

# **Public Act 134 of 2003**

*Effective September 30, 2003*

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending sections 12f, 14h, 22, 33, and 48 of chapter XVII (MCL 777.12f, 777.14h, 777.22, 777.33, and 777.48), section 12f as added by 2002 PA 34, section 14h as added by 2002 PA 29, section 22 as amended by 2002 PA 143, and sections 33 and 48 as amended by 2000 PA 279.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

### **CHAPTER XVII**

**Sec. 12f.** This chapter applies to the following felonies enumerated in sections 625 to 625o of chapter VI of the Michigan vehicle code, 1949 PA 300, within chapter 257 of the Michigan Compiled Laws:

<u>M.C.L.</u>	<u>Category</u>	<u>Class</u>	<u>Description</u>	<u>Stat Max</u>
257.625(4)(a)	Person	C	Operating a vehicle <del>under the influence or</del> while <b><u>intoxicated or impaired</u></b> causing death	15
257.625(4)(b)	Person	B	Operating a vehicle <del>under the influence or</del> while <b><u>intoxicated or impaired</u></b> causing death to certain persons	20
257.625(5)	Person	E	Operating a vehicle <del>under the influence or</del> while <b><u>intoxicated or impaired</u></b> causing serious impairment	5
257.625(7)(a)(ii)	Person	E	Operating a vehicle <del>under the influence or</del> while <b><u>intoxicated or impaired</u></b> with a minor in the vehicle subsequent offense	5
<del>257.625(8)(c)</del> <b><u>257.625(9)(c)</u></b>	Pub saf	E	Operating a vehicle <del>under the influence</del> <b><u>while intoxicated or with the presence of a controlled substance</u></b> -- third or subsequent offense	5
<del>257.625(9)(b)</del> <b><u>257.625(10)(b)</u></b>	Person	E	Allowing a vehicle to be operated while <del>under the influence</del> <b><u>intoxicated or impaired</u></b> causing death	5
<del>257.625(9)(c)</del> <b><u>257.625(10)(c)</u></b>	Person	G	Allowing a vehicle to be operated while under the influence intoxicated or impaired causing serious impairment	2
<del>257.625(10)(c)</del> <b><u>257.625(11)(c)</u></b>	Pub saf	E	<del>Impaired driving – third or subsequent offense</del> <b><u>Operating a vehicle while impaired – third or subsequent offense</u></b>	5
257.625k(7)	Pub saf	D	Knowingly providing false information concerning an ignition interlock device	10

257.625k(9)	Pub saf	D	Failure to report illegal ignition interlock device	10
257.625m(5)	Pub saf	E	Commercial drunk driving – third or subsequent offense	5

**Sec. 14h.** This chapter applies to the following felonies enumerated in chapter 445 of the Michigan Compiled Laws:

<u>M.C.L.</u>	<u>Category</u>	<u>Class</u>	<u>Description</u>	<u>Stat Max</u>
445.487(2)	Pub ord	H	Precious metal and gem dealer failure to record material matter – subsequent offense	2
445.488(2)	Pub ord	H	Precious metal and gem dealer violations – subsequent offense	2
445.489	Pub ord	H	Precious metal and gem dealer violations	2
445.490	Pub ord	H	Precious metal and gem dealer failure to obtain a certificate of registration	2
445.779	Pub ord	H	Antitrust violation	2
445.1505	Pub trst	G	Franchise investment law – fraudulent filing/offers	7
445.1508	Pub trst	G	Franchise investment law – sale without proper disclosure	7
445.1513	Pub trst	G	Franchise investment law – illegal offers/sales	7
445.1520	Pub trst	G	Franchise investment law – keeping records	7
445.1521	Pub trst	G	Franchise investment law – false representation	7
445.1523	Pub trst	G	Franchise investment law – false statements of material fact	7
445.1525	Pub trst	G	Franchise investment law -- false advertising	7

445.1528	Pub trst	D	Pyramid/chain promotions – offer or sell	7
445.1671	Pub trst	E	Mortgage brokers, lenders – knowingly giving a false statement	15
445.1679	Pub trst	H	Mortgage brokers act – general violations	3
<b><u>445.2507(2)</u></b>	<b><u>Pub ord</u></b>	<b><u>F</u></b>	<b><u>Violation of unsolicited commercial e-mail protection act in furtherance of crime</u></b>	<b><u>4</u></b>

**Sec. 22.** (1) For all crimes against a person, score offense variables 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 19, and 20. Score offense variables 5 and 6 for homicide, attempted homicide, conspiracy or solicitation to commit a homicide, or assault with intent to commit murder. Score offense variable 16 under this subsection for a violation or attempted violation of section 110a of the Michigan penal code, 1931 PA 328, MCL 750.110a. Score offense variables 17 and 18 if ~~an element of~~ the offense or attempted offense involves the operation of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive.

