

HB 5398, As Passed Senate, May 2, 2002

SENATE SUBSTITUTE FOR

HOUSE BILL NO. 5398

(As passed the Senate, May 2, 2002)

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 DEFENDANT WAS, AT THAT TIME,
4 UNDER THE INFLUENCE OF OR IMPAIRED BY A VOLUNTARILY AND KNOWINGLY
5 CONSUMED ALCOHOLIC LIQUOR, DRUG, INCLUDING A CONTROLLED SUB-
6 STANCE, OTHER SUBSTANCE OR COMPOUND, OR COMBINATION OF ALCOHOLIC
7 LIQUOR, DRUG, OR OTHER SUBSTANCE OR COMPOUND.

8 (2) IT IS AN AFFIRMATIVE DEFENSE TO A SPECIFIC INTENT CRIME,
9 FOR WHICH THE DEFENDANT HAS THE BURDEN OF PROOF BY A
10 PREPONDERANCE OF THE EVIDENCE, THAT HE OR SHE VOLUNTARILY
11 CONSUMED A LEGALLY OBTAINED AND PROPERLY USED MEDICATION OR OTHER

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1 SUBSTANCE AND DID NOT KNOW AND REASONABLY SHOULD NOT HAVE KNOWN
2 THAT HE OR SHE WOULD BECOME INTOXICATED OR 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,
6 MCL 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,
13 MCL 333.7104.