

(k) “Physically helpless” means that a person is unconscious, asleep, or for any other reason is physically unable to communicate unwillingness to an act.

(l) “Personal injury” means bodily injury, disfigurement, mental anguish, chronic pain, pregnancy, disease, or loss or impairment of a sexual or reproductive organ.

(m) “Public school” means that term as defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5.

(n) “Sexual contact” includes the intentional touching of the victim’s or actor’s intimate parts or the intentional touching of the clothing covering the immediate area of the victim’s or actor’s intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification, done for a sexual purpose, or in a sexual manner for:

(i) Revenge.

(ii) To inflict humiliation.

(iii) Out of anger.

(o) “Sexual penetration” means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person’s body or of any object into the genital or anal openings of another person’s body, but emission of semen is not required.

(p) “Victim” means the person alleging to have been subjected to criminal sexual conduct.

750.520b Criminal sexual conduct in the first degree; felony.

Sec. 520b. (1) A person is guilty of criminal sexual conduct in the first degree if he or she engages in sexual penetration with another person and if any of the following circumstances exists:

(a) That other person is under 13 years of age.

(b) That other person is at least 13 but less than 16 years of age and any of the following:

(i) The actor is a member of the same household as the victim.

(ii) The actor is related to the victim by blood or affinity to the fourth degree.

(iii) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(iv) The actor is a teacher, substitute teacher, or administrator of the public or nonpublic school in which that other person is enrolled.

(c) Sexual penetration occurs under circumstances involving the commission of any other felony.

(d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:

(i) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(ii) The actor uses force or coercion to accomplish the sexual penetration. Force or coercion includes but is not limited to any of the circumstances listed in subdivision (f)(i) to (v).

(e) The actor is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon.

(f) The actor causes personal injury to the victim and force or coercion is used to accomplish sexual penetration. Force or coercion includes but is not limited to any of the following circumstances:

(i) When the actor overcomes the victim through the actual application of physical force or physical violence.

(ii) When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute these threats.

(iii) When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute this threat. As used in this subdivision, “to retaliate” includes threats of physical punishment, kidnapping, or extortion.

(iv) When the actor engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable.

(v) When the actor, through concealment or by the element of surprise, is able to overcome the victim.

(g) The actor causes personal injury to the victim, and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(h) That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:

(i) The actor is related to the victim by blood or affinity to the fourth degree.

(ii) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(2) Criminal sexual conduct in the first degree is a felony punishable by imprisonment in the state prison for life or for any term of years.

750.520c Criminal sexual conduct in the second degree; felony.

Sec. 520c. (1) A person is guilty of criminal sexual conduct in the second degree if the person engages in sexual contact with another person and if any of the following circumstances exists:

(a) That other person is under 13 years of age.

(b) That other person is at least 13 but less than 16 years of age and any of the following:

(i) The actor is a member of the same household as the victim.

(ii) The actor is related by blood or affinity to the fourth degree to the victim.

(iii) The actor is in a position of authority over the victim and the actor used this authority to coerce the victim to submit.

(iv) The actor is a teacher, substitute teacher, or administrator of the public or nonpublic school in which that other person is enrolled.

(c) Sexual contact occurs under circumstances involving the commission of any other felony.

(d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:

(i) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(ii) The actor uses force or coercion to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the circumstances listed in sections 520b(1)(f)(i) to (v).

(e) The actor is armed with a weapon, or any article used or fashioned in a manner to lead a person to reasonably believe it to be a weapon.

(f) The actor causes personal injury to the victim and force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the circumstances listed in section 520b(1)(f)(i) to (v).

(g) The actor causes personal injury to the victim and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(h) That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:

(i) The actor is related to the victim by blood or affinity to the fourth degree.

(ii) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(i) That other person is under the jurisdiction of the department of corrections and the actor is an employee or a contractual employee of, or a volunteer with, the department of corrections who knows that the other person is under the jurisdiction of the department of corrections.

(j) That other person is under the jurisdiction of the department of corrections and the actor is an employee or a contractual employee of, or a volunteer with, a private vendor that operates a youth correctional facility under section 20g of 1953 PA 232, MCL 791.220g, who knows that the other person is under the jurisdiction of the department of corrections.

(k) That other person is a prisoner or probationer under the jurisdiction of a county for purposes of imprisonment or a work program or other probationary program and the actor is an employee or a contractual employee of or a volunteer with the county or the department of corrections who knows that the other person is under the county's jurisdiction.

(l) The actor knows or has reason to know that a court has detained the victim in a facility while the victim is awaiting a trial or hearing, or committed the victim to a facility as a result of the victim having been found responsible for committing an act that would be a crime if committed by an adult, and the actor is an employee or contractual employee of, or a volunteer with, the facility in which the victim is detained or to which the victim was committed.

(2) Criminal sexual conduct in the second degree is a felony punishable by imprisonment for not more than 15 years.

750.520d Criminal sexual conduct in the third degree; felony.

Sec. 520d. (1) A person is guilty of criminal sexual conduct in the third degree if the person engages in sexual penetration with another person and if any of the following circumstances exist:

(a) That other person is at least 13 years of age and under 16 years of age.

(b) Force or coercion is used to accomplish the sexual penetration. Force or coercion includes but is not limited to any of the circumstances listed in section 520b(1)(f)(i) to (v).

(c) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(d) That other person is related to the actor by blood or affinity to the third degree and the sexual penetration occurs under circumstances not otherwise prohibited by this chapter. It is an affirmative defense to a prosecution under this subdivision that the other person was in a position of authority over the defendant and used this authority to coerce the defendant to violate this subdivision. The defendant has the burden of proving this defense by a preponderance of the evidence. This subdivision does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(e) That other person is at least 16 years of age but less than 18 years of age and a student at a public or nonpublic school, and the actor is a teacher, substitute teacher, or administrator of that public or nonpublic school. This subdivision does not apply if the other person is emancipated or if both persons are lawfully married to each other at the time of the alleged violation.

(2) Criminal sexual conduct in the third degree is a felony punishable by imprisonment for not more than 15 years.

750.520e Criminal sexual conduct in the fourth degree; misdemeanor.

Sec. 520e. (1) A person is guilty of criminal sexual conduct in the fourth degree if he or she engages in sexual contact with another person and if any of the following circumstances exist:

(a) That other person is at least 13 years of age but less than 16 years of age, and the actor is 5 or more years older than that other person.

(b) Force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the following circumstances:

(i) When the actor overcomes the victim through the actual application of physical force or physical violence.

(ii) When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute that threat.

(iii) When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute that threat. As used in this subparagraph, “to retaliate” includes threats of physical punishment, kidnapping, or extortion.

(iv) When the actor engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable.

(v) When the actor achieves the sexual contact through concealment or by the element of surprise.

(c) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(d) That other person is related to the actor by blood or affinity to the third degree and the sexual contact occurs under circumstances not otherwise prohibited by this chapter. It is an affirmative defense to a prosecution under this subdivision that the other person was in a position of authority over the defendant and used this authority to coerce the defendant to violate this subdivision. The defendant has the burden of proving this defense by a preponderance of the evidence. This subdivision does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(e) The actor is a mental health professional and the sexual contact occurs during or within 2 years after the period in which the victim is his or her client or patient and not his or her spouse. The consent of the victim is not a defense to a prosecution under this subdivision. A prosecution under this subsection shall not be used as evidence that the victim is mentally incompetent.

(f) That other person is at least 16 years of age but less than 18 years of age and a student at a public or nonpublic school, and the actor is a teacher, substitute teacher, or administrator of that public or nonpublic school. This subdivision does not apply if the other person is emancipated or if both persons are lawfully married to each other at the time of the alleged violation.

(2) Criminal sexual conduct in the fourth degree is a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than \$500.00, or both.

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2003.

Approved December 30, 2002.

Filed with Secretary of State December 30, 2002.

[No. 715]

(HB 6498)

AN ACT to amend 1961 PA 236, entitled “An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts,” by amending sections 504, 517, 803, 807, 810a, and 5805 (MCL 600.504, 600.517, 600.803, 600.807, 600.810a, and 600.5805), section 504 as amended by 2001 PA 254, section 517 as amended by 2001 PA 257, section 803 as amended by 2001 PA 253, section 810a as added by 2002 PA 92, and section 5805 as amended by 2000 PA 3.

The People of the State of Michigan enact:

600.504 Third judicial circuit.

Sec. 504. (1) The third judicial circuit consists of the county of Wayne and has the following number of judges:

(a) Until 12 noon, January 1, 2003, 64 judges.

(b) Beginning 12 noon, January 1, 2003, 63 judges; however, if, after 12 noon, January 1, 2003, a vacancy occurs in a judgeship held by an incumbent judge of this circuit who would be ineligible to seek reelection to that office in 2004, that judgeship is eliminated unless the total number of judgeships in this circuit has been reduced to 61 before that vacancy occurred.

(c) Beginning 12 noon, January 1, 2005, 61 judges.

600.517 Sixteenth judicial circuit.

Sec. 517. The sixteenth judicial circuit consists of the county of Macomb and has 9 judges. Subject to section 550, this circuit may have 2 additional judges effective January 1, 2003, and 1 additional judge effective January 1, 2005. If 2 new offices of judge are added to this circuit by election in 2002, the candidate receiving the highest number of votes in the November 2002 general election shall be elected for a term of 8 years, and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. If a new office of judge is added to this circuit by election in 2004, the term of office of that judgeship for that election only shall be 8 years.

600.803 Probate judges; number.

Sec. 803. (1) Except as otherwise provided in this section, each county which is not part of a probate court district created pursuant to sections 808 to 810 or previously created pursuant to law shall have at least 1 judge of probate.

(2) Each probate court district created pursuant to law shall have 1 judge of probate.

(3) The counties of Berrien, Calhoun, Ingham, Monroe, Muskegon, Saginaw, St. Clair, and Washtenaw shall each have 2 judges of probate.

(4) Until 12 noon, January 1, 2005, the county of Genesee shall have 3 judges of probate; however, if, after 12 noon, January 1, 2003, a vacancy occurs in the judgeship held by the incumbent probate judge in Genesee county whose term of office expires January 1, 2005 and who would be ineligible to seek reelection to that office in 2004, that probate judgeship is eliminated effective 12 noon, January 1, 2005. Beginning 12 noon, January 1, 2005, the county of Genesee shall have 2 judges of probate.

(5) Until 12 noon, January 1, 2005, the county of Macomb shall have 3 judges of probate; however, if the incumbent probate judge in Macomb county whose term of office as probate judge expires on January 1, 2005 is elected in 2002 to the office of circuit judge in the sixteenth judicial circuit for a term beginning January 1, 2003, that probate judgeship is eliminated effective 12 noon, January 1, 2005. Beginning 12 noon, January 1, 2005, the county of Macomb shall have 2 judges of probate.

(6) The county of Kalamazoo shall have 3 judges of probate.

(7) The county of Kent shall have 4 judges of probate.

(8) The county of Oakland shall have 4 judges of probate.

(9) The county of Wayne shall have the following number of judges of probate:

(a) Until subdivision (b) takes effect, the county of Wayne shall have 9 judges of probate.

(b) The county of Wayne shall have 8 judges of probate beginning on the earliest of the following dates:

(i) Upon the occurrence of a vacancy in a judgeship held by an incumbent probate judge in Wayne county whose term expires on January 1, 2005, and who would be ineligible to seek reelection to that office in 2004.

(ii) Upon the expiration of the term of an incumbent probate judge who is not eligible to seek reelection to that office.

(10) When 1 or more new judges of probate are authorized in a county pursuant to this section, the new judgeship or judgeships shall appear on the ballot separate and apart from other judicial offices of the same court in the primary and general election.

