

(c) Focus on developing an extensive support network for foster care youth who age out of the system. The support network should include, but is not limited to, personal counseling, financial planning, health care options, and college or career training programs.

(d) Provide for the coordination and exchange of information on the establishment and maintenance of foster care programs.

(e) Provide statewide educational and public informational seminars for the purpose of developing appropriate public awareness regarding foster care; encourage professional persons and groups to recognize and deal with foster care; make information about foster care available to the public and organizations and agencies that deal with problems of foster care; and encourage the development of community foster care assistance programs.

(f) Educate the public on the various opportunities to serve within the foster care community, including, but not limited to, foster parenting, volunteering, mentoring, and foster child adoption.

(3) The board shall do all of the following:

(a) Meet not less than twice annually at the call of the chairperson.

(b) One year after the fund balance reaches \$800,000.00, and subject to section 3(6) and (7), and biennially thereafter, develop a state plan for the distribution of funds from the fund. In developing the plan, the board shall review already existing foster care programs. The plan shall assure that an equal opportunity exists for establishment of foster care programs and receipt of trust fund money among all geographic areas in this state. The plan shall be transmitted to the clerk of the house of representatives and to the secretary of the senate. The board shall notify the governor and the members of the legislature that the plan is available.

(c) One year after the fund balance reaches \$800,000.00, and subject to section 3(6) and (7), develop and publicize criteria for the receipt of trust fund money by eligible local councils and eligible foster care programs.

(d) Review, approve, and monitor the expenditure of trust fund money by foster care programs.

(e) One year after the fund balance reaches \$800,000.00, subject to section 3(6) and (7), establish a procedure for an annual, internal evaluation of the functions, responsibilities, and performance of the board. In a year in which the biennial state plan is prepared, the evaluation shall be coordinated with the preparation of the state plan.

(4) The board may enter into contracts with public or private agencies to fulfill the requirements of this act.

722.1028 Recommendations.

Sec. 8. The board may recommend to the governor and the legislature changes in state programs, statutes, policies, budgets, and standards that will reduce the problems facing foster care children, improve coordination among public and private agencies that provide foster care services, and improve the condition of children and parents or guardians who are in need of support or assistance dealing with foster care issues.

722.1029 Board; powers; deposit of money in fund.

Sec. 9. (1) The board may do any of the following:

(a) Accept federal money granted by congress or executive order for the purposes of this act as well as gifts, grants, bequests, and donations from individuals, private organizations, or foundations. The acceptance and use of federal money does not commit state money and does not place an obligation upon the legislature to continue the purposes for which the federal money is made available.

(b) Plan, manage, or conduct a campaign to solicit gifts, bequests, grants, or donations of money or property, or pledges of gifts, bequests, grants, or donations.

(2) Money received in the manner described in subsection (1) shall be transmitted to the state treasurer for deposit in the trust fund.

722.1030 Disbursements; purposes.

Sec. 10. The board may authorize the disbursement of available money from the trust fund, upon legislative appropriations, as provided in section 3, for the following purposes:

(a) To fund a private nonprofit or public organization in the development or operation of a foster care program if the organization demonstrates an ability to match, through money or in-kind services, 50% of the amount of any fund money received and the organization demonstrates a willingness and ability to provide program models and consultation to organizations and communities regarding program development and maintenance. The amount and types of in-kind services are subject to the approval of the board. Before expending any money from the fund, the board shall establish qualifying criteria for expending those funds or awarding any grants and may specify any conditions for each expenditure or grant.

(b) To fund the board created in section 4 for the actual and necessary operating expenses that the board incurs in performing its duties. Authorizations for disbursement of fund money under this subsection shall be kept at a minimum in furtherance of the primary purpose of the fund, which is to disburse money to encourage the direct provision of services to foster care.

722.1031 Annual accounting.

Sec. 11. (1) The board shall annually prepare an accounting of revenues and expenditures from the trust fund. This accounting shall be prepared using generally accepted accounting principles and in a manner that will provide detailed and itemized information regarding the revenues and expenditures of the trust fund. This accounting shall be provided to the senate and house of representatives appropriations committees.

(2) To the extent practical, the board shall annually prepare an accounting of revenues and expenditures from the trust fund for persons who have donated to the fund. This accounting does not need to be as detailed as the accounting required under subsection (1), but shall include general information about the amount of revenue raised, the types of expenditures made, and what the expenditures were made for.

Conditional effective date.

Enacting section 1. This act does not take effect unless House Bill No. 6090 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved January 12, 2009.

Filed with Secretary of State January 13, 2009.

Compiler's note: House Bill No. 6090, referred to in enacting section 1, was filed with the Secretary of State January 13, 2009, and became 2008 PA 526, Imd. Eff. Jan. 13, 2009.

[No. 526]

(HB 6090)

AN ACT to amend 1967 PA 281, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by

lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts,” by amending section 435 (MCL 206.435), as amended by 2008 PA 322.

The People of the State of Michigan enact:

206.435 Contribution designations; duration; cessation by department; insufficient refund to make contribution; appropriation.

Sec. 435. (1) Except as otherwise provided under this section, for the 2008 tax year and each tax year after the 2008 tax year, an individual may designate in a manner and form as prescribed by the department pursuant to subsection (2) on his or her annual return that contributions of \$5.00, \$10.00, or more of his or her refund be credited to any of the following:

(a) For the 2010 tax year and each tax year after the 2010 tax year, the Michigan higher education assistance authority created in section 1 of 1960 PA 77, MCL 390.951, for the children of veterans tuition grant program created in the children of veterans tuition grant act, 2005 PA 248, MCL 390.1341 to 390.1346. No money from the contributions designated to this subdivision shall be used for the purpose of administering this section.

(b) For the 2010 tax year and each tax year after the 2010 tax year, the children’s trust fund created in 1982 PA 249, MCL 21.171 to 21.172.

(c) The prostate cancer research fund created in the prostate cancer research fund act, 2007 PA 135, MCL 333.26241 to 333.26246.

(d) Amanda’s fund for breast cancer prevention and treatment created in the Amanda’s fund for breast cancer prevention and treatment act, 2007 PA 134, MCL 333.26231 to 333.26237.

(e) The animal welfare fund created in the animal welfare fund act, 2007 PA 132, MCL 287.991 to 287.997.

(f) The Michigan housing and community development fund created in section 3 of the Michigan housing and community development fund act, 2004 PA 479, MCL 125.2823.

(g) The Michigan law enforcement officers memorial monument fund created in section 3 of the Michigan law enforcement officers memorial act, 2004 PA 177, MCL 28.783.

(h) For the 2009 tax year and each tax year after the 2009 tax year, the renewable fuels fund created in section 5a of the motor fuels quality act, 1984 PA 44, MCL 290.645a.

(i) For the 2009 tax year and each tax year after 2009, the foster care trust fund created in section 5 of the foster care trust fund act.

(2) The department shall establish and utilize a separate contributions schedule that incorporates each contribution designation authorized under this section that remains in effect and available for each tax year and shall revise the state individual income tax return form to include a separate line for the total contribution designations made under the separate contributions schedule. The contribution designations authorized under sections 437 and 440 shall remain on the first page of the state individual income tax return for the 2008 and 2009 tax years, but shall be incorporated into the contributions schedule for the 2010 tax year and shall remain on the schedule until the contribution designation expires by law or is otherwise no longer available as determined by the department pursuant to subsection (3). A contribution designation that is enacted after November 1, 2007 shall be incorporated as

soon as practical on the contributions schedule, and each new contribution designation shall be listed on the schedule in alphabetical order.

(3) The department may cease to include a contribution designation on the contributions schedule if that contribution designation fails to raise \$100,000.00 in any tax year for 2 consecutive tax years.

(4) If an individual's refund is not sufficient to make a contribution under this section, the individual may designate a contribution amount and that contribution amount shall be added to the individual's tax liability for the tax year.

(5) Notwithstanding any other allocations or disbursements required by this act, each year that a contribution designation under this section is in effect, an amount equal to the cumulative designation made under this section, less the amount appropriated to the department to implement this section, shall be appropriated from the general fund and distributed to the department responsible for administering the appropriate fund to which the taxpayer designated his or her contribution and shall be used solely for the purposes of that fund.

(6) Money appropriated pursuant to an appropriations act as required by law in accordance with this section to the department responsible for administering each respective fund shall be in addition to any other allocation or appropriation and is intended to enhance appropriations from the general fund and not to replace or supplant those appropriations.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6089 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved January 12, 2009.

Filed with Secretary of State January 13, 2009.

Compiler's note: House Bill No. 6089, referred to in enacting section 1, was filed with the Secretary of State January 13, 2009, and became 2008 PA 525, Imd. Eff. Jan. 13, 2009.

[No. 527]

(HB 6025)

AN ACT to establish the united way fund in the department of treasury; to establish the children's hospital of Michigan fund in the department of community health; to provide for the distribution of the money from those funds; to prescribe the powers and duties of certain agencies and officials; and to provide for appropriations.

The People of the State of Michigan enact:

PART 1

333.26531 Short title of part.

Sec. 1. This part shall be known and may be cited as the "united way fund act".

333.26532 Definitions.

Sec. 2. As used in this act:

(a) "Department" means the department of treasury.

(b) "Fund" means the united way fund created in section 3.

333.26533 United way fund; creation; purpose; credit of amounts to fund; interest and earnings; investment.

Sec. 3. (1) The united way fund is created in the department to provide funds for donation to any united way of America organization located in this state to improve lives by mobilizing the caring power of communities to provide for basic needs, including, but not limited to, food, clothing, and shelter.

(2) The state treasurer shall credit to the fund all amounts appropriated for this purpose under section 435 of the income tax act of 1967, 1967 PA 281, MCL 206.435.

(3) The fund shall consist of the money credited to the fund pursuant to section 435 of the income tax act of 1967, 1967 PA 281, MCL 206.435, any interest and earnings accruing from the saving and investment of that money, and other appropriations, money, or other things of value received by the fund.

(4) The state treasurer shall direct the investment of the fund.

333.26534 Expenditures; distribution.

Sec. 4. (1) The money, interest, and earnings of the fund shall be expended solely for the purposes described in this act.

(2) Money granted or received as a gift or donation to the fund is available for distribution upon appropriation to each county from which a contribution, gift, or donation was received.

333.26535 Fund; use as matching funds for federal grant.

Sec. 5. Money from the fund may be used as matching funds for a federal grant if those funds are to be used for the purposes described under section 3 only if the federal grant will benefit the county from which the matching funds were received.

333.26536 Appropriation; money remaining in fund at close of year.

Sec. 6. The money in the fund that is available for distribution shall be appropriated each year. Money in the fund at the close of the year shall remain in the fund and shall not lapse to the general fund.

PART 2

333.26541 Short title of part.

Sec. 11. This part shall be known and may be cited as the “children’s hospital of Michigan fund act”.

333.26543 Definitions.

Sec. 13. As used in this part:

(a) “Department” means the department of community health.

(b) “Fund” means the children’s hospital of Michigan fund created in section 15.

333.26545 Children’s hospital of Michigan fund; creation; purpose; credit of amounts to fund; investment; money remaining in fund at close of year.

Sec. 15. (1) The children’s hospital of Michigan fund is created in the department to provide funds for donation to the children’s hospital of Michigan to support the children’s hospital of Michigan in providing life-saving pediatric care, education, and research.

(2) The state treasurer shall credit to the fund all amounts appropriated for this purpose under section 435 of the income tax act of 1967, 1967 PA 281, MCL 206.435, and money from any other source for deposit into the fund.

(3) The state treasurer shall direct the investment of the fund. The fund shall consist of the money credited to the fund pursuant to section 435 of the income tax act of 1967, 1967 PA 281, MCL 206.435, any interest and earnings accruing from the saving and investment of that money, and money from any other source.

(4) Money in the fund at the close of the year shall remain in the fund and shall not lapse to the general fund.

333.26547 Expenditures.

Sec. 17. The money, interest, and earnings of the fund shall be expended solely for donations to the children's hospital of Michigan to support the children's hospital of Michigan in providing life-saving pediatric care, education, and research.

333.26549 Appropriation; distribution.

Sec. 19. The money in the fund that is available for distribution shall be appropriated each year. Money granted or received as a gift or donation to the fund is available for distribution upon appropriation.

This act is ordered to take immediate effect.

Approved January 12, 2009.

Filed with Secretary of State January 13, 2009.

[No. 528]

(HB 6148)

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 14p of chapter XVII (MCL 777.14p), as amended by 2006 PA 251.

The People of the State of Michigan enact:

CHAPTER XVII

777.14p Applicability of chapter to certain felonies; MCL 482.44 to 493.56a(13).

Sec. 14p. This chapter applies to the following felonies enumerated in chapters 482 to 499 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
482.44	Property	H	Bills of lading — issuance for goods not received	5
482.46	Property	H	Bills of lading — issuance of duplicate negotiable bill with intent to defraud	5
482.48	Property	H	Bills of lading — negotiation when goods not in carriers' possession	5
482.49	Property	H	Bills of lading — inducing carrier to issue when goods have not been received	5
482.50	Property	H	Bills of lading — issuance of non-negotiable bill not so marked	5
487.1042(1)	Pub trst	E	Money transmission services act — intentionally making a false statement, misrepresentation, or certification in a record or document	5
487.1042(2)	Pub trst	E	Criminal fraud in the conduct of money transmission services business	5
487.1042(3)	Pub trst	E	Money transmission services act license violation	5
487.1505(6)	Pub trst	E	BIDCO act — knowingly receiving money or property at an interest rate exceeding 25%	5
492.137(a)	Pub trst	H	Installment sales of motor vehicles	3
493.56a(13)	Pub trst	C	False statement in reports — secondary mortgage	15

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) Senate Bill No. 343.
- (b) Senate Bill No. 356.

This act is ordered to take immediate effect.

Approved January 12, 2009.

Filed with Secretary of State January 13, 2009.

Compiler's note: Senate Bill No. 343, referred to in enacting section 1, was filed with the Secretary of State January 13, 2009, and became 2008 PA 530, Imd. Eff. Jan. 13, 2009.

Senate Bill No. 356, also referred to in enacting section 1, was filed with the Secretary of State January 13, 2009, and became 2008 PA 529, Imd. Eff. Jan. 13, 2009.

[No. 529]**(SB 356)**

AN ACT to amend 1987 PA 173, entitled “An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers and their loan officers; to prescribe the powers and duties of certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties,” by amending section 29 (MCL 445.1679), as amended by 2008 PA 71.