- (2) For all crimes against property, score offense variables 1, 2, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20.
- (3) For all crimes involving a controlled substance, score offense variables 1, 2, 3, 12, 13, 14, 15, 19, and 20.
- (4) For all crimes against public order and all crimes against public trust, score offense variables 1, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20.
- (5) For all crimes against public safety, score offense variables 1, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20. Score offense variable 18 if ~~an element of~~ the offense or attempted offense involves the operation of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive.

**Sec. 33.** (1) Offense variable 3 is physical injury to a victim. Score offense variable 3 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) A victim was killed . . . . . 100 points
- (b) A victim was killed . . . . . 35 **50** points
- (c) Life threatening or permanent incapacitating injury occurred to a victim . . . . . 25 points

- (d) Bodily injury requiring medical treatment occurred to a victim . . . . . 10 points
  - (e) Bodily injury not requiring medical treatment occurred to a victim . . . . . 5 points
  - (f) No physical injury occurred to a victim . . . . . 0 points
- (2) All of the following apply to scoring offense variable 3:
- (a) In multiple offender cases, if 1 offender is assessed points for death or physical injury, all offenders shall be assessed the same number of points.
  - (b) Score 100 points if death results from the commission of a crime and homicide is not the sentencing offense.
  - (c) Score ~~35~~ **50** points if death results from the commission of a crime and the ~~elements of the offense~~ or attempted offense ~~involve~~ **involves** the operation of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive ~~under the influence or while impaired causing death.~~ **and any of the following apply:**
    - (i) The offender was under the influence of or visibly impaired by the use of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.**
    - (ii) The offender had an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning October 1, 2013, the offender had an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.**
    - (iii) The offender's body contained any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or a controlled substance described in section 7214(a)(iv) of the public health code, 1978 PA 368, MCL 333.7214.**
  - (d) Do not score 5 points if bodily injury is an element of the sentencing offense.
- (3) As used in this section, "requiring medical treatment" refers to the necessity for treatment and not the victim's success in obtaining treatment.

**Sec. 48.** (1) Offense variable 18 is operator ability affected by alcohol or drugs. Score offense variable 18 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) The offender operated a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive when his or her bodily alcohol content was 0.20 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine . . . . . 20 points

- (b) The offender operated a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive when his or her bodily alcohol content was 0.15 grams or more but less than 0.20 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine . . . . . 15 points
  - (c) The offender operated a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive when his or her bodily alcohol content was 0.10 grams or more but less than 0.15 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or while he or she was under the influence of intoxicating liquor or a controlled substance or a combination of intoxicating liquor and a controlled substance **while the offender was under the influence of alcoholic or intoxicating liquor, a controlled substance, or a combination of alcoholic or intoxicating liquor and a controlled substance; or while the offender's body contained any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or a controlled substance described in section 7214(a)(iv) of the public health code, 1978 PA 368, MCL 333.7214; or while the offender had an alcohol content of 0.08 grams or more but less than 0.15 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning October 1, 2013, the offender had an alcohol content of 0.10 grams or more but less than 0.15 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine** . . . . . 10 points
  - (d) The offender operated a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive when his or her bodily alcohol content was 0.07 grams or more but less than 0.10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or while he or she was visibly impaired by the use of **alcoholic or** intoxicating liquor or a controlled substance or a combination of **alcoholic or** intoxicating liquor and a controlled substance, or was less than 21 years of age and had any bodily alcohol content . . . . . 5 points
  - (e) The offender's ability to operate a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive was not affected by an alcoholic or intoxicating liquor or a controlled substance or a combination of alcoholic or intoxicating liquor and a controlled substance . . . . . 0 points
- (2) As used in this section, "any bodily alcohol content" means either of the following:
- (a) An alcohol content of ~~not less than~~ 0.02 grams or more **but less than 0.07 0.08** grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine **or, beginning October 1, 2013, 0.02 grams or more but less than 0.10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.**

- (b) Any presence of alcohol within an individual's body resulting from the consumption of alcoholic or intoxicating liquor other than the consumption of alcoholic or intoxicating liquor as part of a generally recognized religious service or ceremony.

Enacting section 1. This amendatory act takes effect September 30, 2003.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

- (a) House Bill No. 4247.
- (b) House Bill No. 4519.