600.807 Probate court districts.

Sec. 807. A probate court district is created in each of the following described districts when a majority of the electors voting on the question in each affected county approves the probate court district. The districts shall consist as follows:

- (a) The first district consists of the counties of Baraga, Houghton, and Keweenaw.
- (b) The second district consists of the counties of Ontonagon and Gogebic.
- (c) The third district consists of the counties of Iron and Dickinson.
- (d) The fifth district consists of the counties of Schoolcraft and Alger.
- (e) The sixth district consists of the counties of Mackinac and Luce.
- (f) The seventh district consists of the counties of Emmet and Charlevoix.
- (g) The eighth district consists of the counties of Cheboygan and Presque Isle.
- (h) The ninth district consists of the counties of Alpena and Montmorency.
- (i) The twelfth district consists of the counties of Manistee and Benzie.
- (j) The thirteenth district consists of the counties of Wexford and Missaukee.
- (k) The fourteenth district consists of the counties of Kalkaska and Crawford.
- (l) The fifteenth district consists of the counties of Alcona and Oscoda.
- (m) The sixteenth district consists of the counties of Iosco and Arenac.
- (n) The seventeenth district consists of the counties of Clare and Gladwin.
- (o) The eighteenth district consists of the counties of Mecosta and Osceola.
- (p) The nineteenth district consists of the counties of Mason and Lake.

600.810a Arenac, Kalkaska, Crawford, and Lake counties; power, authority, and title of probate judges.

Sec. 810a. The probate judges in the counties of Arenac, Kalkaska, Crawford, and Lake have the power, authority, and title of a district judge within their respective counties, in addition to the power, authority, and title of a probate judge.

600.5805 Injuries to persons or property; limitations; "dating relationship" defined.

Sec. 5805. (1) A person shall not bring or maintain an action to recover damages for injuries to persons or property unless, after the claim first accrued to the plaintiff or to someone through whom the plaintiff claims, the action is commenced within the periods of time prescribed by this section.

(2) The period of limitations is 2 years for an action charging assault, battery, or false imprisonment.

(3) The period of limitations is 5 years for an action charging assault or battery brought by a person who has been assaulted or battered by his or her spouse or former spouse, an individual with whom he or she has had a child in common, or a person with whom he or she resides or formerly resided. This limitation applies to causes of action arising on or after February 17, 2000 and to causes of action in which the period of limitations described in subsection (2) has not already expired as of February 17, 2000.

(4) The period of limitations is 5 years for an action charging assault and battery brought by a person who has been assaulted or battered by an individual with whom he or she has or has had a dating relationship. This limitation applies to causes of action arising on or after January 1, 2003 and to causes of action in which the period of limitations described in subsection (2) has not already expired as of January 1, 2003.

(5) The period of limitations is 2 years for an action charging malicious prosecution.

(6) Except as otherwise provided in this chapter, the period of limitations is 2 years for an action charging malpractice.

(7) The period of limitations is 2 years for an action against a sheriff charging misconduct or neglect of office by the sheriff or the sheriff's deputies.

(8) The period of limitations is 2 years after the expiration of the year for which a constable was elected for actions based on the constable's negligence or misconduct as constable.

(9) The period of limitations is 1 year for an action charging libel or slander.

(10) The period of limitations is 3 years after the time of the death or injury for all other actions to recover damages for the death of a person, or for injury to a person or property.

(11) The period of limitations is 5 years for an action to recover damages for injury to a person or property brought by a person who has been assaulted or battered by his or her spouse or former spouse, an individual with whom he or she has had a child in common, or a person with whom he or she resides or formerly resided. This limitation applies to causes of action arising on or after February 17, 2000 and to causes of action in which the period of limitations described in subsection (10) has not already expired as of February 17, 2000.

(12) The period of limitations is 5 years for an action to recover damages for injury to a person or property brought by a person who has been assaulted or battered by an individual with whom he or she has or has had a dating relationship. This limitation applies to causes of action arising on or after January 1, 2003 and to causes of action in which the period of limitations described in subsection (2) has not already expired as of January 1, 2003.

(13) The period of limitations is 3 years for a products liability action. However, in the case of a product that has been in use for not less than 10 years, the plaintiff, in proving a prima facie case, shall be required to do so without benefit of any presumption.

(14) The period of limitations for an action against a state licensed architect, professional engineer, land surveyor, or contractor based on an improvement to real property shall be as provided in section 5839.

(15) As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

Effective date.

Enacting section 1. Section 810a of the revised judicature act of 1961, 1961 PA 236, MCL 600.810a, as amended by this amendatory act, takes effect 91 days after the date on which the 91st Legislature adjourns its 2002 regular session sine die.

Approved December 30, 2002.

Filed with Secretary of State December 30, 2002.

[No. 716]

(HB 6204)

AN ACT to amend 1975 PA 238, entitled "An act to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to

prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts,” (MCL 722.621 to 722.638) by adding section 7j.

The People of the State of Michigan enact:

722.627j Individual not named in central registry case as perpetrator of child abuse or neglect; documentation; request; automated system; definitions.

Sec. 7j. (1) Upon written request, the department may provide to an individual documentation stating that the individual is not named in a central registry case as the perpetrator of child abuse or child neglect. The written request required under this section shall include the individual’s affirmation that he or she is employed by, volunteers at, is applying for employment in, or is seeking to volunteer in a child care center, child caring institution, or child placing agency.

(2) For the purpose of applying for employment or seeking to volunteer in a child care center, child caring institution, or child placing agency, an individual may share the document provided in subsection (1) with the child care center owner or licensee, or a child caring institution or child placing agency, or an individual authorized by the child care center owner or licensee, the child caring institution, or the child placing agency.

(3) The family independence agency may develop an automated system that will allow an individual applying for child-related employment or seeking to volunteer in a capacity that would allow unsupervised access to a child for whom the individual is not a person responsible for that child’s health or welfare to be listed in that system if a screening of the individual finds that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect. The automated system developed under this section shall provide for public access to the list of individuals who have been screened for the purposes of complying with this section. An automated system developed under this section shall have appropriate safeguards and procedures to ensure that information that is confidential under this act, state law, or federal law is not accessible or disclosed through that system.

(4) For the purposes of this section or section 7(2)(k) or (l), a case investigated before July 1, 1999 and entered in the central registry is considered a central registry case if that case meets the criteria under section 8(3)(a), (b), or (c).

(5) As used in this section, “child care center”, “child caring institution”, and “child placing agency” mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111.

Approved December 30, 2002.

Filed with Secretary of State December 30, 2002.

[No. 717]

(HB 6205)

AN ACT to amend 1973 PA 116, entitled “An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the

establishment of standards of care for child care organizations; to prescribe powers and duties of certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts,” (MCL 722.111 to 722.128) by adding section 3e.

The People of the State of Michigan enact:

722.113e Criminal history check required; posting notice; rules.

Sec. 3e. The operator of a child care center or child caring institution shall conspicuously post on the premises a notice stating whether or not that child care center or child caring institution requires a criminal history check on its employees or volunteers. The department of consumer and industry services shall promulgate rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Approved December 30, 2002.

Filed with Secretary of State December 30, 2002.

[No. 718]

(SB 1368)

AN ACT to amend 1968 PA 319, entitled “An act to provide a uniform crime reporting system; to provide for the submitting of such report to the department of state police; to require submission of the report by certain police agencies; to require the reporting on wanted persons and stolen vehicles; to require the reporting of information regarding certain persons and unidentified bodies of deceased persons; to prescribe certain powers and duties of law enforcement agencies; and to vest the director of the department of state police with certain authority,” by amending section 8 (MCL 28.258), as amended by 1995 PA 39.

The People of the State of Michigan enact:

28.258 Definitions; certain persons reported missing; preliminary investigation; entering information into LEIN, national crime information center, and clearinghouse; dental records; retaining and broadcasting information; forwarding information to registrar; notice and information to last known school district; request that registrar and school district be notified; emancipated missing child; cancellation of information; policy preventing immediate investigation prohibited; unidentified body; unknown identity of person found.

Sec. 8. (1) As used in this section and section 9:

- (a) “Child” means an individual less than 17 years of age.
- (b) “Clearinghouse” means the missing child information clearinghouse established under section 9.
- (c) “Department” means the department of state police.
- (d) “Law enforcement agency” means the department; a police agency of a city, village, or township; a sheriff’s department; and any other governmental law enforcement agency in this state.

(e) “LEIN” means law enforcement information network regulated under the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(f) “Registrar” means the state registrar as defined in section 2805 of the public health code, 1978 PA 368, MCL 333.2805.

(2) If an individual who is any of the following is reported missing, the law enforcement agency receiving the report, after conducting a preliminary investigation, shall immediately enter the information described in subsection (3) regarding that individual into the LEIN, the national crime information center, and if the individual is a child, the clearinghouse:

(a) An individual who has a physical or mental disability as evidenced by written documentation from a physician or other authoritative source. As used in this act, “mental disability” includes Alzheimer’s disease and dementia.

(b) An individual who was in the company of another individual under circumstances indicating that the individual’s physical safety may be in danger.

(c) An individual who disappeared under circumstances indicating that the disappearance was not voluntary.

(d) A child not described in subdivision (a), (b), (c), or (e).

(e) An individual who is missing as the result of a natural or intentionally caused catastrophe or extraordinary accident that causes the loss of human life.

(3) The information to be entered into the LEIN, the national crime information center, and the clearinghouse under subsection (2) shall include all of the following, if available:

(a) The name and address of the individual.

(b) The vital statistics of the individual, including a physical description, and if the missing individual is a child, the child’s date of birth, state of birth, and if possible, mother’s maiden name.

(c) The date the individual was missing and, if the missing individual is a child under subsection (2)(d), the date the child becomes 17 years of age.

(d) Any other information that may assist in the location of the individual, as determined by the department and the LEIN policy council.

(4) If subsections (2) and (3) have been complied with and the individual is not found within 30 days, the law enforcement agency that received the report under subsection (2) shall seek the dental records of the individual under section 2844a of the public health code, 1978 PA 368, MCL 333.2844a. The information from the dental records shall be entered into the national crime information center and, if the individual is a child, the clearinghouse by the law enforcement agency.

(5) The LEIN shall retain the information under subsection (3) reported to it until the law enforcement agency that entered the information cancels the information.

(6) The law enforcement agency receiving a report of a missing individual described in subsection (2) may, or if the individual is a child and subject to the policy established by the clearinghouse, or if the individual has Alzheimer’s disease or dementia, shall, broadcast the information described in subsection (3) over the LEIN to all of the following:

(a) All law enforcement agencies having jurisdiction of the location where the missing individual lives or was last seen.

(b) Any other law enforcement agency that potentially could become involved in locating the missing individual.

(c) All law enforcement agencies to which the individual who reported the individual missing requests the information be sent, if the request is reasonable.

(7) If 14 days have elapsed since the law enforcement agency has received a report that a child who was born in this state is missing, and the agency has not been notified of the child's return, the LEIN shall forward on-line the information described in subsection (3) to the registrar via the registrar's restricted access LEIN terminal.

(8) If 14 days have elapsed since the law enforcement agency has received a report of a missing child and the agency has not been notified of the child's return, the agency, if it has reason to believe that a missing child may be enrolled in a school district in this state, shall notify in writing the child's last known local school district or intermediate school district that the child is missing and shall provide the school district with the information described in subsection (3).

(9) A parent or legal guardian of a child missing before June 29, 1987, may notify a law enforcement agency that he or she wants the registrar and school district notified pursuant to subsections (7) and (8). Upon receiving the request, the law enforcement agency shall proceed as provided in subsections (7) and (8).

(10) On the seventeenth birthday of a child who has been reported missing pursuant to subsection (2)(d), any information entered into the LEIN regarding that child shall be retained and the child shall be considered to be an emancipated missing child until the information is canceled by the law enforcement agency that entered the information into the network. If the information entered into the LEIN regarding a child missing as prescribed by subsection (2) is canceled, the law enforcement agency that entered the information into the network shall inform the registrar and school district notified as prescribed by subsection (7) of the cancellation.

(11) A law enforcement agency shall not establish or maintain a policy that prevents an immediate investigation as soon as practical regarding an individual described in subsection (2) who is reported missing.

(12) When the unidentified body of a deceased individual is found, the law enforcement agency receiving the report, after conducting a preliminary investigation, shall immediately enter the following information, if available, into the national crime information center and, if the body is that of a child, into the clearinghouse:

(a) The physical description of the unidentified body and whether footprints, body X-rays, and fingerprint classifications are available.

