

HOUSE BILL NO. 4502

April 25, 2019, Introduced by Rep. Lilly and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 237 (MCL 750.237), as amended by 2001 PA 135.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 237. (1) An individual shall not carry, have in
2 possession or under control, or use in any manner or discharge a
3 firearm under any of the following circumstances:
4 (a) The individual is under the influence of alcoholic liquor,



1 a controlled substance, or a combination of alcoholic liquor and a
2 controlled substance.

3 (b) The individual has an alcohol content of 0.08 or more
4 grams per 100 milliliters of blood, per 210 liters of breath, or
5 per 67 milliliters of urine.

6 **(c) The individual has a tetrahydrocannabinol content of 2**
7 **nanograms or more per milliliter of blood.**

8 **(d) ~~(e)~~**—Because of the consumption of alcoholic liquor, a
9 controlled substance, or a combination of alcoholic liquor and a
10 controlled substance, the individual's ability to use a firearm is
11 visibly impaired.

12 (2) Except as provided in subsections (3) and (4), an
13 individual who violates subsection (1) is guilty of a misdemeanor
14 punishable by imprisonment for not more than 93 days or a fine of
15 not more than \$100.00 for carrying or possessing a firearm, or
16 both, and not more than \$500.00 for using or discharging a firearm,
17 or both.

18 (3) An individual who violates subsection (1) and causes a
19 serious impairment of a body function of another individual by the
20 discharge or use in any manner of the firearm is guilty of a felony
21 punishable by imprisonment for not more than 5 years or a fine of
22 not less than \$1,000.00 or more than \$5,000.00, or both. As used in
23 this subsection, "serious impairment of a body function" includes,
24 but is not limited to, 1 or more of the following:

25 (a) Loss of a limb or use of a limb.

26 (b) Loss of a hand, foot, finger, or thumb or use of a hand,
27 foot, finger, or thumb.

28 (c) Loss of an eye or ear or of use of an eye or ear.

29 (d) Loss or substantial impairment of a bodily function.



1 (e) Serious visible disfigurement.

2 (f) A comatose state that lasts for more than 3 days.

3 (g) Measurable brain damage or mental impairment.

4 (h) A skull fracture or other serious bone fracture.

5 (i) Subdural hemorrhage or subdural hematoma.

6 (j) Loss of an organ.

7 (4) An individual who violates subsection (1) and causes the
8 death of another individual by the discharge or use in any manner
9 of a firearm is guilty of a felony punishable by imprisonment for
10 not more than 15 years or a fine of not less than \$2,500.00 or more
11 than \$10,000.00, or both.

12 (5) A peace officer who has probable cause to believe an
13 individual violated subsection (1) may require the individual to
14 submit to a chemical analysis of his or her breath, blood, or
15 urine. However, an individual who is afflicted with hemophilia,
16 diabetes, or a condition requiring the use of an anticoagulant
17 under the direction of a physician is not required to submit to a
18 chemical analysis of his or her blood.

19 (6) Before an individual is required to submit to a chemical
20 analysis under subsection (5), the peace officer shall inform the
21 individual of all of the following:

22 (a) The individual may refuse to submit to the chemical
23 analysis, but if he or she refuses, the officer may obtain a court
24 order requiring the individual to submit to a chemical analysis.

25 (b) If the individual submits to the chemical analysis, he or
26 she may obtain a chemical analysis from a person of his or her own
27 choosing.

28 (7) The failure of a peace officer to comply with the
29 requirements of subsection (6) does not render the results of a



1 chemical analysis inadmissible as evidence in a criminal
 2 prosecution for violating this section, in a civil action arising
 3 out of a violation of this section, or in any administrative
 4 proceeding arising out of a violation of this section.

5 (8) The collection and testing of breath, blood, or urine
 6 specimens under this section ~~shall~~**must** be conducted in the same
 7 manner that breath, blood, or urine specimens are collected and
 8 tested for alcohol- ~~—and controlled-substance-related driving~~
 9 violations under the Michigan vehicle code, 1949 PA 300, MCL 257.1
 10 to 257.923.

11 (9) This section does not prohibit the individual from being
 12 charged with, convicted of, or sentenced for any other violation of
 13 law arising out of the same transaction as the violation of this
 14 section in lieu of being charged with, convicted of, or sentenced
 15 for the violation of this section.

16 Enacting section 1. This amendatory act does not take effect
 17 unless all of the following bills of the 100th Legislature are
 18 enacted into law:

19 (a) Senate Bill No. ____ or House Bill No. 4501 (request no.
 20 02174'19).

21 (b) Senate Bill No. ____ or House Bill No. 4503 (request no.
 22 02174'19 b).

23 (c) Senate Bill No. ____ or House Bill No. 4504 (request no.
 24 02174'19 c).