The People of the State of Michigan enact:

445.1679 Prohibited conduct; misdemeanor; penalty; violation of act or rules; civil fine; suspension or revocation of license or registration; refusal to issue or renew license or registration; restitution; proceedings subject to MCL 24.201 to 24.328; bona fide error; violation of MCL 445.1672b(e)(ii).

Sec. 29. (1) An owner, partner, member, officer, director, trustee, employee, agent, broker, or other person, or a representative acting on the authority of that person that willfully or intentionally does any of the following is guilty of a misdemeanor punishable by a fine of not more than \$15,000.00 or imprisonment for not more than 1 year, or both:

(a) Engages in this state in the business of a mortgage broker, mortgage lender, or mortgage servicer without a license or registration required under this act or acts as a loan officer in this state without a loan officer registration required under this act.

(b) Transfers or assigns a mortgage loan or a security directly representing an interest in 1 or more mortgage loans before the disbursement of 75% or more of the proceeds of the mortgage loan to, or for the benefit of, the borrower. This subdivision does not apply to any of the following:

(i) A land contract not considered to be an equitable mortgage.

(ii) A loan made under a state or federal government program that allows the lender to escrow more than 25% of the loan proceeds for a limited period of time.

(iii) A construction loan.

(iv) A loan that provides in writing that the loan proceeds shall be disbursed to or for the benefit of the borrower in installments or upon the request of the borrower or upon the completion of renovations or repairs to the dwelling situated on the real property subject to the mortgage loan.

(c) Transfers or assigns a mortgage loan or a security representing an interest in 1 or more mortgage loans to an individual investor unless 1 or more of the following apply:

(i) The transfer or assignment is made through a broker-dealer which is a member of the New York stock exchange.

(ii) The transfer or assignment is made through a broker-dealer who meets all of the following criteria:

(A) The broker-dealer is registered under the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818.

(B) The broker-dealer is not an affiliate of the mortgage lender unless the person acquired the broker-dealer registration, directly or indirectly, before September 1, 1987 under the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818, was affiliated with a mortgage lender before September 1, 1987, and has continuously maintained that registration subsequent to September 1, 1987. For purposes of this subparagraph, if an aggregate of more

than 10% of the outstanding voting stock or interest in a corporation, unincorporated organization, partnership, or other legal entity that is a broker-dealer or mortgage lender is sold, transferred, assigned, or otherwise conveyed subsequent to September 1, 1987, the registration is not considered to have been continuously maintained.

(C) The broker-dealer acquired the mortgage loan or security on a firm commitment.

(iii) The transfer or assignment is made to a person who the transferor or assignor believes, or has reasonable grounds to believe, is 1 of the following:

(A) A business entity having either net income from operations after taxes in excess of \$100,000.00 in its last fiscal year or its latest 12-month period, or a net worth in excess of \$1,000,000.00 at the time of purchase.

(B) An individual who, after the purchase, has an investment of more than \$50,000.00 in mortgage loans or securities representing an interest in 1 or more mortgage loans, including installment payments to be made within 1 year after purchase by the individual, has either personal income before taxes in excess of \$100,000.00 for his or her last fiscal year or latest 12-month period and is capable of bearing the economic risk, or net worth in excess of \$1,000,000.00, and has the knowledge and experience in financial and business matters that he or she is capable of evaluating the merits and risks of the prospective investment, or has obtained the advice of an attorney, certified public accountant, or investment adviser registered under the investment advisers act of 1940, or an investment adviser registered under the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818, with respect to the merits and risks of the prospective investment.

(iv) A transferor or assignor does not maintain its principal place of business in this state and the transferee or assignee is not a resident of this state and does not maintain its principal place of business in this state.

(d) Coerces or induces a real estate appraiser to inflate the value of real property used as collateral for a mortgage loan, including, but not limited to, by doing any of the following:

(i) Representing or implying that a real estate appraiser will not be selected to conduct an appraisal of the real property or selected for future appraisal work unless the appraiser agrees in advance to a value, range of values, or minimum value for the real property.

(ii) Representing or implying that a real estate appraiser will not be paid for an appraisal unless the appraiser agrees in advance to a value, range of values, or minimum value for the real property.

(2) Subject to subsections (4) and (5), if the commissioner finds that a licensee, registrant, or loan officer registrant has violated, or directly or indirectly counseled, aided, or abetted in a violation, of this act or the rules promulgated under this act, the commissioner may do 1 or more of the following:

(a) Assess a civil fine against the licensee, registrant, or loan officer registrant or a person who controls the licensee, registrant, or loan officer registrant of not more than \$3,000.00 for each violation, except that the licensee, registrant, or loan officer registrant or the person shall not be fined more than \$30,000.00 for a transaction resulting in more than 1 violation, plus the costs of investigation.

(b) Suspend or revoke a license, registration, or loan officer registration or refuse to issue a license or renew a license, registration, or loan officer registration.

(c) Require the licensee, registrant, or loan officer registrant or a person who controls the licensee, registrant, or loan officer registrant to make restitution to each injured individual, if the commissioner finds that the violation of this act or a rule promulgated under this act resulted in an injury to 1 or more individuals.

(3) A civil fine assessed under subsection (2) may be sued for and recovered by and in the name of the commissioner and may be collected and enforced by summary proceedings by

the attorney general. Each individual injured by a violation of this act or a rule is a separate violation. In determining under subsection (2) the amount of a fine, whether to suspend or revoke a license, registration, or loan officer registration, whether to refuse to issue or renew a license or loan officer registration, or the amount of restitution, the commissioner shall consider the extent to which the violation was a knowing and willful violation, the extent of the injury suffered because of the violation, the corrective action taken by the licensee, registrant, or loan officer registrant to ensure that the violation will not be repeated, and the record of the licensee, registrant, or loan officer registrant in complying with this act. Any proceedings under this subsection are subject to the procedures of the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) Subsection (2) does not apply to a violation of this act that results from a bona fide error that occurs notwithstanding the adoption and observance of reasonable procedures intended to prevent the occurrence of the error.

(5) If a loan officer registrant violates section 22b(e)(ii), the commissioner shall revoke his or her loan officer registration. Revocation of a loan officer registration under this subsection does not affect the commissioner's authority to pursue any other remedy available under subsection (2) for that violation.

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) Senate Bill No. 343.
- (b) House Bill No. 4054.
- (c) House Bill No. 6148.

This act is ordered to take immediate effect.

Approved January 12, 2009.

Filed with Secretary of State January 13 2009.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 343 was filed with the Secretary of State January 13, 2009, and became 2008 PA 530, Imd. Eff. Jan. 13, 2009.

House Bill No. 4054 was filed with the Secretary of State January 13, 2009, and became 2008 PA 531, Imd. Eff. Jan. 13, 2009.

House Bill No. 6148 was filed with the Secretary of State January 13, 2009, and became 2008 PA 528, Imd. Eff. Jan. 13, 2009.

[No. 530]

(SB 343)

AN ACT to amend 1981 PA 125, entitled "An act to regulate secondary mortgage loans; to prescribe powers and duties of certain state agencies and officials; to require certain fees; to provide for the establishment of a revolving fund; to provide for the promulgation of rules; and to prescribe civil fines and penalties," by amending section 27 (MCL 493.77), as amended by 1997 PA 91.

The People of the State of Michigan enact:

493.77 Violation of act; making secondary mortgage loans without license as misdemeanor; penalty; civil fine; actions.

Sec. 27. (1) In addition to the penalties provided by this act, a violation of this act with respect to a particular secondary mortgage loan transaction is also subject to the penalty and remedy provisions of the credit reform act, 1995 PA 162, MCL 445.1851 to 445.1864.

(2) A person, association, nonprofit corporation, common law trust, joint stock company, limited liability company, or any other group of individuals, however organized, or any owner, partner, member, officer, director, trustee, employee, agent, broker, or representative thereof who or which willfully or intentionally does any of the following is guilty of a misdemeanor punishable by a fine of not more than \$15,000.00, imprisonment for not more than 1 year, or both:

(a) Engages in this state in the business of a broker, lender, or servicer without a license or registration required under this act.

(b) Acts as a secondary mortgage loan officer in this state without a secondary mortgage loan officer registration required under this act.

(c) Coerces or induces a real estate appraiser to inflate the value of real property used as collateral for a secondary mortgage loan, including, but not limited to, by doing any of the following:

(i) Representing or implying that a real estate appraiser will not be selected to conduct an appraisal of the real property or selected for future appraisal work unless the appraiser agrees in advance to a value, range of values, or minimum value for the real property.

(ii) Representing or implying that a real estate appraiser will not be paid for an appraisal unless the appraiser agrees in advance to a value, range of values, or minimum value for the real property.

(3) A person who violates this act or directly or indirectly counsels, aids, or abets in a violation is liable, in addition to other penalties and forfeitures imposed by this act, for a civil fine of not more than \$3,000.00 for each violation, except that a person shall not be fined more than \$30,000.00 for a transaction resulting in more than 1 violation, plus the costs of investigation. The civil fine shall be sued for and recovered by the commissioner and shall be collected and enforced by summary proceedings by the attorney general.

(4) Whether or not he or she seeks damages or has an adequate remedy at law, a person, a county prosecutor, or the attorney general may bring an action to do any of the following:

(a) Obtain a declaratory judgment that a method, act, or practice is a violation of this act.

(b) Enjoin a person from engaging in, or who is about to engage in, a method, act, or practice that violates this act.

(c) Recover actual damages resulting from a violation of this act or \$250.00, whichever is greater, together with reasonable attorneys' fees and the costs of bringing the action.

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) Senate Bill No. 356.

(b) House Bill No. 4054.

(c) House Bill No. 6148.

This act is ordered to take immediate effect.

Approved January 12, 2009.

Filed with Secretary of State January 13, 2009.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 356 was filed with the Secretary of State January 13, 2009, and became 2008 PA 529, Imd. Eff. Jan. 13, 2009.

House Bill No. 4054 was filed with the Secretary of State January 13, 2009, and became 2008 PA 531, Imd. Eff. Jan. 13, 2009.

House Bill No. 6148 was filed with the Secretary of State January 13, 2009, and became 2008 PA 528, Imd. Eff. Jan. 13, 2009.

[No. 531]**(HB 4054)**

AN ACT to amend 1980 PA 299, entitled “An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” by amending section 2635 (MCL 339.2635), as amended by 2006 PA 414.

The People of the State of Michigan enact:

339.2635 Prohibited conduct; penalties.

Sec. 2635. (1) Except as otherwise provided in subsection (2), a licensee who does 1 or more of the following shall be subject to the penalties set forth in article 6:

(a) Violates any of the standards for the development and communication of real property appraisals as provided in this article or a rule promulgated pursuant to this article.

(b) Fails or refuses without good cause to exercise reasonable diligence in developing or communicating an appraisal.

(c) Demonstrates incompetence in developing or communicating an appraisal.

(d) Fails to make available to the department upon request or fails to maintain books and records required under this article.

(e) Performs, attempts to perform, or offers to perform appraisal services for which the individual is not licensed under this article.

(f) Aids or abets another to commit a violation of this act or the rules promulgated under this act.

(g) Uses the license of another individual or knowingly allows another individual to use his or her license.

(h) If a limited real estate appraiser fails to disclose to the client, before making an appraisal, that the licensee’s appraisal cannot be used in a federally related transaction.

(i) Develops and communicates, in violation of the standards adopted under this article, an appraisal used as an investment or as collateral for a loan in a real-estate-related financial transaction by developing and communicating that appraisal as a result of the client’s or intended user’s doing either or both of the following:

(i) Setting preconditions on the outcome of the appraisal as a prerequisite for being selected to develop and communicate an appraisal or for obtaining future appraisal work. As used in this subparagraph, “setting preconditions on the outcome of an appraisal” does not include the communication of information, including documents related to the property being appraised, necessary to identify the valuation problem to be solved and the scope of work necessary to determine credible assignment results.

(ii) Representing or implying that payment for the development and communication of the appraisal is predicated upon attaining a desired minimum appraised value.

(2) A person licensed under this article who violates subsection (1)(i) is guilty of a misdemeanor punishable by a fine of not more than \$15,000.00 or imprisonment for not more than 1 year, or both.

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) Senate Bill No. 343.
- (b) Senate Bill No. 356.

This act is ordered to take immediate effect.

Approved January 12, 2009.

Filed with Secretary of State January 13, 2009.

Compiler's note: Senate Bill No. 343, referred to in enacting section 1, was filed with the Secretary of State January 13, 2009, and became 2008 PA 530, Imd. Eff. Jan. 13, 2009.

Senate Bill No. 356, also referred to in enacting section 1, was filed with the Secretary of State January 13, 2009, and became 2008 PA 529, Imd. Eff. Jan. 13, 2009.

[No. 532]**(HB 6515)**

AN ACT to amend 1991 PA 180, entitled “An act to assist in the financing of stadia or convention facilities; to permit eligible municipalities to impose and collect an excise tax on businesses engaged in the preparation and delivery of food and beverages for immediate consumption, in leasing or renting motor vehicles in the eligible municipality, and in providing accommodations for dwelling, lodging, or sleeping purposes; to limit the rate of that excise tax; to authorize voter approval in a single ballot question of the excise tax authorized by this act and of certain purposes for which the excise tax is imposed; to provide for the establishment of procedures for the collection, administration, and enforcement of the excise tax; to prescribe the powers and duties of certain state departments and state and local officials; to provide for the disposition and transmittal of the revenues from the tax for stadia or convention facility development and other purposes and authorize the pledge of those revenues; to authorize the appointment of employees and officials of a local governmental unit to an authority to which revenues from the tax may be pledged; to prescribe penalties and provide remedies; and to repeal certain acts and parts of acts,” by amending section 1 (MCL 207.751), as amended by 2007 PA 172.

The People of the State of Michigan enact:

207.751 Definitions.

Sec. 1. As used in this act:

(a) “Accommodations” means the room or other space provided for sleeping, including furnishings and other accessories in the room but not including the provision of food, beverages, telephone services, television or movie services, or other similar services, in a facility that is not a hospital, nursing home, emergency shelter, community mental health or community substance abuse treatment facility, or campground.

(b) “Chief executive officer” means for a county the county executive of a county or, if the county does not have an elected county executive, the chairperson of the county board of commissioners and for a city, the mayor.

(c) “Convention facility” means a convention exhibition facility, including meeting rooms and necessary sites, related parking lots or structures, and appurtenant properties and facilities, if the facility itself contains not less than 50,000 square feet of exhibition space

and if the eligible municipality is a county, the facility is located within the boundaries of the most populous city in the county.