(b) The date the body was found and the cause and manner of death.

(c) What body parts are found if the body is dismembered.

(d) Dental examination records obtained under section 2844a of the public health code, 1978 PA 368, MCL 333.2844a.

(e) Any other information that would assist in the identification of the body, as determined by the department and the LEIN policy council.

(13) When an individual is found whose identity is unknown and cannot be readily determined, the law enforcement agency receiving the report, after conducting a preliminary investigation, shall enter the following information into the national crime information center and, if the individual is a child, into the clearinghouse:

(a) A physical description of the individual.

(b) Any other information that would assist in the identification of the individual, as determined by the department and the LEIN policy council.

This act is ordered to take immediate effect.

Approved December 30, 2002.

Filed with Secretary of State December 30, 2002.

[No. 719]**(HB 6337)**

AN ACT to amend 1927 PA 372, entitled “An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license or other authorization; to provide for the forfeiture of firearms under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act,” by amending sections 1, 5b, 5c, 5d, 5f, 5j, 5l, 5o, and 12a (MCL 28.421, 28.425b, 28.425c, 28.425d, 28.425f, 28.425j, 28.425l, 28.425o, and 28.432a), sections 1, 5b, 5c, 5d, 5f, 5j, 5l, and 5o as added and section 12a as amended by 2000 PA 381.

The People of the State of Michigan enact:

28.421 Definitions.

Sec. 1. As used in this act:

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

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

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

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

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

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

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

(h) “Retired police officer” or “retired law enforcement officer” means an individual who was a certified police officer or certified law enforcement officer as those terms are defined under section 2(k) of the commission on the law enforcement standards act, 1965 PA 203, MCL 28.602, and retired in good standing from his or her employment as a police officer or law enforcement officer.

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

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

Sec. 5b. (1) To obtain a license to carry a concealed pistol, an individual shall apply to the concealed weapon licensing board in the county in which that individual resides. The application shall be filed with the county clerk during the county clerk’s normal business hours. The application shall be on a form provided by the director of the department of state police and shall allow the applicant to designate whether the applicant seeks a temporary license. The application shall be signed under oath by the applicant. The oath shall be administered by the county clerk or his or her representative. The application shall contain all of the following information:

(a) The applicant’s legal name and date of birth and the address of his or her primary residence. If the applicant resides in a city, village, or township that has a police department, the name of the police department.

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

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

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

(e) A statement by the applicant regarding whether he or she has ever been convicted in this state or elsewhere for any felony or misdemeanor.

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

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

(h) The names, residential addresses, and telephone numbers of 2 individuals who are references for the applicant.

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

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

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

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

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

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

(6) The county sheriff on behalf of the concealed weapon licensing board shall verify the requirements of subsection (7)(d), (e), (f), (h), (i), (j), (k), (l), and (m) through the law enforcement information network and report his or her finding to the concealed weapon licensing board. If the applicant resides in a city, village, or township that has a police department, the concealed weapon licensing board shall contact that city, village, or township police department to determine only whether that city, village, or township police department has any information relevant to the investigation of whether the applicant is eligible under this act to receive a license to carry a concealed pistol.

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

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

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

(b) The applicant is a citizen of the United States or is a resident legal alien as defined in section 11 of title 18 of the United States Code, is a resident of this state, and has resided in this state for at least 6 months. The concealed weapon licensing board may waive the 6-month residency requirement for a temporary license under section 5a(8) if the concealed weapon licensing board determines there is probable cause to believe the safety of the applicant or the safety of a member of the applicant's family is endangered by the applicant's inability to immediately obtain a license to carry a concealed pistol.

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

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

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

(ii) Former section 444a of the revised probate code, 1978 PA 642, MCL 700.444a, or section 5107 of the estates and protected individuals code, 1998 PA 386, MCL 700.5107.

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

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

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

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

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

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

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

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

(ii) Section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625, punishable as provided in subsection (8)(b) of that section (drunk driving, second offense).

(iii) Section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625m punishable under subsection (4) of that section (drunk driving, commercial vehicle).

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

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

(vi) Section 185 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.185 (operating aircraft with alcohol with prior conviction).

(vii) Section 29 of the weights and measures act, 1964 PA 283, MCL 290.629 (hindering or obstructing weights and measures enforcement officer).

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

(ix) Section 80134 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80134, punishable under subsection (5) or (6) of that section (operating ORV under the influence, second or subsequent offense).

(x) Section 82127 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82127 (operating a snowmobile under the influence with prior conviction), punishable under section 82128(1)(b) or (c) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82128.

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

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

(xiii) Section 353 of the railroad code of 1993, 1993 PA 354, MCL 462.353 (operating locomotive under the influence), punishable under subsection (4) of that section.

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

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

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

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

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

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

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

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

(xxii) Section 215 of the Michigan penal code, 1931 PA 328, MCL 750.215 (impersonating sheriff, conservation officer, coroner, constable, or police officer).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) Section 625k of the Michigan vehicle code, 1949 PA 300, MCL 257.625k (negligently fails to comply).

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

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

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

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

(viii) Section 81135 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81135 (operating ORV having consumed controlled substance).

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

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

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

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

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

(xiv) Section 218 of the Michigan penal code, 1931 PA 328, MCL 750.218 (false pretenses).

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

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

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

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

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

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

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

(xxii) Section 479a of the Michigan penal code, 1931 PA 328, MCL 750.479a (failure to obey police direction).

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

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

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

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

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

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

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

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

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

(9) An individual, after submitting an application and paying the fee prescribed under subsection (5), shall request and have classifiable fingerprints taken by the county sheriff or a local police agency. The county sheriff or local police agency shall take the fingerprints within 5 business days after the request.

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

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

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

(13) Subject to subsections (10) and (14), the concealed weapon licensing board shall issue or deny issuance of a license within 45 days after the concealed weapon licensing

board receives the fingerprint comparison report provided under subsection (10). If the concealed weapon licensing board denies issuance of a license to carry a concealed pistol, the concealed weapon licensing board shall within 5 business days do both of the following:

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

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

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

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

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

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

(16) If a concealed weapons licensing board suspends or revokes a license issued under this act, the license is forfeited and shall be returned to the concealed weapons licensing board forthwith.

(17) As used in this section:

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

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

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

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

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

28.425c License; form; authorized conduct.

Sec. 5c. (1) A license to carry a concealed pistol shall be in a form, with the same dimensions as a Michigan operator license, prescribed by the department of state police. The license shall contain all of the following:

- (a) The licensee’s full name and date of birth.
- (b) A photograph and a physical description of the licensee.
- (c) A statement of the effective dates of the license.
- (d) An indication of exceptions authorized by this act applicable to the licensee.
- (e) An indication whether the license is a duplicate.

(2) Subject to section 5o and except as otherwise provided by law, a license to carry a concealed pistol issued by the county concealed weapon licensing board authorizes the licensee to do all of the following:

- (a) Carry a pistol concealed on or about his or her person anywhere in this state.
- (b) Carry a pistol in a vehicle, whether concealed or not concealed, anywhere in this state.

28.425d Denial or failure to issue license; appeal.

Sec. 5d. (1) If the concealed weapon licensing board denies issuance of a license to carry a concealed pistol, or fails to issue that license as provided in this act, the applicant may appeal the denial or the failure to issue the license to the circuit court in the judicial circuit in which he or she resides. The appeal of the denial or failure to issue a license shall be determined by a review of the record for error, except that if the decision of the concealed weapon licensing board was based upon grounds specified in section 5b(7)(n) that portion of the appeal shall be by hearing de novo. Witnesses in the hearing shall be sworn. A jury shall not be provided in a hearing under this section.

(2) If the court determines that the denial or failure to issue a license was clearly erroneous, the court shall order the concealed weapon licensing board to issue a license as required by this act.

(3) If the court determines that the decision of the concealed weapon licensing board to deny issuance of a license to an applicant was arbitrary and capricious, the court shall order this state to pay 1/3 and the county in which the concealed weapon licensing board is located to pay 2/3 of the actual costs and actual attorney fees of the applicant in appealing the denial.

(4) If the court determines that an applicant’s appeal was frivolous, the court shall order the applicant to pay the actual costs and actual attorney fees of the concealed weapon licensing board in responding to the appeal.

28.425f Concealed pistol license; possession; disclosure; violation; penalty; seizure; forfeiture.

Sec. 5f. (1) An individual who is licensed under this act to carry a concealed pistol shall have his or her license to carry that pistol in his or her possession at all times he or she is carrying a concealed pistol.

(2) An individual who is licensed under this act to carry a concealed pistol and who is carrying a concealed pistol shall show both of the following to a peace officer upon request by that peace officer:

(a) His or her license to carry a concealed pistol.

(b) His or her driver license or Michigan personal identification card.

(3) An individual licensed under this act to carry a concealed pistol and who is carrying a concealed pistol and who is stopped by a peace officer shall immediately disclose to the peace officer that he or she is carrying a pistol concealed upon his or her person or in his or her vehicle.

(4) An individual who violates subsection (1) or (2) is responsible for a state civil infraction and may be fined not more than \$100.00.

(5) An individual who violates subsection (3) is responsible for a state civil infraction and may be fined as follows:

(a) For a first offense, by a fine of not more than \$500.00 or by the individual's license to carry a concealed pistol being suspended for 6 months, or both.

(b) For a subsequent offense within 3 years of a prior offense, by a fine of not more than \$1,000.00 and by the individual's license to carry a concealed pistol being revoked.

(6) If an individual is found responsible for a state civil infraction under this section, the court shall notify the department of state police and the concealed weapon licensing board that issued the license of that determination.

(7) A pistol carried in violation of this section is subject to immediate seizure by a peace officer. If a peace officer seizes a pistol under this subsection, the individual has 45 days in which to display his or her license or documentation to an authorized employee of the law enforcement entity that employs the peace officer. If the individual displays his or her license or documentation to an authorized employee of the law enforcement entity that employs the peace officer within the 45-day period, the authorized employee of that law enforcement entity shall return the pistol to the individual unless the individual is prohibited by law from possessing a firearm. If the individual does not display his or her license or documentation within the 45-day period, the pistol is subject to forfeiture as provided in section 5g. A pistol is not subject to immediate seizure under this subsection if both of the following circumstances exist:

(a) The individual has his or her driver license or Michigan personal identification card in his or her possession when the violation occurs.

(b) The peace officer verifies through the law enforcement information network that the individual is licensed under this act to carry a concealed pistol.

28.425j Pistol training or safety program; conditions.

Sec. 5j. (1) A pistol training or safety program described in section 5b(7)(c) meets the requirements for knowledge or training in the safe use and handling of a pistol only if the program consists of 8 hours of instruction and all of the following conditions are met:

(a) The program is certified by this state or a national or state firearms training organization and provides 5 hours of instruction in, but is not limited to providing instruction in, all of the following:

(i) The safe storage, use, and handling of a pistol including, but not limited to, safe storage, use, and handling to protect child safety.

(ii) Ammunition knowledge, and the fundamentals of pistol shooting.

(iii) Pistol shooting positions.

(iv) Firearms and the law, including civil liability issues and the use of deadly force. This portion shall be taught by an attorney or an individual trained in the use of deadly force.

(v) Avoiding criminal attack and controlling a violent confrontation.

(vi) All laws that apply to carrying a concealed pistol in this state.

(b) The program provides at least 3 hours of instruction on a firing range and requires firing at least 30 rounds of ammunition.

(c) The program provides a certificate of completion that states the program complies with the requirements of this section and that the individual successfully completed the course, and that is signed by the course instructor.

(d) The instructor of the course is certified by this state or a national organization to teach the 8-hour pistol safety training course described in this section.

(2) A person shall not do either of the following:

(a) Grant a certificate of completion described under subsection (1)(c) to an individual knowing the individual did not satisfactorily complete the course.

(b) Present a certificate of completion described under subsection (1)(c) to a concealed weapon licensing board knowing that the individual did not satisfactorily complete the course.

(3) A person who violates subsection (2) is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,500.00, or both.

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

Sec. 5l. (1) A license to carry a concealed pistol issued before July 1, 2003 is valid for 3 years and a license to carry a concealed pistol issued on or after July 1, 2003 is valid for 5 years. A renewal of a license under section 5b shall be issued in the same manner as an original license issued under section 5b.

