

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 675

[A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending sections 12, 16k, 17, 31, 32, and 49 of chapter XVII
(MCL 777.12, 777.16k, 777.17, 777.31, 777.32, and 777.49), section
12 as amended by 2001 PA 104, section 16k as amended by 2000 PA 279,
section 17 as amended by 2000 PA 300, section 31 as amended by 1999
PA 227, and sections 32 and 49 as added by 1998 PA 317.]

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XVII

2 Sec. 12. This chapter applies to the following felonies
3 enumerated in chapters 200 to 299 of the Michigan Compiled Laws:

4	M.C.L.	Category Class Description			Stat Max
5	205.27(1)(a)	Pub	trst	G Failure to file or false	5
6				tax return or payment	
7	205.27(1)(b)	Pub	trst	G Aiding and abetting tax	5
8				evasion or filing false	
9				returns	
10	205.27(1)(c)	Pub	trst	G Making/permitting false	5
11				tax returns or payments	

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1	205.27(3)	Pub trst	G	False tax returns/perjury	15
2	205.28(1)(e)	Pub trst	G	State employee compromising taxes	5
3					
4	205.28(1)(f)	Pub trst	G	Unauthorized disclosure of tax information	5
5					
6	205.428(2)	Pub trst	G	Tobacco products tax act violations	5
7					
8	205.428(3)	Pub trst	G	Illegal sale of cigarettes or other tobacco products with wholesale price of \$250.00 or more	5
9					
10					
11					
12					
13	205.428(6)	Pub trst	F	Illegal tobacco stamp or tobacco stamp device	10
14					
15	205.428(7)	Pub trst	G	Illegal vending machine license, disk, or marker	5
16					
17					
18	207.118a	Pub ord	G	Gasoline tax -- embezzlement over \$100	10
19					
20	207.119	Pub trst	G	Gasoline or motor fuel tax violation	4
21					
22	207.127c	Pub ord	G	Diesel fuel tax -- embezzlement over \$100	10
23					
24	207.754(3)	Pub trst	G	State treasurer -- municipality tax -- divulging confidential information	5
25					
26					
27					
28	252.311	Property	H	Destroying a tree or shrub to make a sign more visible	2
29					
30					
31	257.233a(7)	Pub ord	G	Odometer tampering	5
32	257.254	Property	E	Possessing stolen vehicle title	10
33					
34	257.257(1)	Property	G	Altering or forging vehicle documents -- first offense	5
35					
36					
37	257.257(2)	Property	G	Altering or forging vehicle documents -- second offense	7
38					
39					

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1	257.257(3)	Property	E	Altering or forging	
2				vehicle documents --	
3				third or subsequent	
4				offense	15
5	257.309(6)	Pub ord	F	Corrupting an examining	
6				officer	5
7	257.309(7)	Pub ord	F	Deviating from road test	
8				criteria	5
9	257.309(8)	Pub ord	F	Forging, counterfeiting,	
10				or altering road test	
11				certification	5
12	257.312b(6)	Pub ord	F	Corrupting a person or	
13				agency conducting a	
14				motorcycle driving test	5
15	257.312b(7)	Pub ord	F	Deviating from motorcycle	
16				road test criteria	5
17	257.312b(8)	Pub ord	F	Forging, counterfeiting,	
18				or altering motorcycle	
19				road test certification	5
20	257.329(1)	Property	G	Possession/sale of stolen	
21				or counterfeit insur-	
22				ance certificates	5
23	257.329(2)	Property	E	Possession/sale of stolen	
24				or counterfeit insur-	
25				ance certificates --	
26				second offense	7
27	257.329(3)	Property	E	Possession/sale of stolen	
28				or counterfeit insur-	
29				ance certificates --	
30				third or subsequent	
31				offense	15
32	257.601b(3)	Person	C	Moving violation causing	
33				death to construction	
34				worker	15
35	257.601c(2)	Person	C	Moving violation causing	
36				death to operator of	
37				implement of husbandry	15
38	257.602a(2)	Pub saf	G	Fleeing and eluding --	
39				fourth degree	2
40	257.602a(3)	Pub saf	E	Fleeing and eluding --	
41				third degree	5