(d) “Eligible county” means a county with a population of 1,500,000 or more persons that adopts or has adopted a charter under 1966 PA 293, MCL 45.501 to 45.521, and that intends to impose the tax authorized by this act for purposes related to a stadium as defined under subdivision (i)(i).

(e) “Eligible municipality” means any of the following:

(i) An eligible county that intends to impose a tax under this act for purposes related to a stadium as defined under subdivision (i)(i).

(ii) A county that is not a charter county that has a population of more than 500,000 and contains a city with a population of 180,000 or more persons, or the most populous city in that county if either intends to impose a tax under this act for purposes related to a stadium as defined under subdivision (i)(ii) or a convention facility.

(iii) A county with a population of less than 200,000 that contains a city with a population of more than 40,000 but less than 50,000, or the most populous city in that county if either intends to impose a tax under this act for purposes related to a stadium as defined under subdivision (i)(ii) or a convention facility.

(iv) A county with a population of less than 300,000 with a city with a population of more than 100,000 persons, or the most populous city within that county if either intends to impose a tax under this act for purposes related to a stadium as defined under subdivision (i)(ii) or a convention facility.

(v) A county with a population of more than 250,000 with an optional unified form of government or a city within that county that levies a city income tax if either intends to impose a tax under this act for purposes related to a stadium as defined under subdivision (i)(ii) or a convention facility.

(vi) A county with a population of less than 300,000 with a city with a population of more than 70,000 persons, or the most populous city within that county if either intends to impose a tax under this act for purposes related to a stadium as defined under subdivision (i)(ii).

(f) “Gross receipts” means that term as defined in former section 7 of 1975 PA 228, or section 111 of the Michigan business tax act, 2007 PA 36, MCL 208.1111. Gross receipts do not include any amount received as reimbursement of sales tax or as charges for use tax.

(g) “Motor vehicle” means a motor vehicle subject to registration and certificate of title under section 216 of the Michigan vehicle code, 1949 PA 300, MCL 257.216, that is designed and intended to be used primarily in the transportation of passengers. Motor vehicle does not include a road tractor, school bus, special mobile equipment, tank vehicle, truck tractor, implement of husbandry, or farm tractor as these terms are defined by the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

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

(i) “Stadium” means a facility, including necessary sites, related parking lots or structures, and appurtenant properties and facilities, that is intended to provide space for any of the following:

(i) A professional baseball franchise, if the facility itself contains not less than 25,000 seats and is located in the downtown area of the most populous city in the eligible county.

(ii) Professional sports or entertainment, if the facility itself contains not less than 3,000 seats, is not a facility as defined by subparagraph (i).

(j) “Transient guest” means a person who occupies an accommodation for less than 30 consecutive days.

This act is ordered to take immediate effect.
Approved January 12, 2009.
Filed with Secretary of State January 13, 2009.

[No. 533]**(HB 6645)**

AN ACT to amend 1990 PA 250, entitled “An act to provide for a DNA identification profiling system; to provide for the collection of samples from certain prisoners, convicted offenders, and juvenile offenders and the analysis of those samples; and to prescribe the powers and duties of certain state departments and county agencies,” by amending section 3a (MCL 28.173a), as added by 2001 PA 88.

The People of the State of Michigan enact:

28.173a DNA identification profiling; refusal to supply samples as misdemeanor; existing sample; inadequate sample.

Sec. 3a. (1) An individual required by law to provide samples for DNA identification profiling who refuses to provide or resists providing those samples is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both. The individual shall be advised that his or her resistance or refusal to provide samples described in this subsection is a misdemeanor.

(2) If at the time an individual who is required by law to provide samples for DNA identification profiling is convicted the investigating law enforcement agency or the department already has a sample from the individual that meets the requirements of the rules promulgated under this act, the individual is not required to provide another sample. However, if an individual’s DNA sample is inadequate for purposes of analysis, the individual shall provide another DNA sample that is adequate for analysis.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1549 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved January 12, 2009.
Filed with Secretary of State January 13, 2009.

Compiler’s note: Senate Bill No. 1549, referred to in enacting section 1, was filed with the Secretary of State January 13, 2009, and became 2008 PA 535, Imd. Eff. Jan. 13, 2009.

[No. 534]**(HB 6646)**

AN ACT to amend 1990 PA 250, entitled “An act to provide for a DNA identification profiling system; to provide for the collection of samples from certain prisoners, convicted

offenders, and juvenile offenders and the analysis of those samples; and to prescribe the powers and duties of certain state departments and county agencies,” (MCL 28.171 to 28.176) by adding section 5a.

The People of the State of Michigan enact:

28.175a DNA profiles; authorized use; analyses for identification of medical or genetic disorder prohibited.

Sec. 5a. (1) The department shall only use the DNA profiles of DNA samples authorized to be provided under this act for 1 or more of the following purposes:

- (a) Law enforcement identification purposes.
- (b) To assist in the recovery or identification of human remains or missing persons.
- (c) Academic, research, statistical analysis, or protocol development purposes only if personal identifiers are removed.

(2) DNA samples provided under this act shall not be analyzed for identification of any medical or genetic disorder.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1549 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved January 12, 2009.

Filed with Secretary of State January 13, 2009.

Compiler's note: Senate Bill No. 1549, referred to in enacting section 1, was filed with the Secretary of State January 13, 2009, and became 2008 PA 535, Imd. Eff. Jan. 13, 2009.

[No. 535]

(SB 1549)

AN ACT to amend 1990 PA 250, entitled “An act to provide for a DNA identification profiling system; to provide for the collection of samples from certain prisoners, convicted offenders, and juvenile offenders and the analysis of those samples; and to prescribe the powers and duties of certain state departments and county agencies,” by amending sections 2 and 6 (MCL 28.172 and 28.176), section 2 as amended by 2001 PA 88 and section 6 as amended by 2003 PA 76, and by adding section 5.

The People of the State of Michigan enact:

28.172 Definitions.

Sec. 2. As used in this act:

- (a) “Department” means the department of state police.
- (b) “DNA identification profile” or “profile” means the results of the DNA identification profiling of a sample, including a paper, electronic, or digital record.
- (c) “DNA identification profiling” means a validated scientific method of analyzing components of deoxyribonucleic acid molecules in a biological specimen to determine a match or a nonmatch between a reference sample and an evidentiary sample.

(d) “Felony” means a violation of a penal law of this state for which the offender may be punished by imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

(e) “Investigating law enforcement agency” means the law enforcement agency responsible for the investigation of the offense for which the individual is convicted. Investigating law enforcement agency includes the county sheriff but does not include a probation officer employed by the department of corrections.

(f) “Sample” means a portion of an individual’s blood, saliva, or tissue collected from the individual.

28.175 Unauthorized dissemination, receipt, or use of information; violation; penalty; removal, destruction, or tampering with DNA sample, record, or information; violation; penalty.

Sec. 5. (1) An individual shall not disseminate, receive, or otherwise use or attempt to use information in the DNA identification profile record knowing that the dissemination, receipt, or use of that information is for a purpose not authorized by law. An individual who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(2) An individual shall not willfully remove, destroy, tamper with, or attempt to tamper with a DNA sample, record, or other DNA information obtained or retained under this act without lawful authority. An individual who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

28.176 DNA identification profile; retention; requirements; disposal of sample or profile; good-faith error; disposal of physical evidence or data obtained from sample.

Sec. 6. (1) The department shall permanently retain a DNA identification profile of an individual obtained from a sample in the manner prescribed by the department under this act if any of the following apply:

(a) The individual is found responsible for a violation of section 83, 91, 316, 317, or 321 of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.91, 750.316, 750.317, and 750.321, or a violation or attempted violation of section 349, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.349, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, or a violation of section 167(1)(c) or (f) or 335a of the Michigan penal code, 1931 PA 328, MCL 750.167 and 750.335a, or a local ordinance substantially corresponding to section 167(1)(c) or (f) or 335a of the Michigan penal code, 1931 PA 328, MCL 750.167 and 750.335a.

(b) The individual is convicted of a felony or attempted felony, or any of the following misdemeanors, or local ordinances that are substantially corresponding to the following misdemeanors:

(i) A violation of section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a, enticing a child for immoral purposes.

(ii) A violation of section 167(1)(c), (f), or (i) of the Michigan penal code, 1931 PA 328, MCL 750.167, disorderly person by window peeping, engaging in indecent or obscene conduct in public, or loitering in a house of ill fame or prostitution.

(iii) A violation of section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a, indecent exposure.

(iv) A violation of section 451 of the Michigan penal code, 1931 PA 328, MCL 750.451, first and second prostitution violations.

(v) A violation of section 454 of the Michigan penal code, 1931 PA 328, MCL 750.454, leasing a house for purposes of prostitution.

(vi) A violation of section 462 of the Michigan penal code, 1931 PA 328, MCL 750.462, female under the age of 17 in a house of prostitution.

(2) The DNA profiles of DNA samples received under this section shall only be disclosed as follows:

(a) To a criminal justice agency for law enforcement identification purposes.

(b) In a judicial proceeding as authorized or required by a court.

(c) To a defendant in a criminal case if the DNA profile is used in conjunction with a charge against the defendant.

(d) For an academic, research, statistical analysis, or protocol developmental purpose only if personal identifications are removed.

(3) Notwithstanding subsection (1), if at the time the individual is convicted of or found responsible for the violation the investigating law enforcement agency or the department of state police already has a sample from the individual that meets the requirements of this act, the individual is not required to provide another sample or pay the fee required under subsection (5).

(4) The county sheriff or the investigating law enforcement agency as ordered by the court shall provide for collecting the samples required to be provided under subsection (1) in a medically approved manner by qualified persons using supplies provided by the department of state police and shall forward those samples and any samples described in subsection (1) that were already in the agency's possession to the department of state police. The collecting and forwarding of samples shall be done in the manner required under this act. A sample shall be collected by the county sheriff or the investigating law enforcement agency after conviction or a finding of responsibility but before sentencing or disposition as ordered by the court and promptly transmitted to the department of state police. This subsection does not preclude a law enforcement agency or state agency from obtaining a sample at or after sentencing or disposition.

(5) Until October 1, 2003, the court shall order each individual found responsible for or convicted of 1 or more crimes listed in subsection (1) to pay an assessment of \$60.00. The assessment required under this subsection is in addition to any fine, costs, or other assessments imposed by the court.

(6) An assessment required under subsection (5) shall be ordered upon the record and shall be listed separately in the adjudication order, judgment of sentence, or order of probation.

(7) After reviewing a verified petition by an individual against whom an assessment is imposed under subsection (5), the court may suspend payment of all or part of the assessment if it determines the individual is unable to pay the assessment.

(8) The court that imposes the assessment prescribed under subsection (5) may retain 10% of all assessments or portions of assessments collected for costs incurred under this section and shall transmit that money to its funding unit. On the last day of each month, the clerk of the court shall transmit the assessments or portions of assessments collected under this section as follows:

(a) Twenty-five percent to the county sheriff or other investigating law enforcement agency that collected the DNA sample as designated by the court to defray the costs of collecting DNA samples.

(b) Until October 1, 2003, 65% to the department of treasury for the department's forensic science division to defray the costs associated with the requirements of DNA profiling and DNA retention prescribed under this act.

(c) Beginning October 1, 2003, 65% to the state treasurer for deposit in the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181.

(9) Beginning December 31, 2002, the director of the department shall report by December 31 of each year concerning the rate of DNA sample collection, DNA identification profiling, retention and compilation of DNA identification profiles, and the collection of assessments required under subsection (5) to all of the following:

(a) The standing committees of the senate and house of representatives concerned with DNA sample collection and retention.

(b) The house of representatives appropriations subcommittee on state police and military affairs.

(c) The senate appropriations subcommittee on state police.

(10) If a sample was collected under subsection (1) from an individual who does not have more than 1 conviction, and that conviction was reversed by an appellate court, the individual may petition the sentencing court to order the disposing of the sample collected and DNA identification profile record for that conviction in the manner provided in subsections (13) and (14). The sentencing court shall only enter the order upon a finding that the individual has proven by clear and convincing evidence that the conviction was reversed based upon the great weight of the evidence, specifically, that there was overwhelming evidence against the verdict resulting in a miscarriage of justice.

(11) Any other DNA identification profile obtained by the department shall not be permanently retained by the department but shall be retained only as long as it is needed for a criminal investigation or criminal prosecution. Except as provided in subsection (12), the state police forensic laboratory shall dispose of a DNA sample collected under subsection (1) or a DNA identification profile, or both, if any of the following circumstances occur:

(a) The department receives a written request for disposal from the investigating police agency or prosecutor indicating that the sample or profile is no longer necessary for a criminal investigation or criminal prosecution.

(b) The department receives a written request for disposal and a certified copy of a final court order establishing that the charge for which the sample was obtained has been dismissed or has resulted in an acquittal or that no charge was filed within the applicable limitations period.

(12) Subsection (11) does not apply if either of the following circumstances exists:

(a) The department determines that the individual from whom the sample is taken has otherwise become obligated to submit a sample.

(b) Subsection (16) applies.

(13) The state police forensic laboratory shall dispose of a sample and a DNA identification profile record in the following manner:

(a) The laboratory shall dispose of the sample in compliance with section 13811 of the public health code, 1978 PA 368, MCL 333.13811.

(b) The laboratory shall dispose of the sample and the DNA identification profile record in the presence of a witness.

(14) After disposal in accordance with subsection (13), the laboratory shall make and keep a written record of the disposal, signed by the individual who witnessed the disposal.

(15) An identification, warrant, detention, probable cause to arrest, arrest, or conviction based upon a DNA match or DNA information is not invalidated if it is later determined that 1 or more of the following errors occurred in good faith:

(a) A DNA sample was erroneously obtained.

- (b) A DNA identification profile was erroneously retained.
- (c) A DNA sample was not disposed of or there was a delay in disposing of the sample.
- (d) A DNA identification profile was not disposed of or there was a delay in disposing of the profile.

(16) Notwithstanding any other provision of this act, the department is not required to dispose of physical evidence or data obtained from a sample if evidence relating to an individual other than the individual from whom the sample was taken would be destroyed and the evidence or data relating to the other individual would otherwise be retained under this section.

This act is ordered to take immediate effect.
 Approved January 12, 2009.
 Filed with Secretary of State January 13, 2009.

