has been notified of and offered the opportunity to participate in a hearing on the motion to dismiss.

(b) Settle the action, notwithstanding the objection of the person initiating the action, but only if that person has been notified of and offered the opportunity to participate in a hearing on the settlement and if the court determines that the settlement is fair, adequate, and reasonable under the circumstances. Upon a showing of good cause, the settlement hearing may be held in camera.

(c) Request the court to limit the participation of the person initiating the action. If the attorney general demonstrates that unrestricted participation by the person initiating the action during the litigation would interfere with or unduly delay the attorney general's prosecution of the case or would be repetitious, irrelevant, or unduly harassing, the court may do any of the following:

(i) Limit the number of the person's witnesses.