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1	257.602a(4)	Person	D	Fleeing and eluding --	
2				second degree	10
3	257.602a(5)	Person	C	Fleeing and eluding --	
4				first degree	15
5	257.617	Person	E	Failure to stop at scene	
6				of a serious personal	
7				injury accident	5
8	257.625(4)(a)	Person	C	Operating a vehicle under	
9				the influence or while	
10				impaired causing death	15
11	257.625(4)(b)	Person	B	Operating a vehicle under	
12				the influence or while	
13				impaired causing death	
14				to certain persons	20
15	257.625(5)	Person	E	Operating a vehicle under	
16				the influence or while	
17				impaired causing seri-	
18				ous impairment	5
19	257.625(7)(a)(ii)	Person	E	Operating a vehicle under	
20				the influence or while	
21				impaired with a minor	
22				in the vehicle -- sub-	
23				sequent offense	5
24	257.625(8)(c)	Pub saf	E	Operating a vehicle under	
25				the influence -- third	
26				or subsequent offense	5
27	257.625(9)(b)	Person	E	Allowing a vehicle to be	
28				operated while under	
29				the influence or	
30				impaired causing death	5
31	257.625(9)(c)	Person	G	Allowing a vehicle to be	
32				operated while under	
33				the influence or	
34				impaired causing seri-	
35				ous impairment	2
36	257.625(10)(c)	Pub saf	E	Impaired driving -- third	
37				or subsequent offense	5
38	257.625k(7)	Pub saf	D	Knowingly providing false	
39				information concerning	
40				an ignition interlock	
41				device	10

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1	257.625k(9)	Pub saf	D	Failure to report illegal	
2				ignition interlock	
3				device	10
4	257.625m(5)	Pub saf	E	Commercial drunk driving	
5				-- third or subsequent	
6				offense	5
7	257.626C	PERSON	G	FELONIOUS DRIVING	2
8	257.653a(3)	Person	G	Failure to use due care	
9				and caution causing	
10				injury to emergency	
11				personnel	2
12	257.653a(4)	Person	C	Failure to use due care	
13				and caution causing	
14				death to emergency	
15				personnel	15
16	257.744a	Pub saf	D	False statement in	
17				citation -- perjury	15
18	257.902	Pub saf	E	Motor vehicle code	
19				violations	5
20	257.903(1)	Property	E	Motor vehicle code --	
21				false certification --	
22				first offense	5
23	257.903(2)	Property	E	Motor vehicle code --	
24				false certification --	
25				second offense	7
26	257.903(3)	Property	D	Motor vehicle code --	
27				false certification --	
28				third or subsequent	
29				offense	15
30	257.904(4)	Person	C	Operating a vehicle with-	
31				out a license causing	
32				death	15
33	257.904(5)	Person	E	Operating a vehicle with-	
34				out a license causing	
35				serious impairment	5
36	257.904(7)	Person	G	Allowing a vehicle to be	
37				operated without a	
38				license causing serious	
39				impairment	2

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1		Person	E	Allowing a vehicle to be	
2				operated without a	
3				license causing death	5
4	257.1353(2)	Pub trst	H	Motor vehicle -- fail to	
5				record material matter	
6				-- subsequent offense	2
7	257.1354(2)	Pub trst	H	Motor vehicle -- general	
8				violations -- subse-	
9				quent offense	2
10	257.1355	Pub trst	H	Motor vehicle -- fail to	
11				record	
12				transaction/falsify	
13				records	2
14	259.183	Property	E	Aircraft -- unlawful	
15				taking or tampering	5
16	259.185(4)	Person	C	Operating or serving as	
17				crew of aircraft while	
18				under the influence	
19				causing death	15
20	259.185(5)	Person	E	Operating or serving as	
21				crew of aircraft while	
22				under the influence	
23				causing serious	
24				impairment	5
25	259.185(8)	Pub saf	E	Operating or serving as	
26				crew of aircraft while	
27				under the influence --	
28				third or subsequent	
29				offense	5
30	285.82	Pub trst	H	Grain dealers act	
31				violations	5
32	285.279	Pub trst	E	Falsely obtaining money	
33				-- agricultural land	10
34	285.279(C)	PROPERTY	E	FALSE PRETENSES UNDER	
35				MICHIGAN FAMILY FARM	
36				DEVELOPMENT ACT INVOLV-	
37				ING \$1,000 TO \$20,000	
38				OR WITH PRIOR	
39				CONVICTIONS	5
40	285.279(D)	PROPERTY	D	FALSE PRETENSES UNDER	
41				MICHIGAN FAMILY FARM	
42				DEVELOPMENT ACT	
43				INVOLVING \$20,000 OR	