[No. 536]

(HB 6172)

AN ACT to create an Asian Pacific American affairs commission, an office of Asian Pacific American affairs, and an interagency council on Asian Pacific American affairs; to prescribe their powers and duties; and to prescribe the powers and duties of certain agencies, departments, and officials.

The People of the State of Michigan enact:

37.121 Short title.

Sec. 1. This act shall be known and may be cited as the “Asian Pacific American affairs commission act”.

37.123 Definitions.

Sec. 3. As used in this act:

- (a) “Asian Pacific American” means a person who has origins in any of the original peoples of the far east, southeast Asia, the Indian subcontinent, or the Pacific islands; is identified by an employer in an EEO-1 report as Asian or Pacific islander; or is regarded in the community as having origins in any of the original peoples of the far east, southeast Asia, the Indian subcontinent, or the Pacific islands.
- (b) “Commission” means the Asian Pacific American affairs commission created in section 5.
- (c) “Department” means the department of energy, labor, and economic growth.
- (d) “Director” means the director of the office of Asian Pacific American affairs.
- (e) “Office” means the office of Asian Pacific American affairs created in section 13.

37.125 Asian Pacific American affairs commission; creation; election of chairperson and vice-chairperson; terms; vacancy; appointment.

Sec. 5. (1) The Asian Pacific American affairs commission is created within the department of energy, labor, and economic growth. The commission shall exercise its powers and duties independently of the department except for budget, procurement, and housekeeping functions. The commission shall consist of 15 members to be appointed by the governor

with the advice and consent of the senate. The commission shall elect a chairperson and vice-chairperson annually and shall elect other officers from its members as the commission considers appropriate.

(2) Members of the commission shall be individuals who have a particular interest or expertise in Asian or Pacific American concerns.

(3) Members of the commission shall serve for a term of 3 years or until a successor is appointed, whichever is later, except that of the members first appointed, 5 shall serve for 3 years, 5 shall serve for 2 years, and 5 shall serve for 1 year.

(4) If a vacancy occurs on the commission, the governor shall make an appointment for the balance of the unexpired term in the same manner as the original appointment.

(5) The governor shall appoint the commission within 90 days after the effective date of this act.

37.127 Bylaws; meetings; quorum; voting; compensation; administrative services; staff.

Sec. 7. (1) Within 90 days after appointment and confirmation of all members, the commission shall adopt bylaws for the operation of the commission. The bylaws shall include, at a minimum, voting procedures and minimum requirements for attendance at meetings.

(2) The commission shall hold regular quarterly meetings at places and on dates as determined by the commission. Special meetings may be called by the chairperson or by not fewer than 8 commission members on 3 business days' actual notice.

(3) A majority of the commission members appointed and serving constitute a quorum for the transaction of business at a meeting of the commission. Official action by the commission shall be only by affirmative vote of a majority of the commission members appointed and serving. A commission member shall not vote by proxy.

(4) The legislature annually shall fix the per diem compensation of members of the commission. Expenses of members incurred in the performance of official duties shall be reimbursed as provided by law for state employees.

(5) The department shall furnish administrative services to the commission and shall provide secretarial and other staff necessary to allow the proper exercise of the powers and duties of the commission. The department shall provide adequate office space to the commission. The department shall make available the times and places of commission meetings and keep minutes of the meetings and a record of the actions of the commission.

(6) The department shall assign professional employees to staff the commission to assist the commission in the performance of its substantive responsibilities under this act.

37.129 Meetings held pursuant to open meetings act; writings subject to freedom of information act.

Sec. 9. (1) A meeting of the commission shall be held pursuant to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(2) A writing prepared, owned, used, in the possession of, or retained by the commission or office in the performance of an official function shall be made available to the public pursuant to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

37.131 Commission; duties.

Sec. 11. The commission shall do all of the following:

(a) Stimulate and encourage the study and review of the status of Asian Pacific Americans in this state.

(b) Develop a unified policy and plan of action to serve the needs of Asian Pacific Americans in this state.

(c) Advise the governor, the legislature, and the office concerning the coordination and administration of state programs serving Asian Pacific Americans.

(d) Make recommendations to the governor and legislature regarding changes in state programs, statutes, and policies.

(e) Advise the governor and legislature of the nature, magnitude, and priorities of the problems of Asian Pacific Americans in this state.

(f) Review and advise the governor and the legislature on this state's policies concerning Asian Pacific American affairs.

(g) Secure appropriate recognition of Asian Pacific American accomplishments and contributions to this state.

(h) Review and approve the annual report by the office of Asian Pacific American affairs as described in section 15(j).

(i) Make recommendations to the governor and legislature regarding methods of overcoming discrimination against Asian Pacific Americans in public and private employment and civil and political rights.

(j) Work to ensure equal access to all levels of education for Asian Pacific Americans.

(k) Promote methods to ensure equal access to state services for Asian Pacific Americans.

(l) Cooperate with and coordinate activities with the commission on Spanish-speaking affairs, the Michigan women's commission, and any other commission that deals with minority or ethnic affairs.

(m) Monitor, evaluate, investigate, advocate, and initiate programs for the betterment of Asian Pacific Americans in this state.

(n) Serve as a reporting agency for incidents of anti-Asian and anti-Pacific islander American harassment in this state.

(o) Promote public awareness of Asian and Pacific islander cultures.

37.133 Office of Asian Pacific American affairs; creation; director; administration services; staff; appropriation as condition.

Sec. 13. (1) Subject to subsection (5), the office of Asian Pacific American affairs is created in the department of energy, labor, and economic growth.

(2) The commission shall select the director of the office with the concurrence of the director of energy, labor, and economic growth in accordance with state civil service procedures.

(3) The department shall furnish administrative services to the office and shall provide secretarial and other staff necessary to allow the proper exercise of the powers and duties of the office. The department shall provide adequate office space to the office.

(4) The department shall assign professional employees to staff the office necessary to assist the office in the performance of its substantive responsibilities under this act.

(5) Creation of the office of Asian Pacific American affairs is contingent on an appropriation being made for that purpose.

37.135 Office of Asian Pacific American affairs; duties.

Sec. 15. The office shall do all of the following:

(a) Provide the commission with information concerning the problems of Asian Pacific Americans and implement commission policy.

(b) Conduct studies and recommend solutions to the problems of Asian Pacific Americans in the areas of education, employment, civil rights, health, housing, senior citizens, mental health, social service, commerce, and other related areas.

(c) Recommend to federal, state, and local governmental departments and agencies the creation of services and facilities as the commission considers appropriate.

(d) Serve as a reporting agency for the collection and distribution of information on Asian Pacific American affairs.

(e) Apply for and accept grants and gifts from governmental and private sources.

(f) Request the services of all state and local governmental departments and agencies to assure that Asian Pacific Americans have access to decision-making bodies, the policies of which affect Asian Pacific Americans in this state.

(g) Cooperate with departments and agencies to aid in effectuating the purposes of this act.

(h) Review the performance of state departments and agencies regarding the hiring and promotion of Asian Pacific Americans by state departments and agencies and the provision of services to Asian Pacific Americans by state departments and agencies.

(i) Review the curriculum, programs, and policies of elementary, secondary, and post-secondary educational institutions of this state regarding Asian Pacific Americans and the admissions programs and policies of postsecondary educational institutions of this state regarding Asian Pacific Americans.

(j) Submit a full written report of its activities and recommendations each year to the governor, legislature, and various Asian Pacific American communities throughout this state.

37.137 State interagency council on Asian Pacific American affairs; creation; membership; purpose.

Sec. 17. (1) A state interagency council on Asian Pacific American affairs is created within the office.

(2) The council shall consist of:

(a) The director of the department of community health or his or her authorized representative.

(b) The director of the department of human services or his or her authorized representative.

(c) The director of the department of natural resources or his or her authorized representative.

(d) The superintendent of public instruction or his or her authorized representative.

(e) The state treasurer or his or her authorized representative.

(f) The director of the department of agriculture or his or her authorized representative.

(g) The state personnel director or his or her authorized representative.

(h) The executive director of the department of civil rights or his or her authorized representative.

(i) The attorney general or his or her authorized representative.

(j) The secretary of state or his or her authorized representative.

(k) The director of the department of corrections or his or her authorized representative.

(l) The executive director of the women's commission or his or her authorized representative.

(m) The director of management and budget or his or her authorized representative.

(n) The director of the department of energy, labor, and economic growth or his or her authorized representative.

(o) The chair of the state housing development authority or his or her authorized representative.

(3) The purpose of the interagency council is to coordinate and provide for the exchange of information on all programs relating to services for Asian Pacific American people. The interagency council shall also assist the office and commission in the development of an annual report which is to be submitted to the governor, the legislature, and Asian Pacific American communities throughout the state.

This act is ordered to take immediate effect.

Approved January 12, 2009.

Filed with Secretary of State January 13, 2009.

[No. 537]

(HB 4611)

AN ACT to authorize a process for retired law enforcement officers to carry concealed firearms in this state; to prescribe certain powers and duties of the department of state police, the commission on law enforcement standards, and certain other state officers and agencies; to impose certain civil and criminal penalties; to impose certain requirements on certain persons issued certificates to carry concealed firearms; to provide for certain civil immunity; to allow for the collection of certain fees; to create certain funds; to provide for the forfeiture of firearms under certain circumstances; and to provide for the promulgation of rules.

The People of the State of Michigan enact:

28.511 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan retired law enforcement officer's firearm carry act".

28.512 Definitions.

Sec. 2. As used in this act:

(a) "Active duty firearms standard" means the in-service standard for the training and qualification of active duty law enforcement officers as mandated by the commission under the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616.

(b) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

(c) "Certification" or "certified" means official recognition by the commission that a retired law enforcement officer has met the active duty firearms standard in this state and is eligible to carry a concealed firearm under 18 USC 926C.

(d) "Certificate" means a commission-issued document that identifies a qualified retired law enforcement officer who is certified under 18 USC 926C and this act.

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

(f) “Certificate holder” means a qualified retired law enforcement officer who is issued a certificate by the commission.

(g) “Commission” means the commission on law enforcement standards established under section 3 of the commission on law enforcement standards act, 1965 PA 203, MCL 28.603.

(h) “Firearm” means that term as defined in section 1 of 1927 PA 372, MCL 28.421.

(i) “Peace officer” means an officer of a law enforcement agency of the state, the federal government, or a county, township, city, or village who is responsible for the prevention and detection of crime and enforcement of the criminal laws of this state, and includes a motor carrier officer appointed under section 6d of 1935 PA 59, MCL 28.6d, and security personnel employed by the department of state police under section 6c of 1935 PA 59, MCL 28.6c. Peace officer does not include a qualified retired law enforcement officer.

(j) “Qualified retired law enforcement officer” means that term as defined in 18 USC 926C(c).

28.513 Certification of qualified retired law enforcement officer to carry concealed firearm; establishment of requirements and procedures by commission; rules.

Sec. 3. The commission shall establish requirements and procedures through which a qualified retired law enforcement officer may be certified to carry a concealed firearm under 18 USC 926C and this act. The commission shall establish requirements and procedures through which certification under 18 USC 926C and this act may be denied or revoked. The commission may promulgate rules to implement this act in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

28.514 Eligibility to carry concealed firearm.

Sec. 4. (1) In order to be eligible to carry a concealed firearm under 18 USC 926C and this act, a qualified retired law enforcement officer must meet the requirements of 18 USC 926C and be a legal resident of this state.

(2) A retired law enforcement officer is not eligible for certification by the commission under 18 USC 926C and this act if he or she is prohibited under federal law from being certified under 18 USC 926C.

28.515 Application requirements and procedures to verify identity; conduct criminal history, and conduct background investigation; establishment by commission.

Sec. 5. (1) The commission shall establish application requirements and procedures in order to verify the identity of an applicant, to conduct a complete criminal history, and to conduct a background investigation into an applicant’s fitness to carry a concealed firearm under 18 USC 926C and this act.

(2) The commission shall request the department of state police to conduct a criminal records check through the state of Michigan and the federal bureau of investigation. The commission shall require the individual to submit his or her fingerprints to the department of state police in a manner prescribed by the department of state police for that purpose. The department of state police may charge a fee for conducting the criminal records check. If a criminal arrest fingerprint card is subsequently submitted to the department of state police and matches against a fingerprint that was submitted under this section and stored in the AFIS database, the department of state police shall notify the commission. Once the department of state police has a set of fingerprints on file as a result of being fingerprinted for

purposes of this act, the individual is not required to have fingerprints taken for subsequent renewal applications.

28.516 Application form; signature; providing false or misleading information as felony; penalty.

Sec. 6. (1) The commission shall create an application form for certification under this act. The applicant shall sign the application acknowledging that all information contained in the application is true and accurate.

(2) An applicant who knowingly provides false or misleading information on the application, in whole or in part, 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.

28.517 Issuance of certificate; carrying certificate and driver license or Michigan personal identification card; disclosure to peace officer; forfeiture upon notice of revocation; violation; penalties.

Sec. 7. (1) The commission or its agent shall issue a certificate to a qualified retired law enforcement officer who has complied with the active duty firearms standard and is eligible to carry a concealed firearm under 18 USC 926C and this act.

(2) A certificate holder shall carry the certificate and a valid driver license or Michigan personal identification card on his or her person at all times while in possession of a concealed firearm and shall produce the documents upon demand by a peace officer.

(3) A certificate holder who is carrying a concealed firearm and who is stopped by a peace officer shall immediately disclose to the peace officer that he or she is carrying a concealed firearm on his or her person or is transporting a firearm in his or her vehicle.

(4) Upon notice of revocation, a certificate holder is required to forfeit his or her certificate to the commission by returning the certificate in person to the commission or returning the certificate by certified mail.

(5) A violation of this section subjects the certificate holder to the penalties provided in section 5f of 1927 PA 372, MCL 28.425f, including forfeiture of the firearm.

28.518 Circumstances requiring report to commission; failure to file report as misdemeanor; penalty.

Sec. 8. (1) A certificate holder shall immediately report to the commission in writing the circumstances of any of the following:

(a) An arrest or a conviction for a violation of any state or federal criminal law.

(b) Becoming the subject of an order or disposition in any jurisdiction that does 1 or more of the following:

(i) Restrains the certificate holder from harassing, stalking, or threatening an intimate partner of the person or a child of the intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child.

(ii) Prohibits or limits the transport, possession, carrying, or use of firearms or ammunition.

(iii) Involves an adjudication of mental illness, a finding of insanity, a finding of legal incapacity, or an order for involuntary commitment in an inpatient or outpatient setting.

