

Act No. 80
Public Acts of 1996
Approved by the Governor
February 25, 1996
Filed with the Secretary of State
February 26, 1996

STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996

Introduced by Rep. Wetters

ENROLLED HOUSE BILL No. 5332

AN ACT to amend sections 50b, 231c, 234f, and 411j of Act No. 328 of the Public Acts of 1931, entitled as amended "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," section 50b as added by Act No. 126 of the Public Acts of 1994, section 231c as added by Act No. 185 of the Public Acts of 1982, section 234f as amended by Act No. 218 of the Public Acts of 1992, and section 411j as added by Act No. 284 of the Public Acts of 1994, being sections 750.50b, 750.231c, 750.234f, and 750.411j of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 50b, 231c, 234f, and 411j of Act No. 328 of the Public Acts of 1931, section 50b as added by Act No. 126 of the Public Acts of 1994, section 231c as added by Act No. 185 of the Public Acts of 1982, section 234f as amended by Act No. 218 of the Public Acts of 1992, and section 411j as added by Act No. 284 of the Public Acts of 1994, being sections 750.50b, 750.231c, 750.234f, and 750.411j of the Michigan Compiled Laws, are amended to read as follows:

Sec. 50b. (1) As used in this section, "animal" means any vertebrate other than a human being.

(2) A person who willfully, maliciously and without just cause or excuse kills, tortures, mutilates, maims, or disfigures an animal or who willfully and maliciously and without just cause or excuse administers poison to an animal, or exposes an animal to any poisonous substance, other than a substance that is used for therapeutic veterinary medical purposes, with the intent that the substance be taken or swallowed by the animal, is guilty of a felony, punishable by imprisonment for not more than 4 years, or by a fine of not more than \$5,000.00, or community service for not more than 500 hours or any combination of these penalties.

(3) As a part of the sentence for a violation of subsection (2), the court may order the defendant to pay the costs of the prosecution and the costs of the care, housing, and veterinary medical care for the impacted animal victim, as applicable. If the court does not order a defendant to pay all of the applicable costs listed in this subsection, or orders only partial payment of these costs, the court shall state on the record the reasons for that action.

(4) If a term of probation is ordered for a violation of subsection (2), the court may order, as a condition of probation, that the defendant be evaluated to determine the need for psychiatric or psychological counseling, and, if determined appropriate by the court, to receive psychiatric or psychological counseling at his or her own expense.

(5) As a part of the sentence for a violation of subsection (2), the court may order the defendant not to own or possess an animal for any period of time determined by the court, which may include permanent relinquishment.

(6) A person who owns or possesses an animal in violation of an order issued under subsection (5) is subject to revocation of probation if the order is issued as a condition of probation. A person who owns or possesses an animal in

violation of an order issued under subsection (5) is also subject to the civil and criminal contempt power of the court, and if found guilty of criminal contempt, may be punished by imprisonment for not more than 90 days, or by a fine of not more than \$500.00, or both.

(7) This section does not prohibit the lawful killing of livestock or a customary animal husbandry or farming practice involving livestock. As used in this subsection, "livestock" has the meaning attributed to the term in the animal industry act of 1987, Act No. 466 of the Public Acts of 1988, being sections 287.701 to 287.747 of the Michigan Compiled Laws.

(8) This section does not prohibit the lawful killing of an animal pursuant to any of the following:

(a) Fishing.

(b) Hunting, trapping, or wildlife control regulated pursuant to part 401 (wildlife conservation) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.40101 to 324.40119 of the Michigan Compiled Laws, and orders issued under that act.

(c) Pest or rodent control regulated pursuant to part 83 (pesticide control) of Act No. 451 of the Public Acts of 1994, being sections 324.8301 to 324.8336 of the Michigan Compiled Laws.

(d) Activities authorized pursuant to rules promulgated under section 9 of the executive organization act of 1965, Act No. 380 of the Public Acts of 1965, being section 16.109 of the Michigan Compiled Laws.

(9) This section does not prohibit the lawful killing or use of an animal for scientific research pursuant to any of the following or a rule promulgated pursuant to any of the following:

(a) Act No. 224 of the Public Acts of 1969, being sections 287.381 to 287.395 of the Michigan Compiled Laws.

(b) Sections 2226, 2671, 2676, 7109, and 7333 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.2226, 333.2671, 333.2676, 333.7109, and 333.7333 of the Michigan Compiled Laws.

Sec. 231c. (1) As used in this section:

(a) "Aircraft" means aircraft as defined in section 43.

