

# HOUSE BILL No. 5304

November 15, 1989, Introduced by Rep. Perry Bullard and referred to the Committee on Judiciary.

A bill to amend Act No. 328 of the Public Acts of 1931, entitled

"The Michigan penal code,"

as amended, being sections 750.1 to 750.568 of the Michigan Compiled Laws, by adding sections 570, 571, and 572.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Act No. 328 of the Public Acts of 1931, as  
2 amended, being sections 750.1 to 750.568 of the Michigan Compiled  
3 Laws, is amended by adding sections 570, 571, and 572 to read as  
4 follows:

5       SEC. 570. AS USED IN SECTIONS 571 AND 572:

6       (A) "CONTROL" MEANS POSSESSION OF A SUFFICIENT INTEREST TO  
7 PERMIT SUBSTANTIAL DIRECTION OVER THE AFFAIRS OF AN ENTERPRISE.

8       (B) "CRIMINAL SYNDICATE" MEANS A GROUP OF 2 OR MORE PERSONS  
9 OR ENTERPRISES ENGAGING OR HAVING THE PURPOSE OF ENGAGING ON A

1 CONTINUING BASIS IN CONDUCT THAT CONSTITUTES A PATTERN OF  
2 RACKETEERING ACTIVITY.

3 (C) "ENTERPRISE" MEANS AN INDIVIDUAL, SOLE PROPRIETORSHIP,  
4 PARTNERSHIP, CORPORATION, TRUST, TRADE UNION, ASSOCIATION, GOV-  
5 ERNMENTAL UNIT, OR OTHER LEGAL ENTITY OR A GROUP OF PERSONS ASSO-  
6 CIATED IN FACT ALTHOUGH NOT A LEGAL ENTITY.

7 (D) "PATTERN OF RACKETEERING ACTIVITY" MEANS NOT LESS THAN 3  
8 INCIDENTS OF RACKETEERING THAT HAVE THE SAME OR A SIMILAR INTENT,  
9 RESULT, ACCOMPLICE, VICTIM, OR METHOD OF COMMISSION OR THAT ARE  
10 OTHERWISE INTERRELATED BY DISTINGUISHING CHARACTERISTICS, AND ARE  
11 NOT ISOLATED INCIDENTS, IF AT LEAST 1 OF THE INCIDENTS OCCURRED  
12 AFTER THE EFFECTIVE DATE OF THIS SECTION AND THE LAST OF THE  
13 INCIDENTS OCCURRED WITHIN THE APPROPRIATE STATUTE OF LIMITATIONS  
14 EXCLUDING ANY PERIODS OF IMPRISONMENT.

15 (E) "PERSON" MEANS AN INDIVIDUAL, SOLE PROPRIETORSHIP, PART-  
16 NERSHIP, COOPERATIVE, ASSOCIATION, CORPORATION, PERSONAL REPRE-  
17 SENTATIVE, RECEIVER, TRUSTEE, ASSIGNEE, OR OTHER LEGAL OR ILLEGAL  
18 ENTITY.

19 (F) "PROCEEDS" MEANS ANY PROPERTY OBTAINED THROUGH THE COM-  
20 MISSION OF THE CRIME, INCLUDING ANY APPRECIATION IN THE VALUE OF  
21 THE PROPERTY.

22 (G) "RACKETEERING" MEANS THE COMMISSION, THE ATTEMPTED COM-  
23 MISSION, CONSPIRING TO COMMIT, OR AIDING OR ABETTING, SOLICITING,  
24 COERCING, OR INTIMIDATING A PERSON TO COMMIT AN OFFENSE FOR  
25 FINANCIAL GAIN THAT IS CHARGEABLE OR INDICTABLE UNDER 1 OR MORE  
26 OF THE FOLLOWING LAWS OF THIS STATE:

1 (i) ARSON, AS DEFINED IN SECTION 72, 73, OR 75.

2 (ii) BRIBERY AND RELATED OFFENSES, AS DEFINED IN  
3 SECTION 117, 118, 119, 120A, 121, 124, OR 125.

4 (iii) CHILD PORNOGRAPHY, AS DEFINED IN SECTION 145C(2) OR  
5 (3).

6 (iv) A CRIME INVOLVING EXPLOSIVES, AS DEFINED IN  
7 SECTION 204, 204A, 205, 205A, 206, 207, 208, 210, 211, OR 211A.

8 (v) DEALING IN STOLEN PROPERTY, AS DEFINED IN SECTION 535 OR  
9 535A(2), THE VALUE OF WHICH EXCEEDS \$100,000.00.

10 (vi) MANUFACTURE, DELIVERY, OR POSSESSION WITH INTENT TO  
11 MANUFACTURE OR DELIVER A CONTROLLED SUBSTANCE, A PRESCRIPTION  
12 FORM, OR A COUNTERFEIT PRESCRIPTION FORM IN VIOLATION OF  
13 SECTION 7401 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC  
14 ACTS OF 1978, BEING SECTION 333.7401 OF THE MICHIGAN COMPILED  
15 LAWS.

16 (vii) EXTORTION, AS DEFINED IN SECTION 213.