(c) A laboratory result reflecting the unauthorized presence of controlled substances following a drug test administered to the certificate holder.

(2) A certificate holder who fails to file a written report as required under subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$5,000.00, or both.

28.519 Implied consent to submit to chemical analysis; certificate holder under influence of alcoholic liquor or controlled substance; violation; penalty; exception; collection and testing of breath, blood, and urine specimens; refusal to take chemical test; report of violation to commission.

Sec. 9. (1) Acceptance of a certificate issued under this act constitutes implied consent to submit to a chemical analysis under this section.

(2) A certificate holder shall not carry a concealed firearm while he or she is under the influence of alcoholic liquor or a controlled substance or while having a bodily alcohol content prohibited under this section. A person who violates this section is responsible for a state civil infraction or is guilty of a crime as follows:

(a) If the person was under the influence of alcoholic liquor or a controlled substance or a combination of alcoholic liquor and a controlled substance, or had a bodily alcohol content of .10 or more grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both. The court shall order the commission to permanently revoke the certificate. The commission shall permanently revoke the certificate as ordered by the court.

(b) If the person had a bodily alcohol content of .08 or more but less than .10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both. The court may order the commission to revoke the certificate for not more than 3 years. The commission shall revoke the certificate as ordered by the court.

(c) If the person had a bodily alcohol content of .02 or more, but less than .08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is responsible for a state civil infraction and may be fined not more than \$100.00. The court may order the commission to revoke the certificate for 1 year. The commission shall revoke certification if an individual is found responsible for a subsequent violation of this subdivision.

(3) This section does not prohibit an individual certified under this act to carry a concealed firearm who has any bodily alcohol content from transporting that firearm in the locked trunk of his or her motor vehicle or another motor vehicle in which he or she is a passenger or, if the vehicle does not have a trunk, from transporting that firearm unloaded in a locked compartment or container that is separated from the ammunition for that firearm or on a vessel if the firearm is transported unloaded in a locked compartment or container that is separated from the ammunition for that firearm.

(4) A peace officer who has probable cause to believe a certificate holder is carrying a concealed firearm in violation of this section may require the certificate holder to submit to a chemical analysis of his or her breath, blood, or urine.

(5) Before a certificate holder is required to submit to a chemical analysis under subsection (4), the peace officer shall inform the certificate holder of all of the following:

(a) The certificate holder may refuse to submit to the chemical analysis, but if he or she chooses to do so, all of the following apply:

(i) The officer may obtain a court order requiring the certificate holder to submit to a chemical analysis.

(ii) The refusal may result in his or her certificate being revoked.

(b) If the certificate holder submits to the chemical analysis, he or she may obtain a chemical analysis described in subsection (4) from a person of his or her own choosing.

(6) The collection and testing of breath, blood, and urine specimens under this section shall be conducted in the same manner that breath, blood, and urine specimens are collected and tested for alcohol-related and controlled-substance-related motor vehicle operation violations under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(7) If a certificate holder refuses to take a chemical test authorized under this section, the peace officer shall promptly report the refusal in writing to the commission.

(8) If a certificate holder takes a chemical test authorized under this section and the test results indicate that the individual had any bodily alcohol content while carrying a concealed firearm, the peace officer shall promptly report the violation in writing to the commission.

28.520 Computerized database; creation and maintenance by commission; information to be contained; deletion; dissemination; confidentiality.

Sec. 10. (1) The commission shall create and maintain a computerized database of individuals who apply for a certificate under this act. The database shall contain only the following information as to each individual:

(a) The individual's name, date of birth, address, and county of residence.

(b) If the individual is issued a certificate, the certificate number and date of expiration.

(c) Except as provided in subsection (2), if the individual was denied a certificate, a statement of the reasons for that denial.

(d) A statement of all criminal charges pending and criminal convictions obtained against the individual during the certificate period.

(e) A statement of all determinations of responsibility for civil infractions of this act pending or obtained against the individual during the certificate period.

(2) If an individual who was denied a certificate is subsequently issued a certificate, the commission shall delete from the computerized database the previous reasons for the denial.

(3) The commission shall provide the information described in subsection (1)(a) and (b) to the department of state police in a manner prescribed by the department of state police for dissemination through the law enforcement information network.

(4) Information in the database, compiled under subsections (1) through (3), 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.

28.521 Administration of active duty firearm standard; identification of eligible public entities.

Sec. 11. The commission shall identify public entities eligible to administer the active duty firearm standard to qualified retired law enforcement officers for purposes of carrying out 18 USC 926C and this act.

28.522 Firearm subject to seizure and forfeiture.

Sec. 12. A firearm that is carried in violation of this act is subject to seizure and forfeiture in the same manner that property is subject to seizure and forfeiture under sections 4701 to 4709 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709. This section does not apply if the violation is a state civil infraction under section 5f of 1927 PA 372, MCL 28.425f, unless the individual fails to present his or her certificate within the 45-day period described in that section.

28.523 Retired law enforcement officer safety fund; creation in state treasury; credit of funds; balance remaining at end of fiscal year; administration for auditing purposes; expenditures.

Sec. 13. (1) The retired law enforcement officer safety fund is created in the state treasury.

(2) The state treasurer shall credit to the fund deposits from the collection of application fees as provided in section 14. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) The unencumbered balance remaining in the fund at the end of a fiscal year shall remain in the fund and shall not revert to the general fund.

(4) The department of state police is the administrator of the fund for auditing purposes.

(5) The commission shall expend money from the fund, upon appropriation, only for the purposes of this act.

28.524 Fees.

Sec. 14. The commission may set and collect a fee for actual costs associated with administration under 18 USC 926C and this act by any method of payment accepted by the commission. The fees shall be deposited in the retired law enforcement officer safety fund.

28.525 Immunity from liability.

Sec. 15. The commission or any law enforcement agency, governmental entity, agent, employee, volunteer, designee, or individual who is acting in good faith in discharging his or her responsibilities under this act is immune from civil liability for any damages resulting from the ownership, possession, carrying, use, or discharge of a firearm by any qualified retired law enforcement officer who has been certified under this act or whose certification has been denied. The immunity provided under this section is in addition to any immunity otherwise provided by law.

28.526 Preemption.

Sec. 16. This act does not preempt any existing state or federal statute, regulation, or other authority governing the use, possession, carrying, or receiving of firearms or ammunition in this state, including application by a qualified retired law enforcement officer to carry a concealed firearm under 18 USC 926C.

28.527 Expiration of commission's authority to issue certificates.

Sec. 17. The commission's authority to issue certificates under this act expires immediately upon the repeal of 18 USC 926C.

Effective date.

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

Approved January 12, 2009.

Filed with Secretary of State January 13, 2009.

[No. 538]**(HB 4612)**

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 11b of chapter XVII (MCL 777.11b), as amended by 2008 PA 24.

The People of the State of Michigan enact:

CHAPTER XVII

777.11b Applicability of chapter to certain felonies; MCL 28.214 to 28.754.

Sec. 11b. This chapter applies to the following felonies enumerated in chapter 28 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
28.214	Pub trst	F	Unauthorized disclosure of information from LEIN — subsequent offense	4
28.293(1)	Pub ord	E	False information when applying for state ID	5
28.293(2)	Pub ord	D	False information when applying for state ID — second offense	7
28.293(3)	Pub ord	C	False information when applying for state ID — third or subsequent offense	15
28.295(1)(a)	Pub ord	D	Counterfeiting or forging state ID card or using counterfeited or forged state ID card to commit felony punishable by imprisonment for 10 years or more	10
28.295(1)(b)	Pub ord	E	Counterfeiting or forging state ID card or using counterfeited or forged state ID card to commit felony punishable by imprisonment for less than 10 years or a misdemeanor punishable by more than 6 months	5

28.295(2)	Pub ord	E	Selling counterfeited or forged state ID card or possessing counterfeited or forged state ID card with intent to deliver to another person or possessing 2 or more counterfeited or forged state ID cards	5
28.295(5)	Property	H	Using stolen state ID card to commit felony	Variable
28.295a(1)	Pub ord	H	False representation to obtain or misuse personal information	4
28.295a(2)	Pub ord	G	False representation to obtain or misuse personal information — second offense	7
28.295a(3)	Pub ord	C	False representation to obtain or misuse personal information — third or subsequent offense	15
28.308	Pub saf	E	False certification or statement in application for enhanced driver license or enhanced official state personal identification card	5
28.422	Pub saf	F	Pistols — license application forgery	4
28.422a(4)	Pub saf	F	False statement on pistol sales record	4
28.425b(3)	Pub saf	F	False statement on concealed pistol permit application	4
28.425j(2)	Pub saf	F	Unlawful granting or presenting of pistol training certificate	4
28.425o(5)(c)	Pub saf	F	Carrying concealed pistol in prohibited place — third or subsequent offense	4
28.435(14)(c)	Pub saf	G	Firearm sale without trigger lock, gun case, or storage container — third or subsequent offense	2
28.516(2)	Pub saf	F	False statement on concealed firearm certificate application	4
28.729(1)(a)	Pub ord	F	Failure to register as a sex offender, first offense	4
28.729(1)(b)	Pub ord	D	Failure to register as a sex offender, second offense	7
28.729(1)(c)	Pub ord	D	Failure to register as a sex offender, third or subsequent offense	10
28.729(2)(c)	Pub ord	F	Failure to update sex offender registration information — third or subsequent offense	4

28.734(2)(b)	Pub trst	G	Student safety zone violation involving work or loitering — second or subsequent offense	2
28.735(2)(b)	Pub trst	G	Student safety zone violation involving residency — second or subsequent violation	2
28.754	Pub ord	F	False report of a child abduction	4

Effective date.

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

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4611 of the 94th Legislature is enacted into law.

Approved January 12, 2009.

Filed with Secretary of State January 13, 2009.

Compiler's note: House Bill No. 4611, referred to in enacting section 2, was filed with the Secretary of State January 13, 2009, and became 2008 PA 537, Eff. Mar. 31, 2009.

[No. 539]**(HB 4839)**

AN ACT to amend 1949 PA 300, entitled “An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date,” by amending sections 11, 208c, 216, 244, 252a, 252d, 252e, 252f, 252g, 252k, 252l, 625n, 716, 717, and 726 (MCL 257.11, 257.208c, 257.216, 257.244, 257.252a, 257.252d, 257.252e, 257.252f, 257.252g, 257.252k, 257.252l, 257.625n, 257.716, 257.717, and 257.726), section 11 as amended by 2003 PA 37, section 208c as amended by 2004 PA 362, sections 216 and 244 as amended by 2002 PA 642, sections 252a, 252d, 252e, and 252f as amended by 2004 PA 495, section 252g as amended and sections 252k and 252l as added by 2004 PA 493, section 625n as amended by 1998 PA 349, section 716 as amended by 2006 PA 509, and section 717 as amended by 2004 PA 511, and section 726 as amended by 1983 PA 107, and by adding section 79f.

The People of the State of Michigan enact:

257.11 “Dealer” defined.

Sec. 11. (1) Except as otherwise provided in this section, “dealer” means a person who is 1 or more of the following:

(a) A person who in a 12-month period did 1 or more of the following:

(i) Engaged in the business of purchasing, selling, exchanging, brokering, leasing, or dealing in vehicles of a type required to be titled under this act.

(ii) Engaged in the business of purchasing, selling, exchanging, brokering, or dealing in salvageable parts of 5 or more vehicles.

(iii) Engaged in the business of buying 5 or more vehicles to sell vehicle parts or process into scrap metal.

(b) A person engaged in the actual remanufacturing of engines or transmissions.

(2) There is a rebuttable presumption that a person who in a 12-month period buys and sells, exchanges, brokers, leases, or deals in 5 or more vehicles, or buys and sells, exchanges, brokers, or deals in salvageable parts for 5 or more vehicles, or buys 5 or more vehicles to sell vehicle parts or to process into scrap metal is engaged in a business of being a dealer as described in subsection (1).

(3) Dealer does not include any of the following:

(a) A financial institution, as defined in section 10 of 1909 PA 99, MCL 129.40, or an entity wholly owned by 1 or more financial institutions.

(b) A bank holding company.

(c) A person who buys or sells remanufactured vehicle engine and transmission salvageable vehicle parts or who receives in exchange used engines or transmissions if the primary business of the person is the selling of new vehicle parts and the person is not engaged in any other activity that requires a dealer license under this act.

(d) For purposes of dealer licensing, a person who negotiates the lease of a vehicle of a type required to be titled under this act for a lease term of less than 120 days.

(e) A person whose business is the financing of the purchase, sale, or lease of vehicles of a type required to be titled under this act and that is not otherwise engaged in activities of a dealer as described in subsection (1).

(f) An employee or agent of a dealer acting in the scope of his or her employment or agency.

(g) An insurer, as defined in section 106 of the insurance code of 1956, 1956 PA 218, MCL 500.106.

(h) A person engaged in leasing vehicles solely for commercial or other nonhousehold use.

(i) A lessor selling 1 or more off lease vehicles.

(j) A person who has received a vehicle under section 252g(3)(a) for the purpose of selling that vehicle to a dealer licensed under this act.

257.79f “Boat lift” defined.

Sec. 79f. “Boat lift” means a vehicle owned and operated by a marina or watercraft dealer in a commercial boat storage operation with a framework designed to surround or straddle a boat and lift the boat from water or a storage space using a sling and hoisting mechanism. A boat lift shall be specifically designed for and used exclusively to transport a boat between a place of storage and a marina or in and around a marina. Boat lift does not include a boat trailer designed for normal or routine transportation of a watercraft.

257.208c Disclosure of personal information; uses.

Sec. 208c. (1) Except as provided in this section and in section 232, personal information in a record maintained under this act shall not be disclosed, unless the person requesting the information furnishes proof of identity satisfactory to the secretary of state and certifies that the personal information requested will be used for a permissible purpose identified in this section or in section 232. However, highly restricted personal information shall be used and disclosed only as expressly permitted in section 307 or as otherwise expressly provided by law.

(2) Personal information in a record maintained under this act shall be disclosed by the secretary of state if required to carry out the purposes of federal law or federal regulations.

(3) Personal information in a record maintained under this act may be disclosed by the secretary of state as follows:

(a) For use by a federal, state, or local governmental agency, including a court or law enforcement agency, in carrying out the agency's functions, or by a private person or entity acting on behalf of a governmental agency in carrying out the agency's functions.

(b) For use in connection with matters of motor vehicle and driver safety or auto theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles; motor vehicle market research activities, including survey research; and the removal of nonowner records from the original records of motor vehicle manufacturers.

