

Rep. Van Regenmorter offered the following substitute (H-4):

**SUBSTITUTE FOR
HOUSE BILL NO. 4248**

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending sections 12f, 14h, 22, 33, and 48 of chapter XVII
(MCL 777.12f, 777.14h, 777.22, 777.33, and 777.48), section 12f
as added by 2002 PA 34, section 14h as added by 2002 PA 29,
section 22 as amended by 2002 PA 143, and sections 33 and 48 as
amended by 2000 PA 279.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XVII

2 Sec. 12f. This chapter applies to the following felonies
3 enumerated in sections 625 to 625o of chapter VI of the Michigan
4 vehicle code, 1949 PA 300, within chapter 257 of the Michigan
5 Compiled Laws:

6	<u>M.C.L.</u>	<u>Category</u>	<u>Class</u>	<u>Description</u>	<u>Stat</u>	<u>Max</u>
7	257.625(4)(a)	Person	C	Operating a vehicle		
8				under the influence		

1				or while intoxicated	
2				or impaired causing	
3				death	15
4	257.625(4)(b)	Person	B	Operating a vehicle	
5				under the influence	
6				or while intoxicated	
7				or impaired causing	
8				death to certain	
9				persons	20
10	257.625(5)	Person	E	Operating a vehicle	
11				under the influence	
12				or while intoxicated	
13				or impaired causing	
14				serious impairment	5
15	257.625(7)(a)(ii)	Person	E	Operating a vehicle	
16				under the influence	
17				or while intoxicated	
18				or impaired with a	
19				minor in the vehicle --	
20				subsequent offense	5
21	257.625(8)(c)				
22	257.625(9)(c)	Pub saf	E	Operating a vehicle	
23				under the influence	
24				while intoxicated or	
25				with the presence of a	
26				controlled substance --	
27				third or subsequent	
28				offense	5
29	257.625(9)(b)				
30	257.625(10)(b)	Person	E	Allowing a vehicle to be	
31				operated while under	
32				the influence	
33				intoxicated or impaired	
34				causing death	5
35	257.625(9)(c)				
36	257.625(10)(c)	Person	G	Allowing a vehicle to be	
37				operated while under	
38				the influence	
39				intoxicated or impaired	
40				causing serious	
41				impairment	2
42	257.625(10)(c)				
43	257.625(11)(c)	Pub saf	E	Impaired driving --	
44				third or subsequent	
45				offense Operating a	
46				vehicle while impaired	

1				-- third or subsequent	
2				offense	5
3	257.625k(7)	Pub saf	D	Knowingly providing false	
4				information concerning	
5				an ignition interlock	
6				device	10
7	257.625k(9)	Pub saf	D	Failure to report illegal	
8				ignition interlock	
9				device	10
10	257.625m(5)	Pub saf	E	Commercial drunk driving	
11				-- third or subsequent	
12				offense	5
13	Sec. 14h. This chapter applies to the following felonies				
14	enumerated in chapter 445 of the Michigan Compiled Laws:				
15	<u>M.C.L.</u>	<u>Category</u>	<u>Class</u>	<u>Description</u>	<u>Stat Max</u>
16	445.487(2)	Pub ord	H	Precious metal and gem	
17				dealer failure to	
18				record material matter	
19				-- subsequent offense	2
20	445.488(2)	Pub ord	H	Precious metal and gem	
21				dealer violations --	
22				subsequent offense	2
23	445.489	Pub ord	H	Precious metal and gem	
24				dealer violations	2
25	445.490	Pub ord	H	Precious metal and gem	
26				dealer failure to	
27				obtain a certificate of	
28				registration	2
29	445.779	Pub ord	H	Antitrust violation	2
30	445.1505	Pub trst	G	Franchise investment law	
31				-- fraudulent	
32				filing/offers	7
33	445.1508	Pub trst	G	Franchise investment law	
34				-- sale without proper	
35				disclosure	7
36	445.1513	Pub trst	G	Franchise investment law	
37				-- illegal offers/sales	7
38	445.1520	Pub trst	G	Franchise investment law	

1				-- keeping records	7
2	445.1521	Pub trst	G	Franchise investment law	
3				-- false representation	7
4	445.1523	Pub trst	G	Franchise investment law	
5				-- false statements of	
6				material fact	7
7	445.1525	Pub trst	G	Franchise investment law	
8				-- false advertising	7
9	445.1528	Pub trst	D	Pyramid/chain promotions	
10				-- offer or sell	7
11	445.1671	Pub trst	E	Mortgage brokers, lenders	
12				-- knowingly giving a	
13				false statement	15
14	445.1679	Pub trst	H	Mortgage brokers act --	
15				general violations	3
16	445.2507(2)	Pub ord	F	Violation of unsolicited	
17				commercial e-mail	
18				protection act in	
19				furtherance of crime	4

20 Sec. 22. (1) For all crimes against a person, score offense
21 variables 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 19, and 20.
22 Score offense variables 5 and 6 for homicide, attempted homicide,
23 conspiracy or solicitation to commit a homicide, or assault with
24 intent to commit murder. Score offense variable 16 under this
25 subsection for a violation or attempted violation of section 110a
26 of the Michigan penal code, 1931 PA 328, MCL 750.110a. Score
27 offense variables 17 and 18 if ~~an element of~~ the offense or
28 attempted offense involves the operation of a vehicle, vessel,
29 ORV, snowmobile, aircraft, or locomotive.

30 (2) For all crimes against property, score offense variables
31 1, 2, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20.

32 (3) For all crimes involving a controlled substance, score

1 offense variables 1, 2, 3, 12, 13, 14, 15, 19, and 20.