17 (viii) FELONIOUS DISPOSAL OF HAZARDOUS WASTE, AS DEFINED IN  
18 SECTION 48(3) OF THE HAZARDOUS WASTE MANAGEMENT ACT, ACT NO. 64  
19 OF THE PUBLIC ACTS OF 1979, BEING SECTION 299.548 OF THE MICHIGAN  
20 COMPILED LAWS.

21 (ix) FRAUD, AS DEFINED IN SECTION 254 OR 257 OF THE MICHIGAN  
22 VEHICLE CODE, ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING  
23 SECTIONS 257.254 AND 257.257 OF THE MICHIGAN COMPILED LAWS;  
24 SECTION 3(1), (2), OR (3), 4, 5, 6, OR 7(1) OR (2) OF THE MEDI-  
25 CAID FALSE CLAIM ACT, ACT NO. 72 OF THE PUBLIC ACTS OF 1977,  
26 BEING SECTIONS 400.603, 400.604, 400.605, 400.606, AND 400.607 OF  
27 THE MICHIGAN COMPILED LAWS; SECTION 101, 102(A), 404, OR 409 OF

1 THE UNIFORM SECURITIES ACT, ACT NO. 265 OF THE PUBLIC ACTS OF  
2 1964, BEING SECTIONS 451.501, 451.502, 451.804, AND 451.809 OF  
3 THE MICHIGAN COMPILED LAWS; SECTION 27 OF THE LAND SALES ACT, ACT  
4 NO. 286 OF THE PUBLIC ACTS OF 1972, BEING SECTION 565.827 OF THE  
5 MICHIGAN COMPILED LAWS; SECTION 218, 271, 272, OR 415(2) OF THIS  
6 ACT; SECTION 4 OR 6 OF ACT NO. 53 OF THE PUBLIC ACTS OF 1979,  
7 BEING SECTIONS 752.794 AND 752.796 OF THE MICHIGAN COMPILED LAWS;  
8 OR SECTION 4 OR 5 OF THE HEALTH CARE FALSE CLAIM ACT, ACT NO. 323  
9 OF THE PUBLIC ACTS OF 1984, BEING SECTIONS 752.1004 AND 752.1005  
10 OF THE MICHIGAN COMPILED LAWS; IF THE VIOLATION INVOLVES  
11 \$100,000.00 OR MORE.

12       (x) GAMBLING, AS DEFINED IN SECTION 303, INVOLVING  
13 \$50,000.00 OR MORE.

14       (xi) KIDNAPPING, AS DEFINED IN SECTION 349.

15       (xii) MANUFACTURE, SALE, OR TRAFFICKING IN UNLICENSED ALCO-  
16 HOL OR ALCOHOLIC LIQUOR, AS DEFINED IN SECTION 3 OR 32 OF THE  
17 MICHIGAN LIQUOR CONTROL ACT, ACT NO. 8 OF THE PUBLIC ACTS OF THE  
18 EXTRA SESSION OF 1933, BEING SECTIONS 436.3 AND 436.32 OF THE  
19 MICHIGAN COMPILED LAWS, IF THE VIOLATION INVOLVES \$100,000.00 OR  
20 MORE.

21       (xiii) MURDER, SOLICITATION TO MURDER, OR CONSPIRACY TO  
22 COMMIT MURDER, AS DEFINED IN SECTION 316, 317, 157A, OR 157B.

23       (xiv) AN INTERFERENCE WITH THE ORDERLY ADMINISTRATION OF THE  
24 LAW, INCLUDING THE WILLFUL OR CORRUPT HAMPERING OR OBSTRUCTING  
25 OF, OR INTERFERING WITH, A PROPER AND LEGITIMATE CRIMINAL INVES-  
26 TIGATION, OR ANY OFFENSE INDICTABLE UNDER SECTION 505.

1 (xv) PANDERING, AS DEFINED IN SECTION 455, 457, OR 459.

2 (xvi) POISONING, AS DEFINED IN SECTION 436 OF ACT NO. 328 OF  
3 THE PUBLIC ACTS OF 1931, BEING SECTION 750.436 OF THE MICHIGAN  
4 COMPILED LAWS.

5 (xvii) PRICE FIXING AND ANTICOMPETITIVE ACTIVITIES, AS  
6 DEFINED IN SECTION 9 OF THE MICHIGAN ANTITRUST REFORM ACT, ACT  
7 NO. 274 OF THE PUBLIC ACTS OF 1984, BEING SECTION 445.779 OF THE  
8 MICHIGAN COMPILED LAWS.

9 (xviii) RACETRACK FIXING, AS DEFINED IN SECTION 24 AND 25 OF  
10 THE RACING LAW OF 1980, ACT NO. 327 OF THE PUBLIC ACTS OF 1980,  
11 BEING SECTION 431.84 AND 431.85 OF THE MICHIGAN COMPILED LAWS, OR  
12 IN SECTION 332 OF THIS ACT.