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

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

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

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

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

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

(c) A sports arena or stadium.

(d) A bar or tavern licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, where the primary source of income of the business is the sale

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

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

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

(g) A hospital.

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

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

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

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

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

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

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

(d) Any of the following who is licensed under this act while on duty and in the course of his or her employment:

(i) A corrections officer of a county sheriff’s department.

(ii) A motor carrier officer or capitol security officer of the department of state police.

(iii) A member of a sheriff’s posse.

(iv) An auxiliary officer or reserve officer of a police or sheriff’s department.

(v) A parole or probation officer of the department of corrections.

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

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

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

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

28.432a Persons to whom requirements inapplicable.

Sec. 12a. The requirements of this act for obtaining a license to carry a concealed pistol do not apply to any of the following:

(a) A peace officer of a duly authorized police agency of the United States or of this state or a political subdivision of this state, who is regularly employed and paid by the United States or this state or a subdivision of this state, except a township constable.

(b) A constable who is trained and certified under the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616, while engaged in his or her official duties or going to or coming from his or her official duties, and who is regularly employed and paid by a political subdivision of this state.

(c) A person regularly employed by the department of corrections and authorized in writing by the director of the department of corrections to carry a concealed pistol during the performance of his or her duties or while going to or returning from his or her duties.

(d) A member of the United States army, air force, navy, or marine corps while carrying a concealed pistol in the line of duty.

(e) A member of the national guard, armed forces reserves, or other duly authorized military organization while on duty or drill or while going to or returning from his or her place of assembly or practice or while carrying a concealed pistol for purposes of that military organization.

(f) A resident of another state who is licensed by that state to carry a concealed pistol.

(g) The regular and ordinary transportation of a pistol as merchandise by an authorized agent of a person licensed to manufacture firearms.

(h) A person while carrying a pistol unloaded in a wrapper or container in the trunk of his or her vehicle or, if the vehicle does not have a trunk, from transporting that pistol unloaded in a locked compartment or container that is separated from the ammunition for that pistol from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business, or in moving goods from 1 place of abode or business to another place of abode or business.

(i) A peace officer or law enforcement officer from Canada.

Effective date.

Enacting section 1. This amendatory act takes effect July 1, 2003.

This act is ordered to take immediate effect.

Approved December 30, 2002.

Filed with Secretary of State December 30, 2002.

[No. 720]**(HB 5149)**

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 535 (MCL 750.535), as amended by 1998 PA 311.

The People of the State of Michigan enact:

750.535 Buying, receiving, possessing, concealing, or aiding in concealment of stolen, embezzled, or converted property or motor vehicle; violation; penalty; rebuttable presumption; enhanced sentence based on prior convictions.

Sec. 535. (1) A person shall not buy, receive, possess, conceal, or aid in the concealment of stolen, embezzled, or converted money, goods, or property knowing the money, goods, or property is stolen, embezzled, or converted.

(2) If any of the following apply, a person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine:

(a) The property purchased, received, possessed, or concealed has a value of \$20,000.00 or more.

(b) The person violates subsection (3)(a) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(3) If any of the following apply, a person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine:

(a) The property purchased, received, possessed, or concealed has a value of \$1,000.00 or more but less than \$20,000.00.

(b) The person violates subsection (4)(a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(4) If any of the following apply, a person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine:

(a) The property purchased, received, possessed, or concealed has a value of \$200.00 or more but less than \$1,000.00.

(b) The person violates subsection (5) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(5) If the property purchased, received, possessed, or concealed has a value of less than \$200.00, a person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine.

(6) The values of property purchased, received, possessed, or concealed in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property purchased, received, possessed, or concealed.

(7) A person shall not buy, receive, possess, conceal, or aid in the concealment of a stolen motor vehicle knowing that the motor vehicle is stolen, embezzled, or converted. A person who violates this subsection is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the motor vehicle purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine. A person who is charged with, convicted of, or punished for a violation of this subsection shall not be convicted of or punished for a violation of another provision of this section arising from the purchase, receipt, possession, concealment, or aiding in the concealment of the same motor vehicle. This subsection does not prohibit the person from being charged, convicted, or punished under any other applicable law.

(8) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

- (a) A copy of the judgment of conviction.
- (b) A transcript of a prior trial, plea-taking, or sentencing.
- (c) Information contained in a presentence report.
- (d) The defendant's statement.

(9) A person who is a dealer in or collector of merchandise or personal property, or the agent, employee, or representative of a dealer or collector of merchandise or personal property who fails to reasonably inquire whether the person selling or delivering the stolen, embezzled, or converted property to the dealer or collector has a legal right to do so or who buys or receives stolen, embezzled, or converted property that has a registration, serial, or other identifying number altered or obliterated on an external surface of the property, is presumed to have bought or received the property knowing the property is stolen, embezzled, or converted. This presumption is rebuttable.

(10) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2003.

Approved December 30, 2002.

Filed with Secretary of State December 30, 2002.

[No. 721]**(SB 717)**

AN ACT to amend 1972 PA 230, entitled “An act to create a construction code commission and prescribe its functions; to authorize the director to promulgate rules with recommendations from each affected board relating to the construction, alteration, demolition, occupancy, and use of buildings and structures; to prescribe energy conservation standards for the construction of certain buildings; to provide for statewide approval of premanufactured units; to provide for the testing of new devices, materials, and techniques for the construction of buildings and structures; to define the classes of buildings and structures affected by the act; to provide for administration and enforcement of the act; to create a state construction code fund; to prohibit certain conduct; to establish penalties, remedies, and sanctions for violations of the act; to repeal acts and parts of acts; and to provide an appropriation,” by amending section 19 (MCL 125.1519).

The People of the State of Michigan enact:

125.1519 Premanufactured units; certificate of acceptability; rules; building permit; fee; objections; hearing.

Sec. 19. (1) The department shall promulgate rules establishing a procedure by which a premanufactured unit intended for use in this state may be issued a certificate of acceptability by the department at its place of manufacture.

(2) The procedure shall require that the manufacturer submit to the department detailed plans and specifications for the premanufactured unit for approval as in compliance with the code. The department may require that the manufacturer submit test results on the premanufactured unit or its components, any material or information the department considers relevant, or 1 or more of the premanufactured units for testing and evaluation by the department.

(3) Each premanufactured unit shall be inspected by the department, or a qualified person approved by the department, to determine that the premanufactured unit has been manufactured in accordance with plans and specifications submitted under subsection (2). The department may issue a certificate of acceptability for a premanufactured unit that bears the approved label of an independent, nationally recognized body having follow-up inspection service satisfactory to the commission, certifying that the premanufactured unit complies with plans and specifications submitted under subsection (2).

(4) Plans and specifications for 1- and 2-family dwelling premanufactured units may be reviewed by the department or by an independent entity approved by the commission under rules promulgated by the department. The department shall establish submission procedures for plans and specifications reviewed by an independent entity approved by the commission.

(5) A local enforcing agency may also inspect a premanufactured unit at its place of manufacture to determine that it has been manufactured in accordance with plans and specifications submitted under subsection (2) and shall advise the state inspector and the commission in writing of any deviations found.

(6) An approved independent entity shall not conduct in-plant inspections of units for which it performed plan reviews. However, the manufacturer may request a variance from the commission if the literal application of the requirements of this section would result in an exceptional, practical difficulty relating to inspection of specific units. For purposes of this subsection, “exceptional, practical difficulty” includes, but is not limited

to, a geographic distance between the manufacturing facility where the units are manufactured and the primary business location of the independent entity that conducts in-plant inspections on behalf of the manufacturer of more than 250 miles and is located in another state.

(7) If an application for a building permit specifying use of a premanufactured unit with a certificate of acceptability is submitted to an enforcing agency, and if the application, except for the part calling for use of a premanufactured unit with a certificate of acceptability, complies with applicable construction regulations, zoning laws, and local ordinances, the enforcing agency shall issue the building permit within the time specified in this act.

(8) At the time of installation, a premanufactured unit with a certificate of acceptability is subject only to the nondestructive tests approved by the department necessary to determine that it has not been damaged in transit or installation, and that it has been installed in accordance with the building permit and construction regulations.

(9) The fees established for a building permit when the application specifies use of a premanufactured unit with a certificate of acceptability, or for inspection of the installation of the premanufactured unit shall bear a reasonable relation to the costs incurred by the enforcing agency in issuing a permit or performing an inspection.

(10) Notwithstanding any other provision of this section, an enforcing agency may object to use of a premanufactured unit with a certificate of acceptability on the basis that the premanufactured unit does not comply with the code. If an enforcing agency on receipt of an application for a building permit specifying the use of a premanufactured unit does object, it may set forth its objections in writing to the department before issuance of a building permit and within 10 business days after receipt of the application. Within 10 business days after receipt of the objections, the commission, or a panel of 3 or more members designated for that purpose by its chairman, shall hold a hearing on the objections in accordance with rules promulgated by the department. After the hearing, the commission, or its panel, within 3 business days shall determine 1 of the following:

(a) The premanufactured unit does not comply with the code and order that the certificate of acceptability be voided.

(b) The premanufactured unit requires additional testing and evaluation in which case the testing and evaluation shall be conducted in accordance with this section.

(c) The objections are not valid and order the enforcing agency to issue the building permit within 3 business days.

(11) A certificate of acceptability issued by the department shall not be used for advertising purposes.

This act is ordered to take immediate effect.

Approved December 30, 2002.

Filed with Secretary of State December 30, 2002.

[No. 722]

(HB 5858)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of

evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 503 (MCL 750.503).

The People of the State of Michigan enact:

750.503 Punishment of felonies when not fixed by statute.

Sec. 503. If a person is convicted of a felony for which no punishment is specially prescribed, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$5,000.00, or both.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1028 of the 91st Legislature is enacted into law.

Approved December 30, 2002.

Filed with Secretary of State December 30, 2002.

Compiler's note: Senate Bill No. 1028, referred to in enacting section 1, was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 723, Eff. Mar. 31, 2003.

[No. 723]

(SB 1028)

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 504 (MCL 750.504).

The People of the State of Michigan enact:

750.504 Punishment of misdemeanors when not fixed by statute.

Sec. 504. If a person is convicted of a crime designated in this act or in any other act of this state to be a misdemeanor for which no punishment is specially prescribed, the person is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

Approved December 30, 2002.

Filed with Secretary of State December 30, 2002.

[No. 724]

(HB 5680)

AN ACT to amend 1945 PA 47, entitled “An act to authorize 2 or more cities, townships, and villages, or any combination of cities, townships, and villages, to

incorporate a hospital authority for planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining, and operating 1 or more community hospitals and related buildings or structures and related facilities; to provide for the sale, lease, or other transfer of a hospital owned by a hospital authority to a nonprofit corporation established under the laws of this state for no or nominal monetary consideration; to define hospitals and community hospitals; to provide for changes in the membership therein; to authorize the cities, townships, and villages to levy taxes for community hospital purposes; to provide for the issuance of bonds; to provide for the pledge of assessments; to provide for borrowing money for operation and maintenance and issuing notes for operation and maintenance; to validate elections heretofore held and notes heretofore issued; to validate bonds heretofore issued; to authorize condemnation proceedings; to grant certain powers of a body corporate; to validate and ratify the organization, existence, and membership of entities acting as hospital authorities under the act and the actions taken by hospital authorities and by the members of the hospital authorities; and to prescribe penalties and provide remedies,” by amending sections 5, 6, and 7 (MCL 331.5, 331.6, and 331.7), section 5 as amended by 1984 PA 17 and section 7 as amended by 1983 PA 78.

The People of the State of Michigan enact:

331.5 Hospital board; appointment, qualifications, and terms of members; temporary officers; resolutions removing members at large; duties of secretary; limitation on procedure; first meeting; election of officers; executive committee; medical advisory committee; employees; voting; committees generally; employment of former members.

