



HOUSE BILL No. 5331

October 25, 1995, Introduced by Reps. DeHart, Kelly, Scott, Agee, Tesanovich, LaForge and Cherry and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend sections 113, 4701, and 8511 of Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," section 113 as amended by Act No. 54 of the Public Acts of 1995, section 4701 as amended by Act No. 245 of the Public Acts of 1993, and section 8511 as amended by Act No. 266 of the Public Acts of 1990, being sections 600.113, 600.4701, and 600.8511 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 113, 4701, and 8511 of Act No. 236 of
2 the Public Acts of 1961, section 113 as amended by Act No. 54 of
3 the Public Acts of 1995, section 4701 as amended by Act No. 245
4 of the Public Acts of 1993, and section 8511 as amended by Act
5 No. 266 of the Public Acts of 1990, being sections 600.113,

1 600.4701, and 600.8511 of the Michigan Compiled Laws, are amended
2 to read as follows:

3 Sec. 113. (1) As used in this act:

4 (a) "Civil infraction" means an act or omission that is pro-
5 hibited by a law and is not a crime under that law or that is
6 prohibited by an ordinance and is not a crime under that ordi-
7 nance, and for which civil sanctions may be ordered. Civil
8 infraction includes, but is not limited to, the following:

9 (i) A violation of the Michigan vehicle code, Act No. 300 of
10 the Public Acts of 1949, being sections 257.1 to 257.923 of the
11 Michigan Compiled Laws, designated as a civil infraction.

12 (ii) A violation of a city, township, or village ordinance
13 substantially corresponding to a provision of Act No. 300 of the
14 Public Acts of 1949, if the ordinance designates the violation as
15 a civil infraction.

16 (iii) A violation of an ordinance adopted pursuant to Act
17 No. 235 of the Public Acts of 1969, being sections 257.941 to
18 257.943 of the Michigan Compiled Laws.

19 (iv) A violation of a city, township, or village ordinance
20 adopting the uniform traffic code promulgated under Act No. 62 of
21 the Public Acts of 1956, being sections 257.951 to 257.954 of the
22 Michigan Compiled Laws, if the uniform traffic code designates
23 the violation as a civil infraction.

24 (v) A violation of an ordinance adopted by the governing
25 board of a state university or college pursuant to Act No. 291 of
26 the Public Acts of 1967, being sections 390.891 to 390.893 of the

1 Michigan Compiled Laws, if the ordinance designates the violation
2 as a civil infraction.

3 (vi) A violation of regulations adopted by a county board of
4 commissioners pursuant to Act No. 58 of the Public Acts of 1945,
5 being section 46.201 of the Michigan Compiled Laws.

6 (vii) A municipal civil infraction.

7 (viii) A state civil infraction.

8 (b) "Civil infraction action" means a civil action in which
9 the defendant is alleged to be responsible for a civil
10 infraction.

11 (c) "Municipal civil infraction" means a civil infraction
12 involving a violation of an ordinance. Municipal civil infrac-
13 tion includes, but is not limited to, a trailway municipal civil
14 infraction. Municipal civil infraction does not include a viola-
15 tion described in subdivision (a)(i) to (vi) or any act or omis-
16 sion that constitutes a crime under any of the following:

17 (i) Article 7 or section 17766a of the public health code,
18 Act No. 368 of the Public Acts of 1978, being sections 333.7101
19 to 333.7545 and 333.17766a of the Michigan Compiled Laws.

20 (ii) The Michigan penal code, Act No. 328 of the Public Acts
21 of 1931, being sections 750.1 to 750.568 of the Michigan Compiled
22 Laws.

23 (iii) ~~The Michigan vehicle code,~~ Act No. 300 of the Public
24 Acts of 1949, being sections 257.1 to 257.923 of the Michigan
25 Compiled Laws.

1 (iv) The Michigan liquor control act, Act No. 8 of the
2 Public Acts of the Extra Session of 1933, being sections 436.1 to
3 436.58 of the Michigan Compiled Laws.

4 (v) ~~The marine safety act, Act No. 303 of the Public Acts~~
5 ~~of 1967, being sections 281.1001 to 281.1199~~ PART 801 (MARINE
6 SAFETY) OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
7 ACT, ACT NO. 451 OF THE PUBLIC ACTS OF 1994, BEING SECTIONS
8 324.80101 TO 324.80199 of the Michigan Compiled Laws.