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1				MORE OR WITH PRIOR	
2				CONVICTIONS	10
3	286.455(2)	Pub saf	G	Agriculture -- hazardous	
4				substance	5
5	286.929(4)	Pub trst	G	Organic products act	
6				violations	4
7	287.323(1)	Person	C	Dangerous animal causing	
8				death	15
9	287.323(2)	Person	G	Dangerous animal causing	
10				serious injury	4
11	287.679	Pub ord	H	Dead animals -- third or	
12				subsequent violation	1
13	287.744(1)	Pub ord	G	Animal industry act	
14				violations	5
15	287.855	Pub saf	G	Agriculture -- contami-	
16				nating livestock/false	
17				statement/violation of	
18				quarantine	5
19	287.967(5)	Pub ord	G	Cervidae producer	
20				violations	4
21	288.223	Pub saf	G	Sale or labeling of oleo-	
22				margarine violations	3
23	288.257	Pub saf	G	Margarine violations	3
24	288.284	Pub trst	H	Selling falsely branded	
25				cheese	2
26	289.5107(2)	Pub saf	F	Adulterated, misbranded,	
27				or falsely identified	
28				food	4
29	290.629(1)	Person	G	Weights and measures --	
30				assaults enforcement	
31				officer	2
32	290.631(3)	Pub trst	G	Weights and measures	5
33	290.650	Person	G	Motor fuels --	
34				assaulting/obstructing	
35				director or authorized	
36				representative	2
37	290.650b(3)	Pub trst	H	Motor fuels violations	2

[Sec. 16k. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat	Max
750.200	Pub saf	E	Transporting an explosive by common carrier		5
750.200i(2)(a)	Pub saf	C	Manufacturing or using a harmful device		15
750.200i(2)(b)	Property	B	Harmful device causing prop-		

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750.200i(2)(c)	Person	A	Harmful device causing personal injury	25
750.200i(2)(d)	Person	A	Harmful device causing serious impairment	Life
750.200J(2)(A)	PERSON	E	IRRITANT OR IRRITANT DEVICE	5
750.200j(2)(b)	Property	F E	Irritant or irritant device causing property damage	4 7
750.200j(2)(c)	Person	D	Irritant or irritant device causing personal injury	10
750.200j(2)(d)	Person	A	Irritant or irritant device causing serious impairment	25
750.200j(2)(e)	Person	A	Irritant or irritant device causing death	Life
750.200l	PERSON	E	FALSELY EXPOSING PERSON TO HARMFUL SUBSTANCE OR DEVICE	5
750.201	Pub saf	E	Transporting certain types of explosives	5
750.202	Pub saf	F	Shipping an explosive with false markings or invoice	4
750.204(2)(a)	Pub saf	C	Sending an explosive with malicious intent	15
750.204(2)(b)	Property	B	Sending an explosive causing property damage	20
750.204(2)(c)	Person	A	Sending an explosive causing physical injury	25
750.204(2)(d)	Person	A	Sending an explosive causing serious impairment	Life
750.204a	Pub saf	E	Sending or transporting an imitation explosive device with malicious intent	5
750.207(2)(a)	Pub saf	C	Placing an explosive with malicious intent	15
750.207(2)(b)	Property	B	Placing an explosive causing property damage	20
750.207(2)(c)	Person	A	Placing an explosive causing physical injury	25
750.207(2)(d)	Person	A	Placing an explosive causing serious impairment	Life
750.209(1)(a)	Pub saf	C	Placing an offensive or injurious substance with intent to injure	15
750.209(1)(b)	Property	B	Placing an offensive or injurious substance causing property damage	20
750.209(1)(c)	Person	A	Placing an offensive or injurious substance causing physical injury	25