Sec. 5. (1) The hospital authority shall be directed and governed by a hospital board consisting of 1 member for the first 20,000 population and 1 for each additional 40,000, or fraction thereof, according to the latest or each succeeding federal decennial census for each city, village, or township participating in the hospital authority. The members shall be appointed by the legislative bodies of each participating city, village, or township, and, subject to subsection (2), 7 members at large selected by the appointed members. On the date appointed in the adopting resolutions, or within 30 days after the creation of the hospital authority, the members appointed by the respective cities, villages, and townships, shall convene, elect a temporary chairperson and secretary, and select the members at large by a majority vote. The appointed members shall be electors of the respective appointing cities, villages, or townships and may be members of the legislative bodies of the city, village, or township. The members at large shall be electors of the territory served by the community hospitals. The members at large shall be appointed for staggered terms so that not more than 2 memberships shall expire each year, and succeeding appointments shall be for a term of 4 years. The appointed members shall serve at the pleasure of their respective appointing legislative bodies.

(2) The members at large of a hospital board of a hospital authority whose member jurisdiction has a population of 300,000 or more shall be removed if the legislative bodies of the cities, villages, and townships participating in the hospital authority whose representation constitutes a majority of the members of the hospital board in accordance with their authorized representation on the board, excluding the members at large, adopt a resolution to remove the members at large. The resolutions required by this subsection shall be adopted within the same 90-day period. The resolutions shall be transmitted to the secretary of the hospital board.

(3) Upon receipt of the resolutions required by subsection (2), the secretary of the hospital board shall do all of the following:

(a) Certify the resolutions.

(b) Within 10 days after receipt of the resolutions, notify the members at large in writing that they have been removed from office.

(c) Notify the full hospital board not later than the next regularly scheduled meeting of the hospital board. If the board is not scheduled to hold a regularly scheduled meeting within 90 days after the secretary's receipt of the resolutions, the secretary shall, within 30 days after receipt of the resolutions, notify the other members of the board in writing of the removal from office.

(4) The procedure described in subsection (2) shall not be used or attempted more than once in a 12-month period.

(5) Immediately upon the removal of the members at large the hospital board shall hold its first meeting and organize by electing from its members a chairperson and vice-chairperson, and a secretary and treasurer who shall be members of the hospital board.

(6) The hospital board shall also appoint an executive committee, consisting of the chairperson and 6 other hospital board members. The executive committee shall carry on the active administrative duties of the hospital authority. The executive committee shall hold office at the pleasure of the hospital board. The hospital board shall also appoint a medical advisory committee which shall advise the hospital board with regard to professional problems of hospital operation and to surgical and medical policies including matters pertaining to the development of medical staff bylaws and rules. The members of the medical advisory committee shall be physicians and surgeons licensed pursuant to article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838. The board shall also select and employ other officers and employees and contract for services as are considered necessary to effectuate its purposes.

(7) A member of the board shall not vote on an issue in which the member has a substantial interest.

(8) The hospital board, by resolution, may establish committees, other than the executive committee. The committees shall be constituted and appointed as provided by the hospital board. A committee shall not exercise governing powers of the hospital board but shall make reports and recommendations to the hospital board as the hospital board directs.

(9) A former member of a hospital board who was removed pursuant to subsection (2) shall not be employed by the hospital authority within 2 years after the former member was removed.

331.6 Hospital board; meetings; conducting business at public meeting; notice of meeting; waiver of notice; quorum; record of meeting; availability of record and other writings to public; system of accounts; audit; treasurer's bond; bylaws, rules, and policies; violations; determination of no material assets; resolution.

Sec. 6. (1) After organization, the hospital board, by resolution, shall establish the times for holding regular meetings of the board. Business which the hospital board may perform shall be conducted at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board shall hold other meetings at the call of the chairperson. Public notice of the time, date, and place of meetings shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and the chairperson shall give 3 days' personal or written notice of the time and place of the

meetings to the members. A member of the board may file a written waiver of notice and consent to a board meeting. The chairperson shall call a meeting upon written request of 3 members of the board. A majority of the members shall constitute a quorum. The board shall cause to be kept a written or printed record of each meeting, which record and any other writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) The board shall provide for a system of accounts to conform to a uniform system required by law and for annual auditing of the accounts of the treasurer by a certified public accountant. The board shall require the treasurer to give a suitable bond by a responsible bonding company, to be paid for by the board. The board shall adopt bylaws, rules, and policies governing the operation and professional work of the hospital and the eligibility and qualifications of its medical staff. Physicians, nurses, attendants, employees, patients, and persons approaching or on the premises of the hospital and furniture, equipment, and other articles used or brought on the premises shall be subject to the bylaws, rules, and policies as the hospital board may adopt or authorize to be adopted. The board may deny or revoke staff membership, or suspend or reduce hospital privileges to a physician who violates a provision of the medical staff bylaws, rules, and policies.

(3) The medical advisory committee, with the approval of the hospital board, shall adopt rules and policies governing the professional work of the hospitals and the eligibility and qualifications of their medical staffs. The rules and policies shall conform, as nearly as practicable, to the applicable standards recommended by the joint commission on accreditation of hospitals.

(4) If an audit completed pursuant to subsection (2) shows that the authority has gross assets, without accounting for any liabilities, of less than \$20,000.00, and if the authority is not then directly or indirectly engaged in the operation of a hospital, the board may adopt a resolution stating that the authority has no material assets. The adoption of the resolution shall be made at a public meeting held in compliance with this section and with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A board that has adopted such a resolution shall continue to function in compliance with sections 5 and 7 and this section except for the following:

(a) The board need not meet at the regular times established under this section.

(b) The board need not complete an annual budget pursuant to section 7.

(c) The board may take action by a written consent of the board members signed by a number of board members equal to the number of members necessary to approve such action at a meeting at which all the board members attended, but only for the purpose of electing members at large to the board of the authority and not for the purpose of removing members at large. Such a written action shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(5) A determination of no material assets, as provided for in subsection (4), shall remain in effect until the authority begins directly or indirectly to engage in the operation of a hospital or until the authority's gross assets, without accounting for any liabilities, increase to \$20,000.00. Immediately upon the happening of either event, or at any other time at the discretion of the board, the determination of no material assets shall cease and the board shall resume all of the actions required of it before the determination of no material assets.

(6) Any residual value resulting from an authority's potential right to retake possession of a hospital or other property previously sold or transferred pursuant to section 9 is not included as part of the authority's assets for making a determination of no material assets under subsection (4).

331.7 Balanced budget; preparation; contents; notice of public hearing; adoption of budget; determining respective shares of cities, townships, and villages; assessed valuations; tax levy; certification of amounts to be raised; tax limitation; payment and liability for amounts certified; reports.

Sec. 7. (1) Except as otherwise provided in section 6, by April 1 of each year, the hospital board shall cause a balanced budget to be prepared containing an itemized statement of the estimated current expenses and the expenses for capital outlay, including the amount necessary to pay the principal and interest of any outstanding bonds or other obligations of the authority maturing before the time of the following year's tax collection or which have previously matured and are unpaid, and an estimate of the revenue of the hospital authority from all sources for the ensuing fiscal year. The board shall publish notice of a public hearing on the budget stating the time and place. Notice of hearing shall be furnished the legislative body of each city, village, or township participating in the hospital authority.

(2) After the public hearing, the board shall adopt the budget as shall be considered necessary and shall ascertain what amount is required to be raised by taxation from the several cities, townships, and villages to meet their respective shares of the amount of the budget in excess of the estimated other revenues. The share of each city, village, and township shall be determined on the basis of their respective valuations as finally equalized. The assessed valuation of a township for the purpose shall be exclusive of the property within a village which, as a corporate entity, is a member of the authority, and the assessed valuation of a member village shall be computed pursuant to the township assessment roll so as to afford a uniform assessment basis. A member township containing in whole or in part a member village shall levy taxes under this act only against property located outside the village. The board shall certify to each participating city, township, and village the amount to be raised by them and the respective cities, townships, and villages shall include those amounts in their next ensuing budgets, and shall pay the amount so certified from funds they have available or from the proceeds of a tax which they are authorized to levy, in an amount sufficient therefor, but not exceeding the tax limitation provided in this act exclusive of any amount voted for capital improvements under section 4 or necessary to pay principal and interest on bonds issued under section 8b. A village located in a township that is also a member of the authority, by agreement with the township, may have the township include the village property in a tax assessment under this act, collect the money assessed, and pay it to the village for payment of its share to the authority. Payment of the sums certified shall be due and payable to the hospital authority 120 days after the date on which local taxes become due and payable in cities, villages, and townships participating in the hospital authority except that when a township collects a village portion, the amount due from the village shall not be due to the authority until the township portion is due. Each city, township, and village shall be liable for the amount certified.

(3) The board shall also render to each participating city, township, and village on each July 1 and January 1 a certified report pertaining to the operation of the hospital. Each report shall state the condition of the finances, the amount of money expended, the money received from all sources, the money owing to the board for hospital and medical services, and other information as the board may consider expedient. The board shall also file a copy of the report with the department of treasury together with other information as the department of treasury may require.

(4) Within 30 days after the formation of a new hospital authority, and annually on July 1 thereafter, the hospital board shall file with the secretary of state a report as the

secretary of state may require, including the date of formation, the names of the member communities, and other information the secretary of state may require.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 725]

(SB 1401)

AN ACT to amend 1998 PA 58, entitled “An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts,” by amending sections 513, 531, 701, 705, 905, 1021, and 1025 (MCL 436.1513, 436.1531, 436.1701, 436.1705, 436.1905, 436.2021, and 436.2025), section 513 as amended by 2000 PA 344 and section 531 as amended by 2001 PA 223, and by adding section 518.

The People of the State of Michigan enact:

436.1513 Licenses; issuance to governing board of college or university; restrictions and prohibition; sale of alcoholic liquor on hotel premises located on land owned by central Michigan university; license to private entity; conditions; nontransferability; fee; “college,” “university,” and “conference center” defined.

Sec. 513. (1) The commission may issue to the governing board of a college or university, without regard to the quota provisions of section 531, a license to sell alcoholic liquor for consumption on the premises of a conference center operated by the governing board. Licenses granted under this subsection may be used only for the sale of alcoholic liquor at regularly scheduled conference center activities. The sale of alcoholic liquor to unscheduled patrons or at unscheduled events is prohibited under this subsection.

(2) Subject to the provisions of section 531, the commission may issue a license to a private entity for the sale of alcoholic liquor for consumption on the premises of a hotel located on land owned by central Michigan university if both of the following circumstances exist:

(a) The land is leased or subleased at fair market value to a private entity that owns, leases, or subleases the hotel building and its fixtures.

(b) The hotel and land are located within an industrial, research, or commercial development park established by the governing board of central Michigan university.

(3) Licenses issued pursuant to this section are nontransferable, and the licensee shall pay the fee required under section 525.

(4) As used in this section:

(a) “College” or “university” means a 2-year or 4-year state supported institution of higher education.

(b) “Conference center” means a building or portion of a building, other than a student residence hall or student center, which has meeting rooms, banquet areas, social halls, overnight accommodations, and related facilities for special activities scheduled by the college or university, which in the judgment of the commission, has been regularly used for conferences and lodging of guests. The convocation center and the corporate education center at eastern Michigan university, the Kirkhof and Eberhard centers at Grand Valley state university, the Bernhard center at western Michigan university, the Wadsworth center at Michigan technological university, the West complex at Saginaw Valley state university, the conference center at Big Rapids, the applied technology center at Grand Rapids and the FSU-GR conference center of Ferris state university, Grand Rapids junior college, the Waterman campus center at Schoolcraft college, the Mendel center at Lake Michigan community college, the McGregor memorial conference center at Wayne state university, the Michigan state university management educational center, the Superior dome at northern Michigan university, Walker Cisler center at Lake Superior state university, the Marie Prahl college center at Mott community college, and the farmhouse at Delta college are considered conference centers for the purposes of this act.

436.1518 Definitions; consumption of alcohol on premises of motorsports entertainment complex.

Sec. 518. (1) As used in this section:

(a) “Motorsports entertainment complex” means a closed-course motorsports facility and its ancillary grounds that comply with all of the following:

(i) Has at least 70,000 fixed seats for race patrons.