(c) For use in the normal course of business by a legitimate business, including the agents, employees, and contractors of the business, but only to verify the accuracy of personal information submitted by an individual to the business or its agents, employees, or contractors, and if the information as so submitted is no longer correct, to obtain the correct information, for the sole purpose of preventing fraud by pursuing legal remedies against, or recovering on a debt against, the individual.

(d) For use in connection with a civil, criminal, administrative, or arbitration proceeding in a federal, state, or local court or governmental agency or before a self-regulatory body, including use for service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, state, or local court, an administrative agency, or a self-regulatory body.

(e) For use in legitimate research activities and in preparing statistical reports for commercial, scholarly, or academic purposes by a bona fide research organization, if the personal information is not published, redisclosed, or used to contact individuals.

(f) For use by an insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigating activity, antifraud activity, rating, or underwriting.

(g) For use in providing notice to the owner of an abandoned, towed, or impounded vehicle or for use by the custodian of a vehicle that is considered an abandoned vehicle as defined in sections 252a, 252b, and 252d.

(h) For use either by a private detective or private investigator licensed under the professional investigator licensure act, 1965 PA 285, MCL 338.821 to 338.851, or by a private security guard agency or alarm system contractor licensed under the private security business and security alarm act, 1968 PA 330, MCL 338.1051 to 338.1083, only for a purpose permitted under this section.

(i) For use by an employer, or the employer's agent or insurer, to obtain or verify information relating either to the holder of a commercial driver license that is required under federal law or to the holder of a chauffeur's license that is required under chapter 3.

(j) For use by a car rental business, or its employees, agents, contractors, or service firms, for the purpose of making rental decisions.

(k) For use in connection with the operation of private toll transportation facilities.

(l) For use by a news medium in the preparation and dissemination of a report related in part or in whole to the operation of a motor vehicle or public safety. “News medium” includes a newspaper, a magazine or periodical published at regular intervals, a news service, a broadcast network, a television station, a radio station, a cablecaster, or an entity employed by any of the foregoing.

(m) For any use by an individual requesting information pertaining to himself or herself or requesting in writing that the secretary of state provide information pertaining to himself or herself to the individual’s designee. A request for disclosure to a designee, however, may be submitted only by the individual.

(4) Medical and disability information in a record maintained under this act may be used and disclosed for purposes of subsection (3)(a), (d), or (m).

257.216 Vehicles subject to registration and certificate of title provisions; exceptions.

Sec. 216. Every motor vehicle, pickup camper, trailer coach, trailer, semitrailer, and pole trailer, when driven or moved upon a highway, is subject to the registration and certificate of title provisions of this act except the following:

(a) A vehicle driven or moved upon a highway in conformance with the provisions of this act relating to manufacturers, transporters, dealers, or nonresidents.

(b) A vehicle that is driven or moved upon a highway only for the purpose of crossing that highway from 1 property to another.

(c) An implement of husbandry.

(d) Special mobile equipment for which the secretary of state may issue a special registration to an individual, partnership, corporation, or association not licensed as a dealer to identify the equipment when being moved over the streets and highways upon payment of the required fee.

(e) A vehicle that is propelled exclusively by electric power obtained from overhead trolley wires though not operated upon rails.

(f) Any vehicle subject to registration, but owned by the government of the United States.

(g) A certificate of title need not be obtained for a trailer, semitrailer, or pole trailer weighing less than 2,500 pounds.

(h) A vehicle driven or moved upon the highway only for the purpose of securing a weight receipt from a weighmaster as is required in section 801, or for obtaining a vehicle inspection by a law enforcement agency before titling or registration, and then only by the most direct route.

(i) A certificate of title need not be obtained for a vehicle owned by a manufacturer or dealer and held for sale or lease, even though incidentally moved on the highway or used for purposes of testing or demonstration.

(j) A bus or school bus, as defined in section 4b or 57, that is not self-propelled and used exclusively as a construction shanty.

(k) A certificate of title need not be obtained for a moped.

(l) For 3 days immediately following the date of a properly assigned title or signed lease agreement from any person other than a vehicle dealer, a registration need not be obtained

for a vehicle driven or moved upon the highway for the sole purpose of transporting the vehicle in the most direct route from the place of purchase or lease to a place of storage if the driver has in his or her possession the assigned title showing the date of sale or lease agreement showing the date of the lease.

(m) A certificate of registration need not be obtained for a pickup camper, but a certificate of title shall be obtained.

(n) A new motor vehicle driven or moved upon the highway only for the purpose of moving the vehicle from an accident site to a storage location if the vehicle was being transported on a railroad car or semitrailer that was involved in a disabling accident.

(o) A boat lift used for transporting vessels between a marina or a body of water and a place of inland storage.

257.244 Operation of vehicle by manufacturer, subcomponent system producer, dealer, or transporter with special plate; unauthorized use of special plate; penalties; surety bond or insurance; number of plates; operation of vehicle with dealer plate by vendee or prospective purchaser; issuance of registration plate to move vehicle or trailer.

Sec. 244. (1) A manufacturer owning a vehicle of a type otherwise required to be registered under this act may operate or move the vehicle upon a street or highway primarily for the purposes of transporting or testing or in connection with a golf tournament or a public civic event, if the vehicle displays, in the manner prescribed in section 225, 1 special plate approved by the secretary of state.

(2) A producer of a vehicle subcomponent system essential to the operation of the vehicle or the safety of an occupant may operate or move a motor vehicle upon a street or highway solely to transport or test the subcomponent system if the motor vehicle displays, in the manner prescribed in section 225, 1 special plate approved by the secretary of state. To be eligible for the special plate, the subcomponent system producer must be either a recognized subcomponent system producer or must be a subcomponent system producer under contract with a vehicle manufacturer.

(3) A dealer owning a vehicle of a type otherwise required to be registered under this act may operate or move the vehicle upon a street or highway without registering the vehicle if the vehicle displays, in the manner prescribed in section 225, 1 special plate issued to the owner by the secretary of state. As used in this subsection, “dealer” includes an employee, servant, or agent of the dealer.

(4) Solely to deliver the vehicle, a transporter may operate or move a vehicle of a type otherwise required to be registered under this act upon a street or highway if the vehicle displays, in the manner prescribed in section 225, a special plate issued to the transporter under this chapter.

(5) A licensee shall not use a special plate described in this section on service cars or wreckers operated as an adjunct of a licensee’s business. A manufacturer, transporter, or dealer making or permitting any unauthorized use of a special plate under this chapter forfeits the right to use special plates and the secretary of state, after notice and a hearing, may suspend or cancel the right to use special plates and require that the special plates be surrendered to or repossessed by the state.

(6) A transporter shall furnish a sufficient surety bond or policy of insurance as protection for public liability and property damage as may be required by the secretary of state.

(7) The secretary of state shall determine the number of plates a manufacturer, dealer, or transporter reasonably needs in his or her business.

(8) If a vehicle that is required to be registered under this act is leased or sold, the vendee or lessee is permitted to operate the vehicle upon a street or highway for not more than 72 hours after taking possession if the vehicle has a dealer plate attached as provided in this section. The application for registration shall be made in the name of the vendee or lessee before the vehicle is used. The dealer and the vendee or lessee are jointly responsible for the return of the dealer plate to the dealer within 72 hours, and the failure of the vendee or lessee to return or the vendor or lessor to use due diligence to procure the dealer plate is a misdemeanor, and in addition the license of the dealer may be revoked. While using a dealer's plate, a vendee or lessee shall have in his or her possession proof that clearly indicates the date of sale or lease of the motor vehicle.

(9) A vehicle owned by a dealer and bearing the dealer's plate may be driven upon a street or highway for demonstration purposes by a prospective buyer or lessee for a period of 72 hours.

(10) The secretary of state may issue a registration plate upon application and payment of the proper fee to an individual, partnership, corporation, or association that in the ordinary course of business has occasion to legally pick up or deliver a commercial motor vehicle being driven to a facility to undergo aftermarket modification, or to repair or service a vehicle, or to persons defined as watercraft dealers under part 801 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80101 to 324.80199, or to the owner of a marina for the purpose of delivering a vessel or trailer to a purchaser, to transport a vessel between a body of water and a place of storage, to transport a vessel or trailer to and from a boat show or exposition, to repair, service, or store a vessel or trailer, or to return a vessel or trailer to the customer after repair, service, or storage. A registration plate issued under this subsection shall be used to move the vehicle or trailer.

257.252a Abandoned vehicle; presumption of responsibility; violation; penalty; "abandoned vehicle" defined; duties of police agency; contest by owner; hearing; request; fee; towing and storage charges; obtaining release of vehicle; public sale; inability to determine ownership of abandoned vehicle; entry into law enforcement information network.

Sec. 252a. (1) A person shall not abandon a vehicle in this state. It is presumed that the last titled owner of the vehicle is responsible for abandoning the vehicle unless the person provides a record of sale as that term is defined in section 240. A person who violates this subsection and who fails to redeem the vehicle before disposition of the vehicle under section 252g is responsible for a civil infraction and shall be ordered to pay a civil fine of \$50.00.

(2) As used in this section and sections 252a through 252l, "abandoned vehicle" means either of the following:

(a) A vehicle that has remained on private property without the consent of the owner.

(b) A vehicle that has remained on public property for a period of not less than 48 hours, or on a state trunk line highway as described in section 1 of 1951 PA 51, MCL 247.651, as follows:

(i) If a valid registration plate is affixed to the vehicle, for a period of not less than 18 hours.

(ii) If a valid registration plate is not affixed to the vehicle.

(3) If a vehicle has remained on public property for the period of time described in subsection (2)(b) so that it qualifies as abandoned, a police agency having jurisdiction over the vehicle or the agency's designee shall determine whether the vehicle has been reported

stolen and may affix a written notice to the vehicle. The written notice shall contain the following information:

- (a) The date and time the notice was affixed.
 - (b) The name and address of the police agency taking the action.
 - (c) The name and badge number of the police officer affixing the notice.
 - (d) The date and time the vehicle may be taken into custody and stored at the owner's expense or scrapped if the vehicle is not removed.
 - (e) The year, make, and vehicle identification number of the vehicle, if available.
- (4) If the vehicle is an abandoned vehicle, the police agency or the agency's designee may have the towing agency take the vehicle into custody.
- (5) A police agency that has received a vehicle taken into custody as abandoned shall do all of the following:
- (a) Recheck to determine if the vehicle has been reported stolen.
 - (b) Within 24 hours after the vehicle is taken into custody, enter the vehicle as abandoned into the law enforcement information network, and notify the secretary of state through the law enforcement information network that the vehicle has been taken into custody as abandoned. Each notification shall contain the following information:
 - (i) The year, make, and vehicle identification number of the vehicle, if available.
 - (ii) The address or approximate location from which the vehicle was taken into custody.
 - (iii) The date on which the vehicle was taken into custody.
 - (iv) The name and address of the police agency that had the vehicle taken into custody.
 - (v) The name and business address of the custodian of the vehicle.
 - (vi) The name of the court that has jurisdiction over the case.
 - (c) Within 7 days after receiving notice under subdivision (b) that the vehicle has been taken into custody, the secretary of state shall do both of the following:
 - (i) Send to the last titled owner and secured party, as shown by the records of the secretary of state as described in section 221 or 237, by first-class mail or personal service, notice that the vehicle is considered abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:
 - (A) The year, make, and vehicle identification number of the vehicle if available.
 - (B) The address or approximate location from which the vehicle was taken into custody.
 - (C) The date on which the vehicle was taken into custody.
 - (D) The name and address of the police agency that had the vehicle taken into custody.
 - (E) The name and business address of the custodian of the vehicle.
 - (F) The procedure to redeem the vehicle.
 - (G) The procedure to contest the fact that the vehicle is considered abandoned or the reasonableness of the towing fees and daily storage fees.
 - (H) A form petition that the owner may file in person or by mail with the specified court that requests a hearing on the police agency's action.
 - (I) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale.
 - (ii) Enter the information described in subparagraph (i) on a website maintained by the department for public use in locating vehicles that are removed under this section as abandoned. The department shall maintain the data on the website for 1 year or until the vehicle is disposed of under this act, whichever occurs first.

(6) The owner may contest the fact that the vehicle is considered abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing and posting a bond equal to \$40.00 plus the amount of the accrued towing and storage fees. A request for a hearing shall be made by filing a petition with the court specified in the notice described in subsection (5)(c) within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted under sections 252e and 252f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond in an amount equal to the \$40.00 plus the accrued towing and storage fees with the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying a fee of \$40.00 to the court and the accrued towing and storage fees instead of posting the towing and storage bond.

(7) If the owner does not request a hearing under subsection (6), he or she may obtain the release of the vehicle by paying a fee of \$40.00 and the accrued towing and storage fees to the custodian of the vehicle. The custodian of the vehicle shall forward \$25.00 of the fee to the secretary of state within 30 days after receipt in a manner prescribed by the secretary of state, who shall deposit the fee into the abandoned vehicle fund created in section 252h.

(8) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice described in subsection (5)(c), the secured party may obtain the release of the vehicle by paying a \$40.00 fee plus the accrued charges to the custodian of the vehicle. The custodian of the vehicle shall forward \$25.00 of the fee to the secretary of state, who shall deposit the fee into the abandoned vehicle fund created in section 252h.

(9) If a vehicle has remained on private property without the consent of the property owner, the owner of the private property may have the vehicle taken into custody as an abandoned vehicle by contacting a local towing agency. A local towing agency is considered a towing agency whose storage lot is located within 15 miles from the border of the local unit of government having jurisdiction over the abandoned vehicle.

(10) Before removing the vehicle from private property, the towing agency shall provide reasonable notice by telephone, or otherwise, to a police agency having jurisdiction over the vehicle that the vehicle is being removed. The police agency shall determine if the vehicle has been reported stolen and enter the vehicle into the law enforcement information network as an abandoned vehicle. Verification by the police agency of compliance with this section is not necessary and is not a predicate to the entrance of the vehicle into the law enforcement information network.

(11) Within 24 hours after taking the abandoned vehicle into custody, the police agency shall notify the secretary of state through the law enforcement information network that the vehicle has been taken into custody as abandoned. Each notification shall contain the following information:

- (a) The year, make, and vehicle identification number of the vehicle if available.
- (b) The address or approximate location from which the vehicle was taken into custody.
- (c) The date on which the vehicle was taken into custody.
- (d) The name and address of the police agency that had the vehicle taken into custody.
- (e) The name and business address of the custodian of the vehicle.
- (f) The name of the court that has jurisdiction over the case.