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750.209(1)(d)	Person	A	Placing an offensive or injurious substance causing serious impairment	Life
750.209(2)	Pub saf	E	Placing an offensive or injurious substance with intent to alarm or annoy	5
750.209a	Pub saf	D	Possessing an explosive device in public place	10
750.210(2)(a)	Pub saf	C	Possessing or carrying an explosive or combustible substance with malicious intent	15
750.210(2)(b)	Property	B	Possessing or carrying an explosive or combustible substance causing property damage	20
750.210(2)(c)	Person	A	Possessing or carrying an explosive or combustible substance causing physical injury	25
750.210(2)(d)	Person	A	Possessing or carrying an explosive or combustible substance causing serious impairment	Life
750.210a	Pub saf	H	Sale of valerium	5
750.211a(2)(a)	Pub saf	C	Manufacturing or possessing an explosive or incendiary device with malicious intent	15
750.211a(2)(b)	Property	B	Manufacturing or possessing an explosive or incendiary device causing property damage	20
750.211a(2)(c)	Person	A	Manufacturing or possessing an explosive or incendiary device causing physical injury	25
750.211a(2)(d)	Person	A	Manufacturing or possessing an explosive or incendiary device causing serious impairment	Life
750.212a	Person	B	Explosives violation involving a vulnerable target causing death or injury	20]

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1 Sec. 17. (1) This chapter applies to the following felonies
2 enumerated in chapters 751 to 830 of the Michigan Compiled Laws:

3	M.C.L.	Category	Class	Description	Stat	Max
4	752.191	Pub saf	G	Felonious driving	2	
5	752.273(2)(c)					
6	752.272A(2)(C)	Pub saf	F	Sale or distribution of		
7				nitrous oxide device --		
8				2 or more prior		
9				convictions		4
10	752.365(3)	Pub ord	G	Obscenity -- subsequent		
11				offense		2
12	752.541	Pub saf	D	Riot		10
13	752.542	Pub saf	D	Incitement to riot		10
14	752.542a	Pub saf	D	Riot in state correc-		
15				tional facilities		10
16	752.543	Pub saf	G	Unlawful assembly		5
17	752.797(1)(c)	Property	E	Computer fraud -- 2 prior		
18				convictions or value of		
19				\$1,000 to \$20,000		5
20	752.797(1)(d)	Property	D	Computer fraud -- 3 or		
21				more prior convictions		
22				or value of \$20,000 or		
23				more		10
24	752.797(2)(a)	Property	E	Unlawfully accessing com-		
25				puter, computer system,		
26				or computer program		5
27	752.797(2)(b)	Property	D	Unlawfully accessing com-		
28				puter, computer system,		
29				or computer program,		
30				with prior conviction		10
31	752.797(3)(b)	Variable	G	Using computer to commit		
32				crime punishable by a		
33				maximum term of impris-		
34				onment of more than		
35				1 year but less than		
36				2 years		2
37	752.797(3)(c)	Variable	F	Using computer to commit		
38				crime punishable by a		
39				maximum term of		