(ii) Has at least 7 scheduled days of motorsports events each calendar year.

(iii) Has at least 4 motorsports events each calendar year.

(iv) Serves food and beverages at the facility during sanctioned events each calendar year through concession outlets, a majority of which are staffed by individuals who represent or are members of 1 or more nonprofit civic or charitable organizations that directly financially benefit from the concession outlets’ sales.

(v) Engages in tourism promotion.

(vi) Has located on the property exhibitions of motorsports history, events, or vehicles.

(b) “Motorsports event” means a motorsports race and its ancillary activities that have been sanctioned by a sanctioning body.

(c) “Owner” means a person who owns and operates a motorsports entertainment complex.

(d) “Sanctioning body” means the American motorcycle association (AMA); auto racing club of America (ARCA); championship auto racing teams (CART); grand American road racing association (GRAND AM); Indy racing league (IRL); national association for stock car auto racing (NASCAR); nation hot rod association (NHRA); professional sportscar racing (PSR); sports car club of america (SCCA); United States auto club (USAC); or any

successor organization or any other nationally or internationally recognized governing body of motorsports that establishes an annual schedule of motorsports events and grants rights to conduct the events, that has established and administers rules and regulations governing all participants involved in the events and all persons conducting the events, and that requires certain liability assurances, including insurance.

(2) For a period of time not to exceed 7 consecutive days during which public access is permitted to a motorsports entertainment complex in connection with a motorsports event, members of the general public at least 21 years or older may bring alcoholic liquor not purchased at the motorsports entertainment complex into the motorsports entertainment complex and possess and consume that alcoholic liquor. Possession and consumption of alcoholic liquor under this section are allowed in portions of the motorsports entertainment complex open to the general public that are also part of the licensed premises of a retail licensee only under both of the following circumstances:

(a) The licensed premises are located within the motorsports entertainment complex.

(b) The retail licensee holds a license for consumption on the licensed premises of the motorsports entertainment complex.

(3) A person holding a license for the sale of alcoholic liquor for consumption on the premises at a motorsports entertainment complex is subject to the civil liability provisions of section 801 if the civil action is brought by or on behalf of an individual who suffers damage or is personally injured by a minor or visibly intoxicated person by reason of the unlawful consumption of alcoholic liquor on the licensed premises by that minor or visibly intoxicated person if the unlawful consumption is proven to be a proximate cause of the damage, injury, or death of the individual, whether the alcoholic liquor was sold or furnished by the licensee or was brought onto the licensed premises under subsection (2).

436.1531 Public licenses and resort licenses; on-premise escrowed licenses; limitations and quotas; additional licenses for certain establishments; license for certain events at public university; economic development factors; exceptions as to certain veterans and airports; special state census of local governmental unit; rules; availability of transferable licenses held in escrow; on-premise escrowed or quota license; issuance of available licenses; report; hotels; definitions.

Sec. 531. (1) A public license shall not be granted for the sale of alcoholic liquor for consumption on the premises in excess of 1 license for each 1,500 of population or major fraction thereof. On-premises escrowed licenses issued under this subsection may be transferred subject to local legislative approval under section 501(2) to an applicant whose proposed operation is located within any local governmental unit in a county with a population of under 500,000 or a county with a population of over 700,000 in which the escrowed license was located. If the local governmental unit within which the former licensee's premises were located spans more than 1 county, an escrowed license is available subject to local legislative approval under section 501(2) to an applicant whose proposed operation is located within any local governmental unit in either county. If an escrowed license is activated within a local governmental unit other than that local governmental unit within which the escrowed license was originally issued, the commission shall count that activated license against the local governmental unit originally issuing the license. This quota does not bar the right of an existing licensee to renew a license or transfer the license and does not bar the right of an on-premise licensee of any class to reclassify to another class of on-premises license in a manner not in violation of law or this act, subject to the consent of the commission. The upgrading of a

license resulting from a request under this subsection shall be approved by the local governmental unit having jurisdiction.

(2) In a resort area, the commission may issue 1 or more licenses for a period not to exceed 12 months without regard to a limitation because of population, but not in excess of 550, and with respect to the resort license the commission, by rule, shall define and classify resort seasons by months and may issue 1 or more licenses for resort seasons without regard to the calendar year or licensing year.

(3) In addition to the resort licenses authorized in subsection (2), the commission may issue not more than 10 additional licenses per year for the years 2003 and 2004 to establishments whose business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area, whose primary purpose is not for the sale of alcoholic liquor, and whose capital investment in real property, leasehold improvement, and fixtures for the premises to be licensed is \$75,000.00 or more. Further, the commission shall issue 1 license under this subsection for the years 2003 and 2004 to an applicant located in a rural area that has a poverty rate, as defined by the latest decennial census, greater than the statewide average, or that is located in a rural area that has an unemployment rate higher than the statewide average for 3 of the 5 preceding years. In counties having a population of less than 50,000, as determined by the last federal decennial census or as determined pursuant to subsection (11) and subject to subsection (16) in the case of a class A hotel or a class B hotel, the commission shall not require the establishments to have dining facilities to seat more than 50 persons. The commission may cancel the license if the resort is no longer active or no longer qualifies for the license. Before January 16 of each year the commission shall transmit to the legislature a report giving details as to the number of applications received under this subsection; the number of licenses granted and to whom; the number of applications rejected and the reasons; and the number of the licenses revoked, suspended, or other disciplinary action taken and against whom and the grounds for revocation, suspension, or disciplinary action.

(4) In addition to any licenses for the sale of alcoholic liquor for consumption on the premises that may be available in the local governmental unit under subsection (1) and the resort licenses authorized in subsections (2) and (3), the commission may issue not more than 20 resort economic development licenses per year for the years 2003 and 2004. A person is eligible to apply for a resort economic development license under this subsection upon submitting an application to the commission and demonstrating all of the following:

(a) The establishment's business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area.

(b) The establishment's primary business is not the sale of alcoholic liquor.

(c) The capital investment in real property, leasehold improvement, fixtures, and inventory for the premises to be licensed is in excess of \$1,500,000.00.

(d) The establishment does not allow or permit casino gambling on the premises.

(5) In governmental units having a population of 50,000 persons or less, as determined by the last federal decennial census or as determined pursuant to subsection (11), in which the quota of specially designated distributor licenses, as provided by commission rule, has been exhausted, the commission may issue not more than a total of 10 additional specially designated distributor licenses per year for the years 2003 and 2004 to established merchants whose business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area. A specially designated distributor license issued pursuant to this subsection may be issued at a location within 2,640 feet of existing specially designated distributor license locations. A specially

designated distributor license issued pursuant to this subsection shall not bar another specially designated distributor licensee from transferring location to within 2,640 feet of said licensed location. A specially designated distributor license issued pursuant to section 533 may be located within 2,640 feet of a specially designated distributor license issued pursuant to this subsection.

(6) In addition to any licenses for the sale of alcoholic liquor for consumption on the premises that may be available in the local governmental unit under subsection (1), and the resort or resort economic development licenses authorized in subsections (2), (3), and (4), and notwithstanding section 519, the commission may issue not more than 5 additional special purpose licenses in any calendar year for the sale of beer and wine for consumption on the premises. A special purpose license issued pursuant to this subsection shall be issued only for events which are to be held from May 1 to September 30, are artistic in nature, and which are to be held on the campus of a public university with an enrollment of 30,000 or more students. A special purpose license shall be valid for 30 days or for the duration of the event for which it is issued, whichever is less. The fee for a special purpose license shall be \$50.00. A special purpose license may be issued only to a corporation which is all of the following:

(a) Is a nonprofit corporation organized pursuant to the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(b) Has a board of directors constituted of members of whom half are elected by the public university at which the event is scheduled and half are elected by the local governmental unit.

(c) Has been in continuous existence for not less than 6 years.

(7) Notwithstanding the local legislative body approval provision of section 501(2) and notwithstanding the provisions of section 519, the commission may issue, without regard to the quota provisions of subsection (1) and with the approval of the governing board of the university, either a tavern or class C license which may be used only for regularly scheduled events at a public university's established outdoor program or festival at a facility on the campus of a public university having a head count enrollment of 10,000 students or more. A license issued under this subsection may only be issued to the governing board of a public university, a person that is the lessee or concessionaire of the governing board of the university, or both. A license issued under this subsection is not transferable as to ownership or location. A license issued under this subsection may not be issued at an outdoor stadium customarily used for intercollegiate athletic events.

(8) In issuing a resort or resort economic development license under subsection (3), (4), or (5), the commission shall consider economic development factors of the area in the issuance of licenses to establishments designed to stimulate and promote the resort and tourist industry. The commission shall not transfer a resort or resort economic development license issued under subsection (3), (4), or (5) to another location. If the licensee goes out of business the license shall be surrendered to the commission.

(9) The limitations and quotas of this section are not applicable to the issuance of a new license to a veteran of the armed forces of the United States who was honorably discharged or released under honorable conditions from the armed forces of the United States and who had by forced sale disposed of a similar license within 90 days before or after entering or while serving in the armed forces of the United States, as a part of the person's preparation for that service if the application for a new license is made for the same governmental unit in which the previous license was issued and within 60 days after the discharge of the applicant from the armed forces of the United States.

(10) The limitations and quotas of this section shall not be applicable to the issuance of a new license or the renewal of an existing license where the property or establishment

to be licensed is situated in or on land on which an airport owned by a county or in which a county has an interest is situated.

(11) For purposes of implementing this section a special state census of a local governmental unit may be taken at the expense of the local governmental unit by the federal bureau of census or the secretary of state under section 6 of the home rule city act, 1909 PA 279, MCL 117.6. The special census shall be initiated by resolution of the governing body of the local governmental unit involved. The secretary of state may promulgate additional rules necessary for implementing this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(12) Before granting an approval as required in section 501(2) for a license to be issued under subsection (2), (3), or (4), a local legislative body shall disclose the availability of transferable licenses held in escrow for more than 1 licensing year within that respective local governmental unit. Public notice of the meeting to consider the granting of the license by the local governmental unit shall be made 2 weeks before the meeting.

(13) The person signing the application for an on-premise resort or resort economic development license shall state and verify that he or she attempted to secure an on-premise escrowed or quota license and that, to the best of his or her knowledge, an on-premise escrowed or quota license is not readily available within 1 of the following:

(a) In a county with a population under 500,000 or over 700,000, the county in which the applicant for the on-premise resort or resort economic development license proposes to operate.

(b) In a county not described in subdivision (a), the local governmental unit in which the applicant for the on-premise resort or resort economic development license proposes to operate.

(14) The commission shall not issue an on-premise resort or resort economic development license if the local governmental unit or county, as appropriate, within which the resort or resort economic development license applicant proposes to operate has not issued all on-premise licenses available under subsection (1) or if an on-premise escrowed license exists and is readily available within the local governmental unit in which the applicant for the on-premise resort or resort economic development license proposes to operate. The commission may waive the provisions of this subsection upon a showing of good cause.

(15) The commission shall annually report to the legislature the names of the businesses issued licenses under this section and their locations.

(16) The commission shall not require a class A hotel or a class B hotel licensed pursuant to subsection (2), (3), or (4) to provide food service to registered guests or to the public.

(17) Subject to the limitation and quotas of subsection (1) and to local legislative approval under section 501(2), the commission may approve the transfer of ownership and location of an on-premises escrowed license within the same county to a class G-1 or class G-2 license or may approve the reclassification of an existing on-premises license at the location to be licensed to a class G-1 license or to a class G-2 license, subject to subsection (1). Resort or economic development on-premises licenses created under subsection (3) or (4) may not be issued as, or reclassified to, a class G-1 or class G-2 license.

(18) As used in this section:

(a) "Escrowed license" means a license in which the rights of the licensee in the license or to the renewal of the license are still in existence and are subject to renewal and activation in the manner provided for in R 436.1107 of the Michigan administrative code.

(b) “Readily available” means available under a standard of economic feasibility, as applied to the specific circumstances of the applicant, that includes, but is not limited to, the following:

(i) The fair market value of the license, if determinable.

(ii) The size and scope of the proposed operation.

(iii) The existence of mandatory contractual restrictions or inclusions attached to the sale of the license.

