

**SUBSTITUTE FOR
HOUSE BILL NO. 5398**

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
(MCL 760.1 to 777.69) by adding section 37 to chapter VIII.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER VIII

2 SEC. 37. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), IT IS
3 NOT A DEFENSE TO ANY CRIME THAT THE INDIVIDUAL WHO ALLEGEDLY COM-
4 MITTED THE CRIME WAS, AT THAT TIME, UNDER THE INFLUENCE OF OR
5 IMPAIRED BY A VOLUNTARILY AND KNOWINGLY CONSUMED ALCOHOLIC
6 LIQUOR, DRUG, INCLUDING A CONTROLLED SUBSTANCE, OTHER SUBSTANCE
7 OR COMPOUND, OR COMBINATION OF ALCOHOLIC LIQUOR, DRUG, OR OTHER
8 SUBSTANCE OR COMPOUND.

9 (2) IT IS AN AFFIRMATIVE DEFENSE THAT THE INDIVIDUAL
10 VOLUNTARILY CONSUMED A LEGALLY OBTAINED AND PROPERLY USED
11 MEDICATION OR OTHER SUBSTANCE AND DID NOT KNOW AND REASONABLY

HB5398, As Passed House, February 14, 2002

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1 SHOULD NOT HAVE KNOWN THAT HE OR SHE WOULD BECOME INTOXICATED OR
2 IMPAIRED.

3 (3) AS USED IN THIS SECTION:

4 (A) "ALCOHOLIC LIQUOR" MEANS THAT TERM AS DEFINED IN SECTION
5 105 OF THE MICHIGAN LIQUOR CONTROL CODE OF 1998, 1998 PA 58, MCL
6 436.1105.

7 (B) "CONSUMED" MEANS TO HAVE EATEN, DRUNK, INGESTED,
8 INHALED, INJECTED, OR TOPICALLY APPLIED, OR TO HAVE PERFORMED ANY
9 COMBINATION OF THOSE ACTIONS, OR OTHERWISE INTRODUCED INTO THE
10 BODY.

11 (C) "CONTROLLED SUBSTANCE" MEANS THAT TERM AS DEFINED IN
12 SECTION 7104 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
13 333.7104.