13 (xix) TRAFFICKING IN ILLEGAL GASOLINE OR CIGARETTES, AS  
14 DEFINED IN SECTION 9 OF ACT NO. 265 OF THE PUBLIC ACTS OF 1947,  
15 BEING SECTION 205.509 OF THE MICHIGAN COMPILED LAWS, OR  
16 SECTION 18 OF ACT NO. 150 OF THE PUBLIC ACTS OF 1927, BEING  
17 SECTION 207.118 OF THE MICHIGAN COMPILED LAWS, IF THE GASOLINE OR  
18 CIGARETTES HAVE A VALUE OF \$100,000.00 OR MORE.

19 (xx) USURY OR LOANSHARKING, AS DEFINED IN SECTION 1 OF ACT  
20 NO. 259 OF THE PUBLIC ACTS OF 1968, BEING SECTION 438.41 OF THE  
21 MICHIGAN COMPILED LAWS.

22 (xxi) TAX EVASION, AS DEFINED IN SECTION 27 OF ACT NO. 122  
23 OF THE PUBLIC ACTS OF 1941, BEING SECTION 205.27 OF THE MICHIGAN  
24 COMPILED LAWS, INVOLVING \$100,000.00 OR MORE.

25 (xxii) UNLAWFUL DISCHARGE OF A SUBSTANCE INTO THE WATERS OF  
26 THIS STATE, AS DEFINED IN SECTION 10(2) OF ACT NO. 245 OF THE

1 PUBLIC ACTS OF 1929, BEING SECTION 323.10 OF THE MICHIGAN  
2 COMPILED LAWS.

3 (xxiii) UNLAWFUL DISCHARGE OF POLLUTANTS INTO THE AIR, AS  
4 DEFINED IN SECTION 16 OF THE AIR POLLUTION ACT, ACT NO. 348 OF  
5 THE PUBLIC ACTS OF 1965, BEING SECTION 336.26 OF THE MICHIGAN  
6 COMPILED LAWS.

7 SEC. 571. (1) A PERSON SHALL NOT DO 1 OR MORE OF THE  
8 FOLLOWING:

9 (A) ORGANIZE, MANAGE, DIRECT, SUPERVISE, OR FINANCE A CRIMI-  
10 NAL SYNDICATE.

11 (B) KNOWINGLY INCITE OR INDUCE ANOTHER PERSON TO ENGAGE IN  
12 VIOLENCE OR INTIMIDATION TO PROMOTE OR FURTHER THE CRIMINAL  
13 OBJECTIVES OF A CRIMINAL SYNDICATE.

14 (C) FURNISH ADVICE, ASSISTANCE, OR DIRECTION IN THE CONDUCT,  
15 FINANCING, OR MANAGEMENT OF A CRIMINAL SYNDICATE WITH THE INTENT  
16 TO PROMOTE OR FURTHER THE CRIMINAL OBJECTIVES OF THE CRIMINAL  
17 SYNDICATE.

18 (2) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY  
19 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A FINE  
20 OF NOT MORE THAN \$100,000.00, OR BOTH.

21 SEC. 572. (1) A PERSON SHALL NOT, THROUGH A PATTERN OF  
22 RACKETEERING ACTIVITY OR USE OF THE PROCEEDS OF A PATTERN OF  
23 RACKETEERING ACTIVITY, ACQUIRE OR MAINTAIN CONTROL OF AN  
24 ENTERPRISE.

25 (2) A PERSON EMPLOYED BY OR ASSOCIATED WITH AN ENTERPRISE  
26 SHALL NOT CONDUCT OR PARTICIPATE IN THE ENTERPRISE'S AFFAIRS  
27 THROUGH A PATTERN OF RACKETEERING ACTIVITY.

1 (3) A PERSON SHALL NOT ACQUIRE OR MAINTAIN, DIRECTLY OR  
2 INDIRECTLY, AN INTEREST IN OR CONTROL OF AN ENTERPRISE OR REAL OR  
3 PERSONAL PROPERTY THROUGH A PATTERN OF RACKETEERING ACTIVITY.

4 (4) A PERSON WHO HAS KNOWINGLY RECEIVED ANY PROCEEDS DERIVED  
5 FROM A PATTERN OF RACKETEERING ACTIVITY SHALL NOT DIRECTLY OR  
6 INDIRECTLY USE OR INVEST THE PROCEEDS IN THE ACQUISITION OF TITLE  
7 TO, OR A RIGHT, INTEREST, OR EQUITY IN, REAL OR PERSONAL PROPERTY  
8 OR IN THE ESTABLISHMENT OR OPERATION OF AN ENTERPRISE.

9 (5) A PERSON SHALL NOT CONSPIRE OR ATTEMPT TO VIOLATE  
10 SUBSECTION (1), (2), (3), OR (4).

11 (6) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY  
12 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A FINE  
13 OF NOT MORE THAN \$100,000.00, OR BOTH.

14 (7) VENUE IN A PROSECUTION FOR A VIOLATION OF THIS SECTION  
15 OR SECTION 571 IS PROPER IN ANY COUNTY IN WHICH ANY PART OF THE  
16 VIOLATION OCCURRED.

17 Section 2. This amendatory act shall not take effect unless  
18 Senate Bill No. \_\_\_\_\_ or House Bill No. 5305 (request  
19 no. 01921'89 a \*) of the 85th Legislature is enacted into law.