436.1701 Selling or furnishing alcoholic liquor to person less than 21 years of age; failure to make diligent inquiry; misdemeanor; signs; consumption of alcoholic liquor as cause of death or injury; felony; enforcement against licensee; consent of parent or guardian in undercover operation; defense in action for violation; report; definitions.

Sec. 701. (1) Alcoholic liquor shall not be sold or furnished to a minor. Except as otherwise provided in subsection (2) and subject to subsections (4), (5), and (6), a person who knowingly sells or furnishes alcoholic liquor to a minor, or who fails to make diligent inquiry as to whether the person is a minor, is guilty of a misdemeanor. A retail licensee or a retail licensee’s clerk, agent, or employee who violates this subsection shall be punished in the manner provided for licensees in section 909 except that if the violation is the result of an undercover operation in which the minor received alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action, the retail licensee’s clerk, agent, or employee is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00. Except as otherwise provided in subsection (2), a person who is not a retail licensee or a retail licensee’s clerk, agent, or employee and who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 and imprisonment for not more than 60 days for a first offense, a fine of not more than \$2,500.00 and imprisonment for not more than 90 days for a second or subsequent offense, and may be ordered to perform community service. A suitable sign describing the content of this section and the penalties for its violation shall be posted in a conspicuous place in each room where alcoholic liquor is sold. The signs shall be approved and furnished by the commission.

(2) A person who is not a retail licensee or the retail licensee’s clerk, agent, or employee and who violates subsection (1) is guilty of a felony, punishable by imprisonment for not more than 10 years or a fine of not more than \$5,000.00, or both, if the subsequent consumption of the alcoholic liquor by the minor is a direct and substantial cause of that person’s death or an accidental injury that causes that person’s death.

(3) If a violation occurs in an establishment that is licensed by the commission for consumption of alcoholic liquor on the licensed premises, a person who is a licensee or the clerk, agent, or employee of a licensee shall not be charged with a violation of subsection (1) or section 801(2) unless the licensee or the clerk, agent, or employee of the licensee knew or should have reasonably known with the exercise of due diligence that a person less than 21 years of age possessed or consumed alcoholic liquor on the licensed premises and the licensee or clerk, agent, or employee of the licensee failed to take immediate corrective action.

(4) If the enforcing agency involved in the violation is the state police or a local police agency, a licensee shall not be charged with a violation of subsection (1) or section 801(2) unless all of the following occur, if applicable:

(a) Enforcement action is taken against the minor who purchased or attempted to purchase, consumed or attempted to consume, or possessed or attempted to possess alcoholic liquor.

(b) Enforcement action is taken under this section against the person 21 years of age or older who is not the retail licensee or the retail licensee's clerk, agent, or employee who sold or furnished the alcoholic liquor to the minor.

(c) Enforcement action under this section is taken against the clerk, agent, or employee who directly sold or furnished alcoholic liquor to the minor.

(5) If the enforcing agency is the commission and an appearance ticket or civil infraction citation has not been issued, then the commission shall recommend to a local law enforcement agency that enforcement action be taken against a violator of this section or section 703 who is not a licensee. However, subsection (4) does not apply if the minor against whom enforcement action is taken under section 703, the clerk, agent, or employee of the licensee who directly sold or furnished alcoholic liquor to the minor, or the person 21 years of age or older who sold or furnished alcoholic liquor to the minor is not alive or is not present in this state at the time the licensee is charged. Subsection (4)(a) does not apply under either of the following circumstances:

(a) The violation of subsection (1) is the result of an undercover operation in which the minor purchased or received alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

(b) The violation of subsection (1) is the result of an undercover operation in which the minor purchased or received alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action.

(6) Any initial or contemporaneous purchase or receipt of alcoholic liquor by the minor under subsection (5)(a) or (b) must have been under the direction of the state police, the commission, or the local police agency and must have been part of the undercover operation.

(7) If a minor participates in an undercover operation in which the minor is to purchase or receive alcoholic liquor under the supervision of a law enforcement agency, his or her parents or legal guardian shall consent to the participation if that person is less than 18 years of age.

(8) In an action for the violation of this section, proof that the defendant or the defendant's agent or employee demanded and was shown, before furnishing alcoholic liquor to a minor, a motor vehicle operator's or chauffeur's license or a registration certificate issued by the federal selective service, or other bona fide documentary evidence of the age and identity of that person, shall be a defense to an action brought under this section.

(9) The commission shall provide, on an annual basis, a written report to the department of state police as to the number of actions heard by the commission involving violations of this section and section 801(2). The report shall include the disposition of each action and contain figures representing the following categories:

(a) Decoy operations.

(b) Off-premises violations.

(c) On-premises violations.

(d) Repeat offenses within the 3 years preceding the date of that report.

(10) As used in this section:

(a) "Corrective action" means action taken by a licensee or a clerk, agent, or employee of a licensee designed to prevent a minor from further possessing or consuming alcoholic liquor on the licensed premises. Corrective action includes, but is not limited to, contacting a law enforcement agency and ejecting the minor and any other person suspected of aiding and abetting the minor.

(b) "Diligent inquiry" means a diligent good faith effort to determine the age of a person, which includes at least an examination of an official Michigan operator's or

chauffeur's license, an official Michigan personal identification card, or any other bona fide picture identification which establishes the identity and age of the person.

436.1705 Power of peace officer or law enforcement officer witnessing violation to stop and detain person; issuance of appearance ticket.

Sec. 705. A peace officer or law enforcement officer described under section 201 or an inspector of the commission who witnesses a violation of section 701(1) or 703, or a local ordinance corresponding to section 701(1) or 703, may stop and detain a person and obtain satisfactory identification, seize illegally possessed alcoholic liquor, and issue an appearance ticket as prescribed in section 9c of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9c.

436.1905 Selling or furnishing alcoholic liquor to minor; enforcement actions prohibited; conditions; exception.

Sec. 905. (1) Notwithstanding section 903, if a retail licensee or a retail licensee's clerk, agent, or employee violates this act by selling or furnishing alcoholic liquor to a minor, or by allowing a minor to consume alcoholic liquor or possess alcoholic liquor for personal consumption on the licensed premises, and if the enforcing agency involved in the prosecution of the violation is the state police or a local police agency, the commission shall not take any action under section 903 to suspend or revoke the licensee's license or assess an administrative fine against the licensee unless all of the following occur, if applicable:

(a) Enforcement action is taken against the minor who purchased, consumed, or received the alcoholic liquor from the retail licensee or the retail licensee's clerk, agent, or employee.

(b) Enforcement action is taken under section 701 against the person 21 years of age or older that is not the retail licensee or the retail licensee's clerk, agent, or employee but who sold or furnished the alcoholic liquor to the minor.

(c) Enforcement action is taken under section 701 against the retail licensee's clerk, agent, or employee.

(2) Subsection (1) does not apply if the enforcing agent involved in the prosecution is a commission inspector rather than a police agency.

(3) Subsection (1)(a) does not apply if the prosecution of the violation is the result of an undercover operation in which the minor who purchased, consumed, or received the alcoholic liquor acted under the direction of the state police or a local police agency as part of the enforcement action and such enforcement action is otherwise in compliance with section 701(4), (5), and (6).

436.2021 Purchase or serving of food; removal of liquor from premises; class A or B hotel.

Sec. 1021. (1) A regulation shall not be made requiring the purchase or serving of food with the purchase of alcoholic liquor. The commission shall not require a class A hotel or class B hotel to provide food services to registered guests or to the public.

(2) Alcoholic liquor sold by vendors for consumption on the premises shall not be removed from those premises.

(3) Nothing in this act and rules promulgated under this act shall prevent a class A or B hotel designed to attract and accommodate tourists and visitors in a resort area from allowing its invitees or guests to possess or consume, or both, on or about its premises,

alcoholic liquor purchased by the invitee or guest from an off-premises retailer, and does not prevent a guest or invitee from entering and exiting the licensed premises with alcoholic liquor purchased from an off-premises retailer.

436.2025 Giving away alcoholic liquor; samplings or tastings of alcoholic liquor; sales to intoxicated persons prohibited.

Sec. 1025. (1) A vendor shall not give away any alcoholic liquor of any kind or description at any time in connection with his or her business, except manufacturers for consumption on the premises only.

(2) Subsection (1) does not prevent any of the following:

(a) A vendor of spirits, brewer, mixed spirit drink manufacturer, wine maker, small wine maker, outstate seller of beer, outstate seller of wine, or outstate seller of mixed spirit drink, or a bona fide market research organization retained by 1 of the persons named in this subsection, from conducting samplings or tastings of an alcoholic liquor product before it is approved for sale in this state, if the sampling or tasting is conducted pursuant to prior written approval of the commission.

(b) A person from conducting of any sampling or tasting authorized by rule of the commission.

(c) A class A or B hotel designed to attract and accommodate tourists and visitors in a resort area from giving away alcoholic liquor to an invitee or guest in connection with a business event or as a part of a room special or promotion for overnight accommodations.

(3) A vendor shall not sell an alcoholic liquor to a person in an intoxicated condition.

This act is ordered to take immediate effect.

Approved December 30, 2002.

Filed with Secretary of State December 30, 2002.

[No. 726]

(HB 6501)

AN ACT to amend 1975 PA 228, entitled “An act to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation,” by amending section 38g (MCL 208.38g), as added by 2000 PA 143.

The People of the State of Michigan enact:

208.38g Tax credit; conditions; application for project costing \$10,000,000 or less; application to Michigan economic growth authority for project costing \$10,000,000 or more; limitations; total credits; criteria; investment on more than 1 property; project completion; tax year credits claimed; leased machinery, equipment,

or fixtures; calculation of credits; carryforward provisions; qualified taxpayer; investment related to sports stadium, casino, or landfill; report; amendment of project; project as multiphase; definitions.

Sec. 38g. (1) Subject to the criteria under this section, an eligible taxpayer may claim a credit against the tax imposed by this act as determined under subsections (20) to (25); and subject to the criteria under this section, a qualified taxpayer that has a preapproval letter issued after December 31, 1999 and before January 1, 2008, provided that the project is completed not more than 5 years after the preapproval letter for the project is issued, or an assignee under subsection (17) or (18) may claim a credit that has been approved under subsection (2) or (3) against the tax imposed by this act equal to either of the following:

(a) If the total of all credits for a project is \$1,000,000.00 or less, 10% of the cost of the qualified taxpayer's eligible investment paid or accrued by the qualified taxpayer on an eligible property provided that the project does not exceed the amount stated in the preapproval letter. If eligible investment exceeds the amount of eligible investment in the preapproval letter for that project, the total of all credits for the project shall not exceed the total of all credits on the certificate of completion.

(b) If the total of all credits for a project is more than \$1,000,000.00 but \$30,000,000.00 or less and, except as provided in subsection (5)(b), the project is located in a qualified local governmental unit, a percentage as determined by the Michigan economic growth authority not to exceed 10% of the cost of the qualified taxpayer's eligible investment as determined under subsection (8) paid or accrued by the qualified taxpayer on an eligible property. If eligible investment exceeds the amount of eligible investment in the preapproval letter for that project, the total of all credits for the project shall not exceed the total of all credits on the certificate of completion.

(2) If the cost of a project will be for \$10,000,000.00 or less, a qualified taxpayer shall apply to the department for approval of the project under this subsection. An application under this subsection shall state whether the project is a multiphase project. The state treasurer or a designee of the state treasurer is authorized to approve an application or project under this subsection. Only the state treasurer is authorized to deny an application or project under this subsection. A project shall be approved or denied not more than 45 days after receipt of the application. If the state treasurer or the state treasurer's designee does not approve or deny an application within 45 days after the application is received by the department, the application is considered approved as written. The total of all credits for all projects approved under this subsection shall not exceed \$30,000,000.00 in any calendar year. The criteria in subsection (6) shall be used when approving projects under this subsection. When approving projects under this subsection, priority shall be given to projects on a facility. The total of all credits for an approved project under this subsection shall not exceed \$1,000,000.00. A taxpayer may apply under this subsection instead of subsection (3) for approval of a project that will be for more than \$10,000,000.00 but the total of all credits for that project shall not exceed \$1,000,000.00. If the state treasurer or a designee of the state treasurer approves a project under this subsection, the state treasurer or a designee of the state treasurer shall issue a preapproval letter that states that the taxpayer is a qualified taxpayer; the maximum total eligible investment for the project on which credits may be claimed and the maximum total of all credits for the project when the project is completed and a certificate of completion is issued; and the project number assigned by the department. If a project is denied under this subsection, a taxpayer is not prohibited from subsequently applying under this subsection or subsection (3) for the same project or for another project.