9 (vi) The aeronautics code of the state of Michigan, Act
10 No. 327 of the Public Acts of 1945, being sections 259.1 to
11 259.208 of the Michigan Compiled Laws.

12 (vii) ~~Act No. 74 of the Public Acts of 1968, being sections~~
13 ~~257.1501 to 257.1518~~ PART 821 (SNOWMOBILES) OF ACT NO. 451 OF
14 THE PUBLIC ACTS OF 1994, BEING SECTIONS 324.82101 TO 324.82159 of
15 the Michigan Compiled Laws.

16 (viii) ~~Act No. 319 of the Public Acts of 1975, being sec-~~
17 ~~tions 257.1601 to 257.1626~~ PART 811 (OFF-ROAD RECREATION
18 VEHICLES) OF ACT NO. 451 OF THE PUBLIC ACTS OF 1994, BEING SEC-
19 TIONS 324.81101 TO 324.81150 of the Michigan Compiled Laws.

20 ~~(ix) Act No. 4 of the Public Acts of 1986, being sections~~
21 ~~470.201 to 470.210 of the Michigan Compiled Laws.~~

22 (ix) ~~(x)~~ Any law of this state under which the act or
23 omission is punishable by imprisonment for more than 90 days.

24 (d) "Municipal civil infraction action" means a civil action
25 in which the defendant is alleged to be responsible for a municipi-
26 pal civil infraction. Municipal civil infraction action

1 includes, but is not limited to, a trailway municipal civil
2 infraction action.

3 (e) "State civil infraction" means a civil infraction
4 involving a violation of state law that is designated by statute
5 as a state civil infraction.

6 (f) "State civil infraction action" means a civil action in
7 which the defendant is alleged to be responsible for a state
8 civil infraction.

9 (g) "Trailway municipal civil infraction" means a municipal
10 civil infraction involving the operation of a vehicle on a recre-
11 ational trailway at a time, in a place, or in a manner prohibited
12 by ordinance.

13 (h) "Trailway municipal civil infraction action" means a
14 civil infraction action in which the defendant is alleged to be
15 responsible for a trailway municipal civil infraction.

16 (2) Except as otherwise provided in this act:

17 (a) A civil infraction action involving a traffic or parking
18 violation is governed by ~~the Michigan vehicle code,~~ Act No. 300
19 of the Public Acts of 1949. ~~, as amended, being sections 257.1~~
20 ~~to 257.923 of the Michigan Compiled Laws.~~

21 (b) A municipal civil infraction action is governed by chap-
22 ter 87.

23 (c) A state civil infraction action is governed by chapter
24 88.

25 (3) A determination that a defendant is responsible for a
26 civil infraction and thus subject to civil sanctions shall be by
27 a preponderance of the evidence.

1 Sec. 4701. As used in this chapter:

2 (a) "Crime" means 1 of the following offenses in connection
3 with which the forfeiture of property is sought:

4 (i) A violation of section 4, 5, or 7 of the medicaid false
5 claim act, Act No. 72 of the Public Acts of 1977, being sections
6 400.604, 400.605, and 400.607 of the Michigan Compiled Laws.

7 (ii) A violation of section 2 or 3 of the Michigan antitrust
8 reform act, Act No. 274 of the Public Acts of 1984, being sec-
9 tions 445.772 and 445.773 of the Michigan Compiled Laws.

10 (iii) A violation of section 409 of the uniform securities
11 act, Act No. 265 of the Public Acts of 1964, being section
12 451.809 of the Michigan Compiled Laws.

13 (iv) A violation of section 5 or 7 of Act No. 33 of the
14 Public Acts of 1978, being sections 722.675 and 722.677 of the
15 Michigan Compiled Laws.

16 (v) A violation of section 75, 94, 95, 96, 100, 104, 105,
17 106, 110, 112, 117, 118, 119, 120, 121, 124, 145c, 157q, 157r,
18 174, 175, 176, 180, 181, 182, 213, 214, 218, 224, 248, 249, 250,
19 251, 252, 253, 254, 255, 271, 272, 273, 274, 300, 356, 357, 357a,
20 359, 360, 529, 530, 531, or 535 of the Michigan penal code, Act
21 No. 328 of the Public Acts of 1931, being sections 750.75,
22 750.94, 750.95, 750.96, 750.100, 750.104, 750.105, 750.106,
23 750.110, 750.112, 750.117, 750.118, 750.119, 750.120, 750.121,
24 750.124, 750.145c, 750.157q, 750.157r, 750.174, 750.175, 750.176,
25 750.180, 750.181, 750.182, 750.213, 750.214, 750.218, 750.224,
26 750.248, 750.249, 750.250, 750.251, 750.252, 750.253, 750.254,
27 750.255, 750.271, 750.272, 750.273, 750.274, 750.300, 750.356,

1 750.357, 750.357a, 750.359, 750.360, 750.529, 750.530, 750.531,
2 and 750.535 of the Michigan Compiled Laws.