(b) "Approved signaling device" means a pistol which is a signaling device approved by the United States coast guard pursuant to regulations issued under former section 4488 of the Revised Statutes of the United States, 46 U.S.C. Appx. 481, or under former section 5 of the federal boat safety act of 1971, Public Law 92-75, 46 U.S.C. 1454.

(c) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(2) Sections 223, 227, 228, 232, 232a, and 237 shall not apply to an approved signaling device.

(3) A person shall not sell an approved signaling device to a person, nor shall a person purchase an approved signaling device, unless the purchaser is 18 years of age or older and either of the following apply:

(a) The purchaser possesses and displays to the seller any of the following:

(i) A valid and current certificate of number issued pursuant to section 80124 of part 801 (marine safety) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.80124 of the Michigan Compiled Laws, for a vessel.

(ii) If a vessel is considered in compliance with the numbering requirements of this state pursuant to section 80122 of part 801 of Act No. 451 of the Public Acts of 1994, being section 324.80122 of the Michigan Compiled Laws, proof of ownership or proof of the vessel's being numbered in another state.

(iii) If a vessel is not required to be numbered or to display a decal under part 801 of Act No. 451 of the Public Acts of 1994, being sections 324.80101 to 324.80199 of the Michigan Compiled Laws, proof of ownership of the vessel.

(b) The purchaser is the holder of and displays to the seller a valid and effective airman's certificate of competency issued by the United States or a foreign government.

(4) A person may possess an approved signaling device only under the following circumstances:

(a) The possession occurs in the process of manufacturing, marketing, or sale of the device, including the transportation of the device as merchandise, and the device is unloaded.

(b) The device is on a vessel or on an aircraft.

(c) The device is at a person's residence.

(d) The person is en route from the place of purchase to the person's residence or the person's vessel or aircraft or between the person's residence and the person's vessel or aircraft.

(e) The device is in a vehicle other than a vessel or aircraft and all of the following apply:

(i) The device is unloaded.

(ii) The device is enclosed in a case and either is carried in the trunk of the vehicle which has a trunk or is otherwise not readily accessible to the occupants of the vehicle.

(iii) Subdivision (d) applies.

(5) A person shall not use an approved signaling device unless he or she reasonably believes that its use is necessary for the safety of the person or of another person on the waters of this state or in an aircraft emergency situation.

(6) A person who sells, purchases, or possesses an approved signaling device in violation of this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$200.00, or both.

(7) A person who uses an approved signaling device in violation of this section is guilty of a misdemeanor, punishable by a fine of not more than \$200.00.

Sec. 234f. (1) Except as provided in subsection (2), an individual less than 18 years of age shall not possess a firearm in public except under the direct supervision of an individual 18 years of age or older.

(2) Subsection (1) does not apply to an individual less than 18 years of age who possesses a firearm in accordance with part 401 (wildlife conservation) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.40101 to 324.40119 of the Michigan Compiled Laws, or part 435 (hunting and fishing licensing) of Act No. 451 of the Public Acts of 1994, being sections 324.43501 to 324.43561 of the Michigan Compiled Laws. However, an individual less than 18 years of age may possess a firearm without a hunting license while at, or going to or from, a recognized target range or trap or skeet shooting ground if, while going to or from the range or ground, the firearm is enclosed and securely fastened in a case or locked in the trunk of a motor vehicle.

(3) An individual who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both.

Sec. 411j. As used in this section and sections 411k to 411q:

(a) "Controlled substance offense" means a felony violation of part 74 or section 17766a of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401 to 333.7461 and 333.17766a of the Michigan Compiled Laws, concerning controlled substances or androgenic anabolic steroids.

(b) "Knowingly", in the case of a corporation, means with the approval or prior actual knowledge of the board of directors, a majority of the directors, or persons who together hold a majority of the voting ownership interests in the corporation. In determining whether a majority of the directors approved of or had knowledge of the activity, a director who was not aware of the activity due to his or her own negligence or other fault is regarded as having had knowledge of the activity. This subdivision does not limit the liability of any individual officer, employee, director, or stockholder of a corporation.

(c) "Financial transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery, exchange, or other disposition of a monetary instrument or other property and, with respect to a financial institution, includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

(d) "Financial institution" means 1 or more of the following, if located in or doing business in this state:

(i) An insured bank, as defined in section 3(h) of the federal deposit insurance act, 12 U.S.C. 1813(h).

(ii) A commercial bank or trust company.

(iii) A private banker.