(3) If the cost of a project will be for more than \$10,000,000.00 and, except as provided in subsection (5)(b), the project is located in a qualified local governmental unit, a qualified taxpayer shall apply to the Michigan economic growth authority for approval of the project. The Michigan economic growth authority shall approve or deny the project not more than 65 days after receipt of the application. A project under this subsection shall not be approved without the concurrence of the state treasurer. If the Michigan economic growth authority does not approve or deny the application within 65 days after it receives the application, the Michigan economic growth authority shall send the application to the state treasurer. The state treasurer shall approve or deny the application within 5 days after receipt of the application. If the state treasurer does not deny the application within the 5 days after receipt of the application, the application is considered approved. The Michigan economic growth authority shall approve a limited number of projects under this subsection during each calendar year as provided in subsection (5). The Michigan economic growth authority shall use the criteria in subsection (6) when approving projects under this subsection, when determining the total amount of eligible investment, and when determining the percentage of eligible investment for the project to be used to calculate a credit. The total of all credits for an approved project under this subsection shall not exceed the amount designated in the preapproval letter for that project. If the Michigan economic growth authority approves a project under this subsection, the Michigan economic growth authority shall issue a preapproval letter that states that the taxpayer is a qualified taxpayer; the percentage of eligible investment for the project determined by the Michigan economic growth authority for purposes of subsection (1)(b); the maximum total eligible investment for the project on which credits may be claimed and the maximum total of all credits for the project when the project is completed and a certificate of completion is issued; and the project number assigned by the Michigan economic growth authority. The Michigan economic growth authority shall send a copy of the preapproval letter to the department. If a project is denied under this subsection, a taxpayer is not prohibited from subsequently applying under this subsection or subsection (2) for the same project or for another project.

(4) If the project is on property that is functionally obsolete, the taxpayer shall include, with the application, an affidavit signed by a level 3 or level 4 assessor, that states that it is the assessor's expert opinion that the property is functionally obsolete and the underlying basis for that opinion.

(5) The Michigan economic growth authority may approve not more than 15 projects each calendar year under subsection (3), and the following limitations apply:

(a) Of the 15 projects allowed under this subsection, the total of all credits for each project may be more than \$10,000,000.00 but \$30,000,000.00 or less for up to 3 projects.

(b) Of the 15 projects allowed under this subsection, up to 3 projects may be approved for projects that are not in a qualified local governmental unit if the property is a facility for which eligible activities are identified in a brownfield plan. For purposes of this subdivision, a facility includes a building or complex of buildings that was used by a state or federal agency and that is no longer being used for the purpose for which it was used by the state or federal agency.

(c) Of the 3 projects allowed under subdivision (a), 1 may be a project that also qualifies under subdivision (b).

(6) The Michigan economic growth authority shall review all applications for projects under subsection (3) and, if an application is approved, shall determine the maximum total of all credits for that project. Before approving a project for which the total of all credits will be more than \$10,000,000.00 but \$30,000,000.00 or less only, the Michigan economic

growth authority shall determine that the project would not occur in this state without the tax credit offered under subsection (3), except that the Michigan economic growth authority may approve 1 project the construction of which began after January 1, 2000 and before January 1, 2001 without determining that the eligible investment would not occur in this state without the tax credit offered under this section. The Michigan economic growth authority shall consider the following criteria to the extent reasonably applicable to the type of project proposed when approving a project under subsection (3) and the state treasurer or a designee of the state treasurer shall consider the following criteria to the extent reasonably applicable to the type of project proposed when approving a project under subsection (2) or when considering an amendment to a project under subsection (31):

- (a) The overall benefit to the public.
- (b) The extent of reuse of vacant buildings and redevelopment of blighted property.
- (c) Creation of jobs.
- (d) Whether the eligible property is in an area of high unemployment.
- (e) The level and extent of contamination alleviated by the qualified taxpayer's eligible activities to the extent known to the qualified taxpayer.
- (f) The level of private sector contribution.
- (g) The cost gap that exists between the site and a similar greenfield site as determined by the Michigan economic growth authority.
- (h) If the qualified taxpayer is moving from another location in this state, whether the move will create a brownfield.
- (i) Whether the financial statements of the qualified taxpayer indicate that it is financially sound and that the project is economically sound.
- (j) Any other criteria that the Michigan economic growth authority or the state treasurer, as applicable, considers appropriate for the determination of eligibility under subsection (2) or (3).

(7) A qualified taxpayer may apply for projects under subsection (2) or (3) for eligible investment on more than 1 eligible property in a tax year. Each project approved and each project for which a certificate of completion is issued under this section shall be for eligible investment on 1 eligible property.

(8) When a project under subsection (2) or (3) is completed, the taxpayer shall submit documentation that the project is completed, an accounting of the cost of the project, the eligible investment of each taxpayer if there is more than 1 taxpayer eligible for a credit for the project, and, if the taxpayer is not the owner or lessee of the eligible property on which the eligible investment was made at the time the project is completed, that the taxpayer was the owner or lessee of that eligible property when all eligible investment of the taxpayer was made. The state treasurer or a designee of the state treasurer, for projects approved under subsection (2), or the Michigan economic growth authority, for projects approved under subsection (3), shall verify that the project is completed. For projects approved under subsection (3), the Michigan economic growth authority shall conduct an on-site inspection as part of the verification process. When the completion of the project is verified, a certificate of completion shall be issued to each qualified taxpayer that has made eligible investment on that eligible property. The certificate of completion shall state the total amount of all credits for the project and that total shall not exceed the maximum total of all credits listed in the preapproval letter for the project under subsection (2) or (3) as applicable and shall state all of the following:

- (a) That the taxpayer is a qualified taxpayer.

(b) The total cost of the project and the eligible investment of each qualified taxpayer.

(c) Each qualified taxpayer's credit amount.

(d) The qualified taxpayer's federal employer identification number or the Michigan treasury number assigned to the taxpayer.

(e) The project number.

(f) For a project approved under subsection (3) for which the total of all credits is more than \$10,000,000.00 but \$30,000,000.00 or less, the total of all credits and the schedule on which the annual credit amount shall be claimed by the qualified taxpayer.

(g) For a multiphase project under subsection (33), the amount of each credit assigned and the amount of all credits claimed in each tax year before the year in which the project is completed.

(9) Except as otherwise provided in this section, qualified taxpayers shall claim credits under subsections (2) and (3) in the tax year in which the certificate of completion is issued. For a project approved under subsection (3) for which the total of all credits is more than \$10,000,000.00 but \$30,000,000.00 or less, the qualified taxpayer shall claim 10% of its approved credit each year for 10 years. A credit assigned based on a multiphase project shall be claimed in the year in which the credit is assigned.

(10) The cost of eligible investment for leased machinery, equipment, or fixtures is the cost of that property had the property been purchased minus the lessor's estimate, made at the time the lease is entered into, of the market value the property will have at the end of the lease. A credit for property described in this subsection is allowed only if the cost of that property had the property been purchased and the lessor's estimate of the market value at the end of the lease are provided to the department or the Michigan economic growth authority, as applicable.

(11) For credits under subsections (2) and (3), credits claimed by a lessee of eligible property are subject to the total of all credits limitation under this section.

(12) Each qualified taxpayer and assignee under subsection (17) or (18) that claims a credit under subsection (1)(a) or (b) shall attach a copy of the certificate of completion and, if the credit was assigned, a copy of the assignment form provided for under this section to the annual return filed under this act on which the credit under subsection (2) or (3) is claimed. An assignee of a credit based on a multiphase project shall attach a copy of the assignment form provided for under this section and the component completion certificate provided for in subsection (32) to the annual return filed under this act on which the credit is claimed but is not required to file a copy of a certificate of completion.

(13) Except as otherwise provided in this subsection or subsection (15), (17), (19), or (32), a credit under subsection (2) or (3) shall be claimed in the tax year in which the certificate of completion is issued to the qualified taxpayer. For a project described in subsection (8)(f) for which a schedule for claiming annual credit amounts is designated on the certificate of completion by the Michigan economic growth authority, the annual credit amount shall be claimed in the tax year specified on the certificate of completion.

(14) The credits approved under this section shall be calculated after application of all other credits allowed under this act. The credits under subsections (2) and (3) shall be calculated before the calculation of credits under subsections (20) to (25) and before the credits under sections 37c and 37d.

(15) If the credit allowed under subsection (2) or (3) for the tax year and any unused carryforward of the credit allowed under subsection (2) or (3) exceed the qualified taxpayer's or assignee's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall not be refunded but may be carried forward to offset tax

liability in subsequent tax years for 10 years or until used up, whichever occurs first. Except as otherwise provided in this subsection, the maximum time allowed under the carryforward provisions under this subsection begins with the tax year in which the certificate of completion is issued to the qualified taxpayer. If the qualified taxpayer assigns all or any portion of its credit approved under subsection (2) or (3), the maximum time allowed under the carryforward provisions for an assignee begins to run with the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. The maximum time allowed under the carryforward provisions for an annual credit amount for a credit allowed under subsection (3) begins to run in the tax year for which the annual credit amount is designated on the certificate of completion issued under this section.

(16) If a project or credit under subsection (2) or (3) is for the addition of personal property, if the cost of that personal property is used to calculate a credit under subsection (2) or (3), and if the personal property is sold or disposed of or transferred from eligible property to any other location, the qualified taxpayer that sold, disposed of, or transferred the personal property shall add the same percentage as determined pursuant to subsection (1) of the federal basis of the personal property used for determining gain or loss as of the date of the sale, disposition, or transfer to the qualified taxpayer's tax liability after application of all credits under this act for the tax year in which the sale, disposition, or transfer occurs. If a qualified taxpayer has an unused carryforward of a credit under subsection (2) or (3), the amount otherwise added under this subsection to the qualified taxpayer's tax liability may instead be used to reduce the qualified taxpayer's carryforward under subsection (15).

(17) For credits under subsections (2) and (3) and except as otherwise provided in this subsection, if a qualified taxpayer pays or accrues eligible investment on or to an eligible property that is leased for a minimum term of 10 years or sold to another taxpayer for use in a business activity, the qualified taxpayer may assign all or a portion of the credit based on that eligible investment to the lessee or purchaser of that eligible property. A credit assignment under this subsection shall only be made to a taxpayer that when the assignment is complete will be a qualified taxpayer. All credit assignments under this subsection are irrevocable and, except for a credit based on a multiphase project, shall be made in the tax year in which the certificate of completion is issued, unless the assignee is an unknown lessee. If a qualified taxpayer wishes to assign all or a portion of its credit to a lessee but the lessee is unknown in the tax year in which the certificate of completion is issued, the qualified taxpayer may delay claiming and assigning the credit until the first tax year in which the lessee is known. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. Except as otherwise provided in this subsection, if the qualified taxpayer both claims and assigns portions of the credit, the qualified taxpayer shall claim the portion it claims in the tax year in which the certificate of completion is issued or for a credit assigned and claimed for a multiphase project before a certificate of completion is issued, the taxpayer shall claim the credit in the year in which the credit is assigned. If a qualified taxpayer assigns all or a portion of the credit and the eligible property is leased to more than 1 taxpayer, the qualified taxpayer shall determine the amount of credit assigned to each lessee. A lessee shall not subsequently assign a credit or any portion of a credit assigned under this subsection. A purchaser may subsequently assign a credit or any portion of a credit assigned to the purchaser under this subsection to a lessee of the eligible property. The credit assignment under this subsection shall be made on a form prescribed by the department. The qualified taxpayer shall send a copy of the completed assignment form to the department in the tax year in which the assignment is made. The assignee shall attach a copy of the completed assign-