3 (vi) A violation of section 219a of Act No. 328 of the
4 Public Acts of 1931, being section 750.219a of the Michigan
5 Compiled Laws, if the total value of the telephone service
6 obtained is over \$100.00.

7 (vii) Conspiracy to commit an offense listed in subpara-
8 graphs (i) to (vi).

9 (viii) A violation of ~~the recreational trespass act, Act~~
10 ~~No. 323 of the Public Acts of 1976, being sections 317.171 to~~
11 ~~317.181~~ PART 731 (RECREATIONAL TRESPASS) OF THE NATURAL
12 RESOURCES AND ENVIRONMENTAL PROTECTION ACT, ACT NO. 451 OF THE
13 PUBLIC ACTS OF 1994, BEING SECTIONS 324.73101 TO 324.73111 of the
14 Michigan Compiled Laws, that is punishable under section ~~9(2) of~~
15 ~~the recreational trespass act, Act No. 323 of the Public Acts of~~
16 ~~1976, being section 317.179~~ 73110 OF PART 731 OF ACT NO. 451 OF
17 THE PUBLIC ACTS OF 1994, BEING SECTION 324.73110 of the Michigan
18 Compiled Laws.

19 (b) "Instrumentality of a crime" means any property, other
20 than real property, the use of which contributes directly and
21 materially to the commission of a crime.

22 (c) "Person" means an individual, corporation, partnership,
23 or other business entity, or an unincorporated or voluntary
24 association.

25 (d) "Proceeds of a crime" means any property obtained
26 through the commission of a crime, including any appreciation in
27 the value of the property.

1 (e) "Security interest" means any interest in real or
2 personal property that secures payment or performance of an
3 obligation.

4 (f) "Substituted proceeds of a crime" means any property
5 obtained or any gain realized by the sale or exchange of proceeds
6 of a crime.

7 Sec. 8511. A district court magistrate shall have the fol-
8 lowing jurisdiction and duties:

9 (a) To arraign and sentence upon pleas of guilty or nolo
10 contendere for violations of the following acts or parts of acts,
11 or a local ordinance substantially corresponding to these acts or
12 parts of acts, when authorized by the chief judge of the district
13 court and if the maximum permissible punishment does not exceed
14 90 days in jail or a fine, or both:

15 (i) Michigan vehicle code, Act No. 300 of the Public Acts of
16 1949, ~~as amended,~~ being sections 257.1 to 257.923 of the
17 Michigan Compiled Laws, except for violations of sections 625 and
18 625b of Act No. 300 of the Public Acts of 1949, being sections
19 257.625 and 257.625b of the Michigan Compiled Laws. However, the
20 magistrate may have the jurisdiction to arraign defendants and
21 set bond with regard to violations of sections 625 and 625b of
22 Act No. 300 of the Public Acts of 1949.

23 (ii) ~~Michigan sportsmen fishing law, Act No. 165 of the~~
24 ~~Public Acts of 1929, as amended, being sections 301.1 to 306.3-~~
25 PART 487 (SPORT FISHING) OF THE NATURAL RESOURCES AND ENVIRONMEN-
26 TAL PROTECTION ACT, ACT NO. 451 OF THE PUBLIC ACTS OF 1994, BEING
27 SECTIONS 324.48701 TO 324.48740 of the Michigan Compiled Laws.

1 (iii) ~~The wildlife conservation act, Act No. 256 of the~~
2 ~~Public Acts of 1988, being sections 300.251 to 300.270~~ PART 401
3 (WILDLIFE CONSERVATION) OF ACT NO. 451 OF THE PUBLIC ACTS OF
4 1994, BEING SECTIONS 324.40101 TO 324.40119 of the Michigan
5 Compiled Laws.

6 (iv) ~~Marine safety act, Act No. 303 of the Public Acts of~~
7 ~~1967, as amended, being sections 281.1001 to 281.1199~~ PART 801
8 (MARINE SAFETY) OF ACT NO. 451 OF THE PUBLIC ACTS OF 1994, BEING
9 SECTIONS 324.80101 TO 324.80199 of the Michigan Compiled Laws.