(12) Within 7 days after being notified under subsection (11), the secretary of state shall do both of the following:

- (a) Send to the owner and secured party, as shown by the records of the secretary of state, by first-class mail or personal service, notice that the vehicle is considered abandoned.

The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:

(i) The year, make, and vehicle identification number of the vehicle if available.

(ii) The location from which the vehicle was taken into custody.

(iii) The date on which the vehicle was taken into custody.

(iv) The name of the towing agency that had the vehicle taken into custody.

(v) The business address of the custodian of the vehicle.

(vi) The procedure to redeem the vehicle.

(vii) The procedure to contest the fact that the vehicle is considered abandoned or the reasonableness of the towing fees and daily storage fees.

(viii) A form petition that the owner may file in person or by mail with the specified court that requests a hearing on the custodian's action.

(ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale.

(b) Enter the information described in subdivision (a) on a website maintained by the department for public use in locating vehicles that are removed under this section as abandoned.

(13) The owner may contest the fact that the vehicle is abandoned or, unless the towing fees and daily storage fees are established by contract with the local governmental unit or local law enforcement agency and comply with section 252i, the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted under section 252f. An owner who requests a hearing may obtain release of the vehicle by posting with the court a towing and storage bond in an amount equal to \$40.00 plus the accrued towing and storage fees. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying a fee of \$40.00 to the court plus the towing and storage fees instead of posting the towing and storage bond. An owner requesting a hearing but not taking possession of the vehicle shall post with the court a towing and storage bond in an amount equal to \$40.00 plus the accrued towing and storage fees.

(14) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying a fee of \$40.00 plus the accrued charges to the custodian of the vehicle. The custodian shall forward \$25.00 of the fee collected under this subsection to the secretary of state within 30 days after receipt in a manner prescribed by the secretary of state, who shall deposit the fee into the abandoned vehicle fund created in section 252h.

(15) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying a fee of \$40.00 and the accrued towing and storage fees to the custodian of the vehicle. The custodian shall forward \$25.00 of the fee collected under this subsection to the secretary of state within 30 days after receipt in a manner prescribed by the secretary of state, who shall deposit the fee into the abandoned vehicle fund created in section 252h.

(16) Not less than 20 days after the disposition of the hearing described in subsection (6) or, if a hearing is not requested, not less than 20 days after the date of the notice, the police agency if the abandoned vehicle is found on public property, or the custodian of the vehicle if the vehicle is found on private property, shall offer the vehicle for sale at a public sale under section 252g.

(17) If the ownership of a vehicle that is considered abandoned under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state as described in section 221 or 237 does not reveal ownership, the police agency may sell the vehicle at public sale as provided in section 252g not less than 30 days after public notice of the sale has been published.

(18) The secretary of state shall release a vehicle for disposition under section 252b or 252g within 45 days after the vehicle is entered into the law enforcement information network as an abandoned vehicle.

257.252d Removal of vehicle from public or private property to place of safekeeping; circumstances; arrival of owner; duties of police agency; release of vehicle; entry of vehicle as abandoned.

Sec. 252d. (1) A police agency or a governmental agency designated by the police agency may provide for the immediate removal of a vehicle from public or private property to a place of safekeeping at the expense of the last-titled owner of the vehicle in any of the following circumstances:

(a) If the vehicle is in such a condition that the continued operation of the vehicle upon the highway would constitute an immediate hazard to the public.

(b) If the vehicle is parked or standing upon the highway in such a manner as to create an immediate public hazard or an obstruction of traffic.

(c) If a vehicle is parked in a posted tow away zone.

(d) If there is reasonable cause to believe that the vehicle or any part of the vehicle is stolen.

(e) If the vehicle must be seized to preserve evidence of a crime, or if there is reasonable cause to believe that the vehicle was used in the commission of a crime.

(f) If removal is necessary in the interest of public safety because of fire, flood, storm, snow, natural or man-made disaster, or other emergency.

(g) If the vehicle is hampering the use of private property by the owner or person in charge of that property or is parked in a manner which impedes the movement of another vehicle.

(h) If the vehicle is stopped, standing, or parked in a space designated as parking for persons with disabilities and is not permitted by law to be stopped, standing, or parked in a space designated as parking for persons with disabilities.

(i) If the vehicle is located in a clearly identified access aisle or access lane immediately adjacent to a space designated as parking for persons with disabilities.

(j) If the vehicle is interfering with the use of a ramp or a curb-cut by persons with disabilities.

(k) If the vehicle has been involved in a traffic crash and cannot be safely operated from the scene of the crash.

(2) If the owner or other person who is legally entitled to possess the vehicle arrives at the location where a vehicle is located before the actual towing or removal of the vehicle, the vehicle shall be disconnected from the tow truck, and the owner or other person who is legally entitled to possess the vehicle may take possession of the vehicle and remove it without interference upon the payment of the reasonable service fee, for which a receipt shall be provided.

(3) A police agency that authorizes the removal of a vehicle under subsection (1) shall do all of the following:

(a) Check to determine if the vehicle has been reported stolen prior to authorizing the removal of the vehicle.

(b) Except for vehicles impounded under subsection (1)(d), (e), or (k), a police agency shall enter the vehicle into the law enforcement information network as abandoned not less than 7 days after authorizing the removal and follow the procedures set forth in section 252a.

(4) A vehicle impounded under subsection (1)(d), (e), or (k) must first be released by the police agency that authorized the removal prior to the towing agency or custodian releasing the vehicle to the vehicle owner.

(5) Not less than 20 days but not more than 30 days after a vehicle has been released under subsection (4), the towing agency or custodian shall notify the police agency to enter the vehicle as abandoned and the police agency shall follow the procedures set forth in section 252a if the impounded vehicle has not been redeemed.

257.252e Jurisdiction to determine propriety of police, towing agency or custodian, or private owner action; venue in district court; use of bond to pay towing or storage fees; exclusive remedies.

Sec. 252e. (1) The following courts have jurisdiction to determine if a police agency, towing agency or custodian, or private property owner has acted properly in reporting or processing a vehicle under section 252a, 252b(6) to (11), or 252d:

(a) The district court.

(b) A municipal court.

(2) The court specified in the notice prescribed in section 252a(5)(b) or 252b(7) or as provided in section 252d(3)(b) shall be the court that has territorial jurisdiction at the location from where the vehicle was removed or considered abandoned. Venue in the district court shall be governed by section 8312 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8312.

(3) If the owner fails to pay the accrued towing and storage fees, the towing and storage bond posted with the court to secure release of the vehicle under section 252a, 252b, or 252d shall be used to pay the towing and storage fees.

(4) The remedies under sections 252 through 254 are the exclusive remedies for the disposition of abandoned vehicles.

257.252f Filing petition; hearing; notice; burden; decision.

Sec. 252f. (1) Upon the filing of a petition prescribed in section 252a, 252b, or 252d, signed by the owner of the vehicle which has been taken into custody, the court shall do both of the following:

(a) Schedule a hearing within 30 days for the purpose of determining whether the police agency, towing agency or custodian, or private property owner acted properly.

(b) Notify the owner, towing agency or custodian, and police agency or if the vehicle was removed from private property, notify the private property owner also of the time and place of the hearing.

(2) At the hearing specified in subsection (1), the police agency, towing agency or custodian, or, if the vehicle was removed from private property, the private property owner shall have the burden of showing by a preponderance of the evidence that it has complied with the requirements of this act in reporting or processing the abandoned vehicle or vehicle removed under section 252d.

(3) After the hearing, the court shall make a decision that includes 1 or more of the following:

(a) A finding that the police agency complied with the procedures established for the processing of an abandoned vehicle or a vehicle removed under section 252a, 252b, or 252d, and

an order providing a period of 20 days after the decision for the owner to redeem the vehicle. If the owner does not redeem the vehicle within 20 days, the police agency shall dispose of the vehicle under section 252b or 252g. The court shall forward \$25.00 of the fee collected under section 252b or 252g to the secretary of state within 30 days after the court's decision in a manner prescribed by the secretary of state. The towing and storage fees and \$15.00 of the fee collected under section 252b or 252g shall be forwarded to the towing agency.

(b) A finding that the police agency did not comply with the procedures established for the processing of an abandoned vehicle or a vehicle removed under section 252a, 252b, or 252d. After making the finding, the court shall issue an order directing that the vehicle immediately be released to the owner, and that the police agency is responsible for the accrued towing and storage charges. The court shall also order any fee or bond posted by the owner to be returned to the owner.

(c) A finding that the towing fees and daily storage fees were reasonable.

(d) A finding that the towing fees and daily storage fees were unreasonable and issue an order directing the towing agency or custodian of the vehicle to provide the last titled owner of the vehicle with an appropriate reduction or refund.

(e) A finding that the owner of the real property complied with the provisions of section 252k or 252l.

(f) A finding that the owner of the real property did not comply with the provisions of section 252k or 252l, and issue an order requiring the owner of the real property to reimburse the last titled owner of the vehicle for the accrued towing and storage charges.

(g) A finding that the towing agency did not comply with the procedures established for the proper removal and reporting of an abandoned vehicle removed under section 252a(10), 252b, or 252d. After making the finding, the court shall issue an order directing that the vehicle immediately be released to the owner and that the towing agency is responsible for the accrued towing and storage charges. The court shall also order any fee or bond posted by the owner to be returned to the owner.

(h) A finding that the towing agency did comply with the procedures established for the proper removal and reporting of an abandoned vehicle removed under section 252a(10), 252b, or 252d.

257.252g Manner of conducting public sale; application of money received; absence of bidders; acquisition of distressed vehicle; application for salvage certificate of title; canceling entry in law enforcement information network; obtaining original bill of sale.

Sec. 252g. (1) Subject to section 252a(16), a public sale for a vehicle and its contents that has been determined to be abandoned under section 252a or removed under section 252d shall be conducted in the following manner:

(a) It shall be under the control of the police agency. However, a police agency may designate the custodian of the vehicle or a third party to conduct the auction.

(b) It shall be open to the public and consist of open auction bidding or bidding by sealed bids. If sealed bids are received, the person submitting the bid shall receive a receipt for the bid from the police agency or the agency's designee or, if the vehicle is being sold under section 252a(16), the custodian of the vehicle.

(c) Except as otherwise provided in sections 252a(16) and (17) and 252b(7), it shall be held not less than 5 days after public notice of the sale has been published.

(d) The public notice shall be published at least once in a newspaper having a general circulation within the county in which the vehicle was abandoned. The public notice shall give a description of the vehicle for sale and shall state the time, date, and location of the sale.

(2) The money received from the public sale of the vehicle shall be applied in the following order of priority:

(a) Towing and storage charges.

(b) Expenses incurred by the police agency or the custodian of the vehicle.

(c) Payment of the \$40.00 abandoned vehicle fee described in section 252f(3)(a).

(d) Any extra money shall be sent to the department of treasury's unclaimed property division to be disbursed as follows:

(i) To the secured party, if any, in the amount of the debt outstanding on the vehicle.

(ii) Remainder to the owner. A reasonable attempt shall be made to mail the remainder to the last titled owner. If delivery of the remainder cannot be accomplished, the remainder shall become the property of the unit of government governing the location from which the vehicle was towed.

(3) If there are no bidders on the vehicle, the police agency or the custodian of the vehicle may do 1 of the following:

(a) Turn the vehicle over to the towing firm or the custodian of the vehicle to satisfy charges against the vehicle. However, if the value of the vehicle does not satisfy the towing fees and accrued daily storage fees, the custodian of the vehicle may collect the balance of those unpaid fees from the last titled owner, subject to section 252i.

(b) Obtain title to the vehicle for the police agency or the unit of government the police agency represents, by doing the following:

(i) Paying the towing and storage charges.

(ii) Applying for title to the vehicle.

(c) Hold another public sale under subsection (1).

(4) A person who acquires ownership of a vehicle under subsection (1) or (3) that has been designated as a distressed vehicle shall apply for a salvage certificate of title within 15 days after obtaining the vehicle.

(5) Upon disposition of the vehicle, the police agency or towing agency or custodian shall provide the secretary of state and the police agency, if that police agency did not conduct the sale, with the vehicle's disposition and the name of the agency that disposed of it and the police agency shall cancel the entry in the law enforcement information network.

(6) Not less than 25 days after the date of notice required under section 252a, if the police agency does not provide a copy of the bill of sale by the police agency for the abandoned vehicle to the towing agency or custodian or police agency's designee, the towing agency or custodian or police agency designee may obtain an original of the bill of sale by submitting an application to the secretary of state in a form as determined by the secretary of state.

257.252k Towing or removing vehicle without owner's consent; notice; requirements.

Sec. 252k. Except as otherwise provided in section 252l, an owner or lessor of private real property shall post a notice that meets all of the following requirements before authorizing the towing or removal of a vehicle from the real property without the consent of the owner or other person who is legally entitled to possess the vehicle:

(a) The notice shall be prominently displayed at each point of entry for vehicular access to the real property. If the real property lacks curbs or access barriers, not less than 1 notice shall be posted for each 100 feet of road frontage.

(b) The notice clearly indicates in letters not less than 2 inches high on a contrasting background that unauthorized vehicles will be towed away at the owner's expense.

(c) The notice provides the name and telephone number of the towing service responsible for towing or removing vehicles from that property.

(d) The notice is permanently installed with the bottom of the notice located not less than 4 feet from the ground and is continuously maintained on the property for not less than 24 hours before a vehicle is towed or removed.

257.252l Applicability of MCL 257.252k.

Sec. 252l. Section 252k does not apply to any of the following:

(a) Real property that is appurtenant to and obviously part of a single- or dual-family residence.

(b) An instance when notice is personally given to the owner or other legally entitled person in control of a vehicle that the area where the vehicle is parked is reserved or otherwise unavailable to unauthorized vehicles and that the vehicle is subject to towing or removal from the private real property without the consent of the owner or other legally entitled person in control of the vehicle.

(c) A vehicle removed from private property under section 252d.

257.625n Forfeiture of vehicle or return to lessor.

Sec. 625n. (1) Except as otherwise provided in this section and in addition to any other penalty provided for in this act, the judgment of sentence for a conviction for a violation of section 625(1) described in section 625(9)(b) or (c), a violation of section 625(3) described in section 625(11)(b) or (c), a violation of section 625(4), (5), or (7), or a violation of section 904(4) or (5) may require 1 of the following with regard to the vehicle used in the offense if the defendant owns the vehicle in whole or in part or leases the vehicle:

(a) Forfeiture of the vehicle if the defendant owns the vehicle in whole or in part.