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1				imprisonment of at	
2				least 2 years but less	
3				than 4 years	4
4	752.797(3)(d)	Variable	D	Using computer to commit	
5				crime punishable by a	
6				maximum term of impris-	
7				onment of at least	
8				4 years but less than	
9				10 years	7
10	752.797(3)(e)	Variable	D	Using computer to commit	
11				crime punishable by a	
12				maximum term of impris-	
13				onment of at least	
14				10 years but less than	
15				20 years	10
16	752.797(3)(f)	Variable	B	Using computer to commit	
17				crime punishable by a	
18				maximum term of impris-	
19				onment of at least	
20				20 years or for life	20
21	752.802	Property	H	Vending machines --	
22				manufacture/sale of	
23				slugs	5
24	752.811	Property	H	Breaking and entering a	
25				coin operated device	3
26	752.861	Person	G	Careless discharge of	
27				firearm causing injury	
28				or death	2
29	752.881	Person	G	Reckless use of bow and	
30				arrow resulting in	
31				injury or death	2
32	752.1003	Property	F	Health care fraud --	
33				false claim/state,	
34				unnecessary, conceal	
35				information	4
36	752.1004	Property	F	Health care fraud --	
37				kickbacks/referral fees	4
38	752.1005	Property	H	Health care fraud --	
39				conspiracy	10
40	752.1006	Property	D	Health care fraud -- sub-	
41				sequent offense	20

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1 2	752.1054(2)	Property	G	Copying audio/video recordings for gain	5
3 4 5	764.1e	Pub trst	C	Peace officer -- false statement in a complaint	15
6 7	767.4a	Pub trst	F	Disclosing or possessing grand jury information	4
8 9 10 11 12	767A.9(a) 767A.9(1)(A)	Pub trst	C	Perjury committed in prosecutor's investigative hearing -- noncapital crime	15
13 14 15 16 17	767A.9(b) 767A.9(1)(B)	Pub trst	B	Perjury committed in prosecutor's investigative hearing -- capital crime	Life
18 19	800.281(1)	Pub saf	H	Furnishing prisoner with contraband	5
20 21	800.281(2)	Pub saf	H	Furnishing prisoner with contraband outside	5
22 23	800.281(3)	Pub saf	H	Bringing contraband into prisons	5
24 25	800.281(4)	Pub saf	E	Prisoner possessing contraband	5
26 27	800.283(1)	Pub saf	E	Furnishing weapon to prisoner in prison	5
28 29 30	800.283(2)	Pub saf	E	Prisons -- knowledge of a weapon in a correctional facility	5
31 32	800.283(3)	Pub saf	E	Bringing weapon into prison	5
33 34	800.283(4)	Pub saf	E	Prisoner possessing weapon	5
35	801.262(1)(a)	Pub saf	E	Bringing weapon into jail	5
36 37	801.262(1)(b)	Pub saf	E	Furnishing weapon to prisoner in jail	5
38 39	801.262(2)	Pub saf	E	Prisoner in jail possessing weapon	5

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1 801.263(1) Pub saf H Furnishing contraband to
2 prisoner in jail 5

3 801.263(2) Pub saf H Prisoner in jail possess-
4 ing contraband 5

5 (2) For a violation of section 797(3) of 1979 PA 53,
6 MCL 752.797, determine the offense category, offense variable
7 level, and prior record variable level based on the underlying
8 offense.

[Sec. 31. (1) Offense variable 1 is aggravated use of a weapon.
Score offense variable 1 by determining which of the following apply and
by assigning the number of points attributable to the one that has the
highest number of points:

(a) A firearm was discharged at or toward a human
being or a victim was cut or stabbed with a knife or
other cutting or stabbing weapon..... 25 points

(b) A firearm was pointed at or toward a victim or
the victim had a reasonable apprehension of an immedi-
ate battery when threatened with a knife or other cut-
ting or stabbing weapon..... 15 points

(c) The victim was touched by any other type of
weapon..... 10 points

(d) A weapon was displayed or implied..... 5 points

(e) No aggravated use of a weapon occurred..... 0 points

(2) All of the following apply to scoring offense variable 1:

(a) Count each person who was placed in danger of injury or loss of
life as a victim.

(b) In multiple offender cases, if 1 offender is assessed points for
the presence or use of a weapon, all offenders shall be assessed the same
number of points.

(c) Score 5 points if an offender used an object to suggest the
presence of a weapon.

(D) SCORE 5 POINTS IF THE OFFENDER USED A CHEMICAL IRRITANT, CHEMI-
CAL IRRITANT DEVICE, SMOKE DEVICE, OR IMITATION HARMFUL SUBSTANCE OR
DEVICE.