(iv) An agency or branch of a foreign bank.

(v) A savings and loan institution.

(vi) A thrift institution.

(vii) A credit union.

(viii) A broker or dealer registered with the securities and exchange commission under the securities exchange act of 1934, chapter 404, 48 Stat. 881.

(ix) A broker or dealer in securities or commodities.

(x) An investment banker or investment company.

(xi) A currency exchange.

(xii) An insurer, redeemer, or cashier of traveler's checks, checks, or money orders.

(xiii) An operator of a credit card system.

(xiv) An insurance company.

(xv) A dealer in precious metals, stones, or jewels.

(xvi) A pawnbroker.

(xvii) A loan, finance, or mortgage company.

(xviii) A travel agency.

(xix) A licensed sender of money.

(xx) A telegraph company.

(e) "Monetary instrument" means coin or currency of the United States or another country, or group of countries, a traveler's check, personal check, bank check, money order, or investment security or negotiable instrument in bearer form or in any other form such that delivery is sufficient to pass title.

(f) "Proceeds of a specified criminal offense" means any monetary instrument or other real, personal, or intangible property obtained through the commission of a specified criminal offense, including any appreciation in the value of the monetary instrument or property.

(g) "Specified criminal offense" means any of the following:

(i) A felony violation of section 8 of the tobacco products tax act, Act No. 327 of the Public Acts of 1993, being section 205.428 of the Michigan Compiled Laws, or former section 9 of Act No. 265 of the Public Acts of 1947, concerning cigarette taxes.

(ii) A violation of section 11151 of part 111 (hazardous waste management) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.11151 of the Michigan Compiled Laws, concerning felonious disposal of hazardous waste.

(iii) A controlled substance offense.

(iv) A felony violation of section 60 of the social welfare act, Act No. 280 of the Public Acts of 1939, being section 400.60 of the Michigan Compiled Laws, concerning welfare fraud.

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

(vi) A violation of section 409 of the uniform securities act, Act No. 265 of the Public Acts of 1964, being section 451.809 of the Michigan Compiled Laws, concerning securities fraud.

(vii) A violation of section 5 or 7 of Act No. 33 of the Public Acts of 1978, being sections 722.675 and 722.677 of the Michigan Compiled Laws, concerning the display or dissemination of obscene matter to minors.

(viii) A felony violation of section 72, 73, 74, or 75, concerning arson.

(ix) A violation of section 93, 94, 95, or 96, concerning bank bonds, bills, notes, and property.

(x) A violation of section 117, 118, 119, 120, 121, or 124, concerning bribery.

(xi) A violation of section 120a, concerning jury tampering.

(xii) A violation of section 145c, concerning child sexually abusive activity or material.

(xiii) A felony violation of section 157n, 157p, 157q, 157r, 157s, 157t, or 157u, concerning credit cards or financial transaction devices.

(xiv) A felony violation of section 174, 175, 176, 180, 181, or 182, concerning embezzlement.

(xv) A felony violation of chapter XXXIII, concerning explosives and bombs.

(xvi) A violation of section 213, concerning extortion.

(xvii) A felony violation of section 218, concerning false pretenses.

(xviii) A felony violation of chapter XLI, concerning forgery and counterfeiting.

(xix) A violation of section 271, 272, 273, or 274, concerning securities fraud.

(xx) A violation of section 301, 302, 303, 304, 305, 305a, or 313, concerning gambling.

(xxi) A violation of section 316 or 317 concerning murder.

(xxii) A violation of section 330, 331, or 332, concerning horse racing.

(xxiii) A violation of section 349, 349a, or 350, concerning kidnapping.

(xxiv) A felony violation of chapter LII, concerning larceny.

(xxv) A violation of section 422, 423, 424, or 425, concerning perjury and subornation of perjury.

(xxvi) A violation of section 452, 455, 457, 458, or 459, concerning prostitution.

(xxvii) A violation of section 529, 530, or 531, concerning robbery.

(xxviii) A felony violation of section 535, 535a, or 536a, concerning stolen, embezzled, or converted property.

(xxix) A violation of section 5 of Act No. 343 of the Public Acts of 1984, being section 752.365 of the Michigan Compiled Laws, concerning obscenity.

(xxx) A conspiracy, attempt, or solicitation to commit an offense listed in subparagraphs (i) to (xxix).

(h) "Substituted proceeds of a specified criminal offense" means any monetary instrument or other real, personal, or intangible property obtained or any gain realized by the sale or exchange of proceeds of a specified criminal offense.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.