10 (v) The motor carrier act, Act No. 254 of the Public Acts of
11 1933, ~~as amended,~~ being sections 475.1 to ~~479.20~~ 479.43 of
12 the Michigan Compiled Laws.

13 (vi) Motor carrier safety act of 1963, Act No. 181 of the
14 Public Acts of 1963, ~~as amended,~~ being sections 480.11 to
15 480.21 of the Michigan Compiled Laws.

16 (vii) ~~Act No. 74 of the Public Acts of 1968, as amended,~~
17 ~~being sections 257.1501 to 257.1518~~ PART 821 (SNOWMOBILES) OF
18 ACT NO. 451 OF THE PUBLIC ACTS OF 1994, BEING SECTIONS 324.82101
19 TO 324.82159 of the Michigan Compiled Laws.

20 (viii) Dog law of 1919, Act No. 339 of the Public Acts of
21 1919, ~~as amended,~~ being sections 287.261 to 287.290 of the
22 Michigan Compiled Laws.

23 (ix) ~~Sections~~ SECTION 33a, 33b, OR 34 ~~, or 34a~~ of the
24 Michigan liquor control act, Act No. 8 of the Public Acts of the
25 Extra Session of 1933, ~~as amended,~~ being sections 436.33a,
26 436.33b, AND 436.34 ~~, and 436.34a~~ of the Michigan Compiled
27 Laws.

1 (x) ~~Act No. 17 of the Public Acts of 1921, as amended,~~
2 ~~being sections 299.1 to 299.10~~ PART 5 (DEPARTMENT OF NATURAL
3 RESOURCES GENERAL POWERS AND DUTIES) OF ACT NO. 451 OF THE PUBLIC
4 ACTS OF 1994, BEING SECTIONS 324.501 TO 324.511 of the Michigan
5 Compiled Laws.

6 (xi) ~~Act No. 319 of the Public Acts of 1975, being~~
7 ~~sections 257.1601 to 257.1626~~ PART 811 (OFF-ROAD RECREATION
8 VEHICLES) OF ACT NO. 451 OF THE PUBLIC ACTS OF 1994, BEING SEC-
9 TIONS 324.81101 TO 324.81150 of the Michigan Compiled Laws.

10 (xii) ~~Act No. 106 of the Public Acts of 1963, as amended,~~
11 ~~being sections 752.901 to 752.906~~ PART 89 (LITTERING) OF ACT
12 NO. 451 OF THE PUBLIC ACTS OF 1994, BEING SECTIONS 324.8901 TO
13 324.8907 of the Michigan Compiled Laws.

14 (xiii) ~~The hunting and fishing license act, Act No. 86 of~~
15 ~~the Public Acts of 1980, being sections 316.101 to 316.902~~ PART
16 435 (HUNTING AND FISHING LICENSING) OF ACT NO. 451 OF THE PUBLIC
17 ACTS OF 1994, BEING SECTIONS 324.43501 TO 324.43561 of the
18 Michigan Compiled Laws.

19 (xiv) ~~Recreational trespass act, Act No. 323 of the Public~~
20 ~~Acts of 1976, being sections 317.171 to 317.181~~ PART 731
21 (RECREATIONAL TRESPASS) OF ACT NO. 451 OF THE PUBLIC ACTS OF
22 1994, BEING SECTIONS 324.73101 TO 324.73111 of the Michigan
23 Compiled Laws.

24 (xv) Chapter LXXXV of the Michigan penal code, Act No. 328
25 of the Public Acts of 1931, being sections 750.546 to 750.552a of
26 the Michigan Compiled Laws.

1 (b) To issue warrants for the arrest of a person upon the
2 written authorization of the prosecuting or municipal attorney,
3 except written authorization shall not be required for a vehicle
4 law or ordinance violation within the jurisdiction of the magis-
5 trate if a police officer issued a traffic citation pursuant to
6 section 728 of the Michigan vehicle code, Act No. 300 of the
7 Public Acts of 1949, ~~as amended,~~ being section 257.728 of the
8 Michigan Compiled Laws, and the defendant failed to appear.

9 (c) To fix bail and accept bond in all cases.

10 (d) To issue search warrants, when authorized to do so by a
11 district court judge.

12 Section 2. This amendatory act shall take effect January 1,
13 1996.