2 (4) For all crimes against public order and all crimes
3 against public trust, score offense variables 1, 3, 4, 9, 10, 12,
4 13, 14, 16, 19, and 20.

5 (5) For all crimes against public safety, score offense
6 variables 1, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20. Score
7 offense variable 18 if ~~an element of~~ the offense or attempted
8 offense involves the operation of a vehicle, vessel, ORV,
9 snowmobile, aircraft, or locomotive.

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

14 (a) A victim was killed..... 100 points

15 (b) A victim was killed..... ~~35~~ 50
16 points

17 (c) Life threatening or permanent incapacitating
18 injury occurred to a victim..... 25 points

19 (d) Bodily injury requiring medical treatment
20 occurred to a victim..... 10 points

21 (e) Bodily injury not requiring medical treatment
22 occurred to a victim..... 5 points

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

24 (2) All of the following apply to scoring offense variable
25 3:

26 (a) In multiple offender cases, if 1 offender is assessed
27 points for death or physical injury, all offenders shall be

1 assessed the same number of points.

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

4 (c) Score ~~35~~ 50 points if death results from the commission
5 of a crime and the ~~elements of the~~ offense or attempted offense
6 ~~involve~~ involves the operation of a vehicle, vessel, ORV,
7 snowmobile, aircraft, or locomotive ~~under the influence or while~~
8 ~~impaired causing death.~~ and any of the following apply:

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

12 (ii) The offender had an alcohol content of 0.08 grams or
13 more per 100 milliliters of blood, per 210 liters of breath, or
14 per 67 milliliters of urine or, beginning October 1, 2013, the
15 offender had an alcohol content of 0.10 grams or more per 100
16 milliliters of blood, per 210 liters of breath, or per 67
17 milliliters of urine.

18 (iii) The offender's body contained any amount of a
19 controlled substance listed in schedule 1 under section 7212 of
20 the public health code, 1978 PA 368, MCL 333.7212, or a rule
21 promulgated under that section, or a controlled substance
22 described in section 7214(a)(iv) of the public health code, 1978
23 PA 368, MCL 333.7214.

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

26 (3) As used in this section, "requiring medical treatment"
27 refers to the necessity for treatment and not the victim's

1 success in obtaining treatment.

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

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

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

17 (c) The offender operated a vehicle, vessel, ORV,
18 snowmobile, aircraft, or locomotive ~~when his or her~~
19 ~~bodily alcohol content was 0.10 grams or more but less~~
20 ~~than 0.15 grams per 100 milliliters of blood, per 210~~
21 ~~liters of breath, or per 67 milliliters of urine, or~~
22 ~~while he or she was under the influence of~~
23 ~~intoxicating liquor or a controlled substance or a~~
24 ~~combination of intoxicating liquor and a controlled~~
25 ~~substance~~ **while the offender was under the influence**
26 **of alcoholic or intoxicating liquor, a controlled**
27 **substance, or a combination of alcoholic or**

1 intoxicating liquor and a controlled substance; or
 2 while the offender's body contained any amount of a
 3 controlled substance listed in schedule 1 under
 4 section 7212 of the public health code, 1978 PA 368,
 5 MCL 333.7212, or a rule promulgated under that
 6 section, or a controlled substance described in
 7 section 7214(a)(iv) of the public health code, 1978 PA
 8 368, MCL 333.7214; or while the offender had an
 9 alcohol content of 0.08 grams or more but less than
 10 0.15 grams per 100 milliliters of blood, per 210
 11 liters of breath, or per 67 milliliters of urine or,
 12 beginning October 1, 2013, the offender had an alcohol
 13 content of 0.10 grams or more but less than 0.15 grams
 14 per 100 milliliters of blood, per 210 liters of
 15 breath, or per 67 milliliters of urine..... 10 points

16 (d) The offender operated a vehicle, vessel, ORV,
 17 snowmobile, aircraft, or locomotive ~~when his or her~~
 18 ~~bodily alcohol content was 0.07 grams or more but less~~
 19 ~~than 0.10 grams per 100 milliliters of blood, per 210~~
 20 ~~liters of breath, or per 67 milliliters of urine, or~~
 21 while he or she was visibly impaired by the use of
 22 **alcoholic or** intoxicating liquor or a controlled
 23 substance or a combination of **alcoholic or**
 24 intoxicating liquor and a controlled substance, or was
 25 less than 21 years of age and had any bodily alcohol
 26 content..... 5 points

27 (e) The offender's ability to operate a vehicle,

House Bill No. 4248 (H-4) as amended July 15, 2003

1 vessel, ORV, snowmobile, aircraft, or locomotive was
2 not affected by an **alcoholic or** intoxicating liquor or
3 a controlled substance or a combination of **alcoholic**
4 **or** intoxicating liquor and a controlled substance..... 0 points

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

7 (a) An alcohol content of ~~[not less than]~~ 0.02 grams or more
8 **but less** than ~~0.07~~ **0.08** grams per 100 milliliters of blood, per
9 210 liters of breath, or per 67 milliliters of urine **or,**
10 **beginning October 1, 2013, 0.02 grams or more but less than 0.10**
11 **grams per 100 milliliters of blood, per 210 liters of breath, or**
12 **per 67 milliliters of urine.**

13 (b) Any presence of alcohol within an individual's body
14 resulting from the consumption of **alcoholic or** intoxicating
15 liquor other than the consumption of **alcoholic or** intoxicating
16 liquor as part of a generally recognized religious service or
17 ceremony.

18 Enacting section 1. This amendatory act takes effect
19 September 30, 2003.

20 Enacting section 2. This amendatory act does not take
21 effect unless all of the following bills of the 92nd Legislature
22 are enacted into law:

23 (a) House Bill No. 4247.

24 (b) House Bill No. 4519.