(E) ~~(d)~~ Do not score 5 points if the conviction offense is a
violation of section 82 or 529 of the Michigan penal code, 1931 PA 328,
MCL 750.82 and 750.529.

(3) AS USED IN THIS SECTION, "CHEMICAL IRRITANT", "CHEMICAL IRRITANT
DEVICE", AND "IMITATION HARMFUL SUBSTANCE OR DEVICE" MEAN THOSE TERMS AS
DEFINED IN SECTION 200H OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
750.200H.

Sec. 32. (1) Offense variable 2 is lethal potential of the weapon
possessed OR USED. Score offense variable 2 by determining which of the
following apply and by assigning the number of points attributable to the
one that has the highest number of points:

(A) THE OFFENDER POSSESSED OR USED A HARMFUL BIO-
LOGICAL SUBSTANCE, HARMFUL BIOLOGICAL DEVICE, HARMFUL
CHEMICAL SUBSTANCE, HARMFUL CHEMICAL DEVICE, HARMFUL
RADIOACTIVE MATERIAL, OR HARMFUL RADIOACTIVE DEVICE... 15 POINTS

(B) ~~(a)~~ The offender possessed OR USED an
incendiary device, an explosive device, or a fully
automatic weapon..... 15 points

(C) ~~(b)~~ The offender possessed OR USED a
short-barreled rifle or a short-barreled shotgun..... 10 points

(D) ~~(c)~~ The offender possessed OR USED a pistol, rifle, shotgun, or knife or other cutting or stabbing weapon..... 5 points

(E) ~~(d)~~ The offender possessed OR USED any other potentially lethal weapon..... 1 point

(F) ~~(e)~~ The offender possessed OR USED no weapon..... 0 points

(2) In multiple offender cases, if 1 offender is assessed points for possessing a weapon, all offenders shall be assessed the same number of points.

(3) As used in this section:

(A) "HARMFUL BIOLOGICAL SUBSTANCE", "HARMFUL BIOLOGICAL DEVICE", "HARMFUL CHEMICAL SUBSTANCE", "HARMFUL CHEMICAL DEVICE", "HARMFUL RADIO-ACTIVE MATERIAL", AND "HARMFUL RADIOACTIVE DEVICE" MEAN THOSE TERMS AS DEFINED IN SECTION 200H OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.200H.

(B) ~~(a)~~ "Fully automatic weapon" means a firearm employing gas pressure or force of recoil or other means to eject an empty cartridge from the firearm after a shot, and to load and fire the next cartridge from the magazine, without renewed pressure on the trigger for each successive shot.

(C) ~~(b)~~ "Pistol", "rifle", or "shotgun" includes a revolver, semi-automatic pistol, rifle, shotgun, combination rifle and shotgun, or other firearm manufactured in or after 1898 that fires fixed ammunition, but does not include a fully automatic weapon or short-barreled shotgun or short-barreled rifle.

(D) ~~(c)~~ "Incendiary device" includes gasoline or any other flammable substance, a blowtorch, fire bomb, Molotov cocktail, or other similar device.

Sec. 49. Offense variable 19 is threat to the security of a penal institution or court or interference with the administration of justice. Score offense variable 19 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender by his or her conduct threatened the security of a penal institution or court..... 25 points

(b) The offender used force or the threat of force against another person or the property of another person to interfere with, ~~or~~ attempt to interfere with, OR THAT RESULTS IN THE INTERFERENCE WITH the administration of justice OR THE RENDERING OF EMERGENCY SERVICES..... 15 points

(c) The offender otherwise interfered with or attempted to interfere with the administration of justice..... 10 points

(d) The offender did not threaten the security of a penal institution or court or interfere with or attempt to interfere with the administration of justice..... 0 points

9 Enacting section 1. Sections 12 and 17 of chapter XVII of 1927 PA

10 175, as amended by this amendatory act, take effect February 1, 2002.

11 Enacting section 2. This amendatory act does not take effect unless

12 all of the following bills of the 91st Legislature are enacted into law:

13 (a) Senate Bill No. 497.

(b) House Bill No. 4813.]

SB675, As Passed House, October 18, 2001

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Final page.

TJS