

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4547

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending sections 33 and 48 of chapter XVII (MCL 777.33 and
777.48), as amended by 2013 PA 24.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XVII

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

- | | | |
|----|--|------------|
| 6 | (a) A victim was killed..... | 100 points |
| 7 | (b) A victim was killed..... | 50 points |
| 8 | (c) Life threatening or permanent incapacitating | |
| 9 | injury occurred to a victim..... | 25 points |
| 10 | (d) Bodily injury requiring medical treatment | |

1 occurred to a victim..... 10 points

2 (e) Bodily injury not requiring medical treatment

3 occurred to a victim..... 5 points

4 (f) No physical injury occurred to a victim..... 0 points

5 (2) All of the following apply to scoring offense variable 3:

6 (a) In multiple offender cases, if 1 offender is assessed
7 points for death or physical injury, all offenders ~~shall~~**MUST** be
8 assessed the same number of points.

9 (b) Score 100 points if death results from the commission of a
10 crime and homicide is not the sentencing offense.

11 (c) Score 50 points if death results from the commission of a
12 crime and the offense or attempted offense involves the operation
13 of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive and
14 any of the following apply:

15 (i) The offender was under the influence of or visibly
16 impaired by the use of alcoholic liquor, a controlled substance, or
17 a combination of alcoholic liquor and a controlled substance.

18 (ii) The offender had an alcohol content of 0.08 grams or more
19 per 100 milliliters of blood, per 210 liters of breath, or per 67
20 milliliters of urine or, beginning October 1, ~~2018~~**2021**, the
21 offender had an alcohol content of 0.10 grams or more per 100
22 milliliters of blood, per 210 liters of breath, or per 67
23 milliliters of urine.

24 (iii) The offender's body contained any amount of a controlled
25 substance listed in schedule 1 under section 7212 of the public
26 health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under
27 that section, or a controlled substance described in section

1 7214(a) (iv) of the public health code, 1978 PA 368, MCL 333.7214.

2 (d) Do not score 5 points if bodily injury is an element of
3 the sentencing offense.

4 (3) As used in this section, "requiring medical treatment"
5 refers to the necessity for treatment and not the victim's success
6 in obtaining treatment.

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

11 (a) The offender operated a vehicle, vessel, ORV,
12 snowmobile, aircraft, or locomotive when his or her
13 bodily alcohol content was 0.20 grams or more per 100
14 milliliters of blood, per 210 liters of breath, or per
15 67 milliliters of urine..... 20 points

16 (b) The offender operated a vehicle, vessel, ORV,
17 snowmobile, aircraft, or locomotive when his or her
18 bodily alcohol content was 0.15 grams or more but less
19 than 0.20 grams per 100 milliliters of blood, per 210
20 liters of breath, or per 67 milliliters of urine..... 15 points

21 (c) The offender operated a vehicle, vessel, ORV,
22 snowmobile, aircraft, or locomotive while the offender
23 was under the influence of alcoholic or intoxicating
24 liquor, a controlled substance, or a combination of
25 alcoholic or intoxicating liquor and a controlled
26 substance; or while the offender's body contained any
27 amount of a controlled substance listed in schedule 1

1 under section 7212 of the public health code, 1978 PA
 2 368, MCL 333.7212, or a rule promulgated under that
 3 section, or a controlled substance described in section
 4 7214(a)(iv) of the public health code, 1978 PA 368, MCL
 5 333.7214; or while the offender had an alcohol content
 6 of 0.08 grams or more but less than 0.15 grams per 100
 7 milliliters of blood, per 210 liters of breath, or per
 8 67 milliliters of urine or, beginning October 1,
 9 ~~2018~~, **2021**, the offender had an alcohol content of 0.10
 10 grams or more but less than 0.15 grams per 100
 11 milliliters of blood, per 210 liters of breath, or per
 12 67 milliliters of urine..... 10 points

13 (d) The offender operated a vehicle, vessel, ORV,
 14 snowmobile, aircraft, or locomotive while he or she was
 15 visibly impaired by the use of alcoholic or intoxicating
 16 liquor or a controlled substance or a combination of
 17 alcoholic or intoxicating liquor and a controlled
 18 substance, or was less than 21 years of age and had any
 19 bodily alcohol content..... 5 points

20 (e) The offender's ability to operate a vehicle,
 21 vessel, ORV, snowmobile, aircraft, or locomotive was not
 22 affected by an alcoholic or intoxicating liquor or a
 23 controlled substance or a combination of alcoholic or
 24 intoxicating liquor and a controlled substance..... 0 points

25 (2) As used in this section, "any bodily alcohol content"
 26 means either of the following:

27 (a) An alcohol content of 0.02 grams or more but less than

1 0.08 grams per 100 milliliters of blood, per 210 liters of breath,
2 or per 67 milliliters of urine or, beginning October 1, ~~2018,~~ **2021,**
3 0.02 grams or more but less than 0.10 grams per 100 milliliters of
4 blood, per 210 liters of breath, or per 67 milliliters of urine.

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

9 Enacting section 1. This amendatory act takes effect 90 days
10 after the date it is enacted into law.

11 Enacting section 2. This amendatory act does not take effect
12 unless House Bill No. 4548 of the 99th Legislature is enacted into
13 law.