(b) Return of the vehicle to the lessor if the defendant leases the vehicle.

(2) The vehicle may be seized pursuant to an order of seizure issued by the court having jurisdiction upon a showing of probable cause that the vehicle is subject to forfeiture or return to the lessor.

(3) The forfeiture of a vehicle is subject to the interest of the holder of a security interest who did not have prior knowledge of or consent to the violation.

(4) Within 14 days after the defendant's conviction for a violation described in subsection (1), the prosecuting attorney may file a petition with the court for the forfeiture of the vehicle or to have the court order return of a leased vehicle to the lessor. The prosecuting attorney shall give notice by first-class mail or other process to the defendant and his or her attorney, to all owners of the vehicle, and to any person holding a security interest in the vehicle that the court may require forfeiture or return of the vehicle.

(5) If a vehicle is seized before disposition of the criminal proceedings, a defendant who is an owner or lessee of the vehicle may move the court having jurisdiction over the proceedings to require the seizing agency to file a lien against the vehicle and to return the vehicle to the owner or lessee pending disposition of the criminal proceedings. The court shall hear the motion within 7 days after the motion is filed. If the defendant establishes at the hearing that he or she holds the legal title to the vehicle or that he or she has a leasehold interest and that it is necessary for him or her or a member of his or her family to use the vehicle pending the outcome of the forfeiture action, the court may order the seizing agency to return the vehicle to the owner or lessee. If the court orders the return of the vehicle to the owner or lessee, the court shall order the defendant to post a bond in an amount equal to the retail value of the vehicle, and shall also order the seizing agency to file a lien against the vehicle.

(6) Within 14 days after notice by the prosecuting attorney is given under subsection (4), the defendant, an owner, lessee, or holder of a security interest may file a claim of interest in the vehicle with the court. Within 21 days after the expiration of the period for filing claims, but before or at sentencing, the court shall hold a hearing to determine the legitimacy of any claim, the extent of any co-owner's equity interest, the liability of the defendant to any co-lessee, and whether to order the vehicle forfeited or returned to the lessor. In considering whether to order forfeiture, the court shall review the defendant's driving record to determine whether the defendant has multiple convictions under section 625 or a local ordinance substantially corresponding to section 625, or multiple suspensions, restrictions, or denials under section 904, or both. If the defendant has multiple convictions under section 625 or multiple suspensions, restrictions, or denials under section 904, or both, that factor shall weigh heavily in favor of forfeiture.

(7) If a vehicle is forfeited under this section, the unit of government that seized the vehicle shall sell the vehicle pursuant to the procedures under section 252g(1) and dispose of the proceeds in the following order of priority:

(a) Pay any outstanding security interest of a secured party who did not have prior knowledge of or consent to the commission of the violation.

(b) Pay the equity interest of a co-owner who did not have prior knowledge of or consent to the commission of the violation.

(c) Satisfy any order of restitution entered in the prosecution for the violation.

(d) Pay any outstanding accrued towing and storage fees.

(e) Pay the claim of each person who shows that he or she is a victim of the violation to the extent that the claim is not covered by an order of restitution.

(f) Pay any outstanding lien against the property that has been imposed by a governmental unit.

(g) Pay the proper expenses of the proceedings for forfeiture and sale, including, but not limited to, expenses incurred during the seizure process and expenses for maintaining custody of the property, advertising, and court costs.

(h) The balance remaining after the payment of items (a) through (g) shall be distributed by the court having jurisdiction over the forfeiture proceedings to the unit or units of government substantially involved in effecting the forfeiture. Seventy-five percent of the money received by a unit of government under this subdivision shall be used to enhance enforcement of the criminal laws and 25% of the money shall be used to implement the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834. A unit of government receiving money under this subdivision shall report annually to the department of management and budget the amount of money received under this subdivision that was used to enhance enforcement of the criminal laws and the amount that was used to implement the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

(8) The court may order the defendant to pay to a co-lessee any liability determined under subsection (6). The order may be enforced in the same manner as a civil judgment.

(9) The return of a vehicle to the lessor under this section does not affect or impair the lessor's rights or the defendant's obligations under the lease.

(10) A person who knowingly conceals, sells, gives away, or otherwise transfers or disposes of a vehicle with the intent to avoid forfeiture or return of the vehicle to the lessor under this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(11) The failure of the court or prosecutor to comply with any time limit specified in this section does not preclude the court from ordering forfeiture of a vehicle or its return to a

lessor, unless the court finds that the owner or claimant suffered substantial prejudice as a result of that failure.

(12) The forfeiture provisions of this section do not preclude the prosecuting attorney from pursuing a forfeiture proceeding under any other law of this state or a local ordinance substantially corresponding to this section.

257.716 Exceeding size and weight limitations as misdemeanor; exceptions; rules; operation of wrecker, disabled vehicle, and trailer; noncompliance; fine.

Sec. 716. (1) Unless specifically declared to be a civil infraction, it is a misdemeanor for a person to drive or move or for the owner to cause or permit to be driven or moved on a highway a vehicle or vehicles of a size or weight exceeding the limitations stated in this chapter or otherwise in violation of this chapter, and the maximum size and weight specified in this chapter are lawful throughout this state, and local authorities shall not alter those size and weight limitations except as express authority is granted in this chapter.

(2) The provision of this chapter governing size, weight, and load do not apply to a fire apparatus, to an implement of husbandry, a boat lift or oversized hydraulic boat trailer owned and operated by a marina or watercraft dealer used exclusively in a commercial boat storage operation and incidentally moved upon a highway, a combination of vehicles described in, and under the conditions provided by, subsection (4), or to a vehicle operated under the terms of a special permit issued as provided in this chapter.

(3) The state transportation department, under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, may promulgate rules permitting and regulating the operation of a vehicle or vehicles of a size or weight that exceeds the size or weight limitations in this chapter. The rules may restrict or proscribe the conditions of operation of a vehicle or vehicles of a size or weight that exceeds the size or weight limitations in this chapter, if the restriction or proscription is necessary to protect the public safety or to prevent undue damage to a road foundation or surface, a structure, or an installation. The rules may provide for a reasonable inspection fee for an inspection of a vehicle or vehicles to determine whether their sizes and weights are in conformance with this act, and may require other security necessary to compensate for damage caused by the vehicle or vehicles described in this subsection.

(4) A wrecker and a disabled vehicle, or a wrecker and a combination of a disabled vehicle and 1 trailer, that exceeds the size and weight limitations in this chapter may be operated upon the highways of this state under the following conditions:

(a) The wrecker is specifically designed for such towing operations, is equipped with flashing, oscillating, or rotating amber or red lights as permitted under section 698, and is capable of utilizing the lighting and braking systems of the disabled vehicle or combination of disabled vehicles if those systems are operational.

(b) For a combination of disabled vehicles, the wrecker is issued a special permit under section 725 by the state transportation department if each trip beginning from the place of original disablement of the combination of disabled vehicles is 25 miles or less except that, for each trip that begins and ends north of a line between Ludington and Pinconning, the trip beginning from the place of original disablement of the combination of vehicles may be 50 miles or less. The special permit is valid for the entire towing distance set forth in this subdivision, and the operator of the wrecker may remove the disabled vehicles from the roadway at any lawful point of his or her choosing within that distance.

(c) For a single disabled vehicle, the wrecker is issued a special permit under section 725 by the state transportation department for the transport of the disabled vehicle. A wrecker

operator is not subject to mileage limitations for a special permit issued for purposes of this subdivision.

(d) The wrecker does not operate on any highway, road, street, or structure included on a list provided by the state transportation department unless the disabled vehicle or combination of vehicles is located on 1 of those roads or structures.

(5) The owner or operator of a wrecker that does not comply with subsection (4)(d) is responsible for a civil infraction and shall pay a civil fine of not less than \$250.00 or more than \$500.00. The civil fine imposed under this subsection is in addition to any fine that may be imposed under section 724 or 725.

257.717 Maximum permissible width of vehicle or load; operation or movement of implement of husbandry; extension beyond center line of highway; permit; designation of highway for operation of vehicle or vehicle combination; special permit; boat lift or trailer; violation as civil infraction; charging owner.

Sec. 717. (1) The total outside width of a vehicle or the load on a vehicle shall not exceed 96 inches, except as otherwise provided in this section.

(2) A person may operate or move an implement of husbandry of any width on a highway as required, designed, and intended for farming operations, including the movement of implements of husbandry being driven or towed and not hauled on a trailer, without obtaining a special permit for an excessively wide vehicle or load under section 725. The operation or movement of the implement of husbandry shall be in a manner so as to minimize the interruption of traffic flow. A person shall not operate or move an implement of husbandry to the left of the center of the roadway from a half hour after sunset to a half hour before sunrise, under the conditions specified in section 639, or at any time visibility is substantially diminished due to weather conditions. A person operating or moving an implement of husbandry shall follow all traffic regulations.

(3) The total outside width of the load of a vehicle hauling concrete pipe, agricultural products, or unprocessed logs, pulpwood, or wood bolts shall not exceed 108 inches.

(4) Except as provided in subsections (2) and (5) and this subsection, if a vehicle that is equipped with pneumatic tires is operated on a highway, the maximum width from the outside of 1 wheel and tire to the outside of the opposite wheel and tire shall not exceed 102 inches, and the outside width of the body of the vehicle or the load on the vehicle shall not exceed 96 inches. However, a truck and trailer or a tractor and semitrailer combination hauling pulpwood or unprocessed logs may be operated with a maximum width of not to exceed 108 inches in accordance with a special permit issued under section 725.

(5) The total outside body width of a bus, a trailer coach, a trailer, a semitrailer, a truck camper, or a motor home shall not exceed 102 inches. However, an appurtenance of a trailer coach, a truck camper, or a motor home that extends not more than 6 inches beyond the total outside body width is not a violation of this section.

(6) A vehicle shall not extend beyond the center line of a state trunk line highway except when authorized by law. Except as provided in subsection (2), if the width of the vehicle makes it impossible to stay away from the center line, a permit shall be obtained under section 725.

(7) The director of the state transportation department, a county road commission, or a local authority may designate a highway under the agency's jurisdiction as a highway on which a person may operate a vehicle or vehicle combination that is not more than 102 inches in width, including load, the operation of which would otherwise be prohibited by this section. The agency making the designation may require that the owner or lessee of the vehicle

or of each vehicle in the vehicle combination secure a permit before operating the vehicle or vehicle combination. This subsection does not restrict the issuance of a special permit under section 725 for the operation of a vehicle or vehicle combination. This subsection does not permit the operation of a vehicle or vehicle combination described in section 722a carrying a load described in that section if the operation would otherwise result in a violation of that section.

(8) The director of the state transportation department, a county road commission, or a local authority may issue a special permit under section 725 to a person operating a vehicle or vehicle combination if all of the following are met:

(a) The vehicle or vehicle combination, including load, is not more than 106 inches in width.

(b) The vehicle or vehicle combination is used solely to move new motor vehicles or parts or components of new motor vehicles between facilities that meet all of the following:

(i) New motor vehicles or parts or components of new motor vehicles are manufactured or assembled in the facilities.

(ii) The facilities are located within 10 miles of each other.

(iii) The facilities are located within the city limits of the same city and the city is located in a county that has a population of more than 400,000 and less than 500,000 according to the most recent federal decennial census.

(c) The special permit and any renewals are each issued for a term of 1 year or less.

(9) A person may move or operate a boat lift of any width or an oversized hydraulic boat trailer owned and operated by a marina or watercraft dealer in a commercial boat storage operation on a highway under a multiple trip permit issued on an annual basis as specified under section 725. The operation or movement of the boat lift or trailer shall minimize the interruption of traffic flow. It shall be used exclusively to transport a boat between a place of storage and a marina or in and around a marina. A boat lift or oversized hydraulic boat trailer may be operated, drawn, or towed on a street or highway only when transporting a vessel between a body of water and a place of storage or when traveling empty to or from transporting a vessel. A boat lift shall not be operated on limited access highways. A person moving or operating a boat lift or oversized hydraulic boat trailer shall follow all traffic regulations and shall ensure the route selected has adequate power and utility wire height clearance.

(10) A person who violates this section is responsible for a civil infraction. The owner of the vehicle may be charged with a violation of this section.

257.726 Prohibitions, limitations, or truck route designations by local authorities and county road commissions; signs; written objection by adjoining township; violation as civil infraction.

Sec. 726. (1) Local authorities and county road commissions with respect to highways under their jurisdiction, except state trunk line highways, by ordinance or resolution, may do any of the following:

(a) Prohibit the operation of trucks or other commercial vehicles on designated highways or streets.

(b) Impose limitations as to the weight of trucks or other commercial vehicles on designated highways or streets.

(c) Provide that only certain highways or streets may be used by trucks or other commercial vehicles.

(2) Any prohibitions, limitations, or truck route designations established under subsection (1) shall be designated by appropriate signs placed on the highways or streets. The design and placement of the signs shall be consistent with the requirements of section 608.

(3) If a township has established any prohibition or limitation under subsection (1) on any county primary road that an adjoining township determines diverts traffic onto a border highway or street shared by the township and the adjoining township, the adjoining township may submit a written objection to the county road commission having jurisdiction over the county primary road, along with a copy to the township that established the prohibition or limitation, on or before the later of March 1, 2009, or 60 days after the township approves the prohibition or limitation. The written objection shall explain how the prohibition or limitation diverts traffic onto the border highway or street shared by the township and the adjoining township. The county road commission shall then investigate the objection. The township and adjoining township shall cooperate with that investigation and negotiate in good faith to resolve the objection. If the objection is not resolved within 60 days after the township receives the copy of the written objection, the county road commission has the authority to, and shall, either approve or void the prohibition or limitation that is the subject of the objection within 60 days thereafter, which decision shall be final. For purposes of this subsection, "county primary road" means a highway or street designated as a county primary road pursuant to 1951 PA 51, MCL 247.671 to 247.675.

(4) A person who violates a prohibition, limitation, or truck route designation established pursuant to subsection (1) is responsible for a civil infraction.

This act is ordered to take immediate effect.

Approved January 12, 2009.

Filed with Secretary of State January 13, 2009.

[No. 540]

(HB 5639)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending sections 623a, 1267, and 1274 (MCL 380.623a, 380.1267, and 380.1274), section 623a as amended by 2007 PA 45, section 1267 as amended by 2004 PA 232, and section 1274 as amended by 2004 PA 588.