

# HOUSE BILL No. 4248

February 18, 2003, Introduced by Rep. Van Regenmorter and referred to the Committee on Criminal Justice.

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

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### CHAPTER XVII

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

<u>M.C.L.</u>	<u>Category</u>	<u>Class</u>	<u>Description</u>	<u>Stat Max</u>
257.625(4)(a)	Person	C	Operating a vehicle under the influence or while <del>impaired</del> <b>intoxicated</b> causing death	15
257.625(4)(b)	Person	B	Operating a vehicle under	

1				the influence or while	
2				<del>impaired</del> <b>intoxicated</b>	
3				causing death to	
4				certain persons	20
5	257.625(5)	Person	E	Operating a vehicle under	
6				the influence or while	
7				<del>impaired</del> <b>intoxicated</b>	
8				causing serious	
9				impairment	5
10	257.625(7)(a)(ii)	Person	E	Operating a vehicle under	
11				the influence or while	
12				<del>impaired</del> <b>intoxicated</b>	
13				with a minor in the	
14				vehicle -- subsequent	
15				offense	5
16	257.625(8)(c)	Pub saf	E	Operating a vehicle under	
17				the influence -- third	
18				or subsequent offense	5
19	257.625(9)(b)	Person	E	Allowing a vehicle to be	
20				operated while under	
21				the influence or	
22				<del>impaired</del> <b>intoxicated</b>	
23				causing death	5
24	257.625(9)(c)	Person	G	Allowing a vehicle to be	
25				operated while under	
26				the influence or	
27				<del>impaired</del> <b>intoxicated</b>	
28				causing serious	
29				impairment	2
30	257.625(10)(c)	Pub saf	E	<del>Impaired driving</del>	
31				<b>Operating while</b>	
32				<b>intoxicated</b> -- third or	
33				subsequent offense	5
34	257.625k(7)	Pub saf	D	Knowingly providing false	
35				information concerning	
36				an ignition interlock	
37				device	10
38	257.625k(9)	Pub saf	D	Failure to report illegal	
39				ignition interlock	
40				device	10
41	257.625m(5)	Pub saf	E	Commercial drunk driving	
42				-- third or subsequent	
43				offense	5

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

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

6       (b) A victim was killed..... 35 points

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

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

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

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

14       (2) All of the following apply to scoring offense variable  
 15 3:

16       (a) In multiple offender cases, if 1 offender is assessed  
 17 points for death or physical injury, all offenders shall be  
 18 assessed the same number of points.

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

21       (c) Score 35 points if death results from the commission of a  
 22 crime and the ~~elements of the~~ offense or attempted offense  
 23 ~~involve~~ **involves** the operation of a vehicle, vessel, ORV,  
 24 snowmobile, aircraft, or locomotive ~~under the influence or while~~  
 25 ~~impaired causing death~~ **and the offender's bodily alcohol content**  
 26 **was 0.08 grams or more per 100 milliliters of blood, per 210**  
 27 **liters of breath, or per 67 milliliters of urine, or while he or**

1 she was under the influence of or while visibly impaired by the  
 2 use of alcoholic or intoxicating liquor or a controlled substance  
 3 or a combination of alcoholic or intoxicating liquor and a  
 4 controlled substance.

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

7 (3) As used in this section, "requiring medical treatment"  
 8 refers to the necessity for treatment and not the victim's  
 9 success in obtaining treatment.

10 Sec. 48. (1) Offense variable 18 is operator ability  
 11 affected by alcohol or drugs. Score offense variable 18 by  
 12 determining which of the following apply and by assigning the  
 13 number of points attributable to the one that has the highest  
 14 number of points:

15 (a) The offender operated a vehicle, vessel, ORV,  
 16 snowmobile, aircraft, or locomotive when his or her  
 17 bodily alcohol content was 0.20 grams or more per 100  
 18 milliliters of blood, per 210 liters of breath, or per  
 19 67 milliliters of urine..... 20 points

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

25 (c) The offender operated a vehicle, vessel, ORV,  
 26 snowmobile, aircraft, or locomotive when his or her  
 27 bodily alcohol content was ~~0.10~~ 0.08 grams or more

1 but less than 0.15 grams per 100 milliliters of blood,  
 2 per 210 liters of breath, or per 67 milliliters of  
 3 urine, or while he or she was under the influence of  
 4 **or while visibly impaired by the use of alcoholic or**  
 5 intoxicating liquor or a controlled substance or a  
 6 combination of **alcoholic or** intoxicating liquor and a  
 7 controlled substance..... 10 points

8 (d) The offender operated a vehicle, vessel, ORV,  
 9 snowmobile, aircraft, or locomotive, ~~when his or her~~  
 10 ~~bodily alcohol content was 0.07 grams or more but less~~  
 11 ~~than 0.10 grams per 100 milliliters of blood, per 210~~  
 12 ~~liters of breath, or per 67 milliliters of urine, or~~  
 13 ~~while he or she was visibly impaired by the use of~~  
 14 ~~intoxicating liquor or a controlled substance or a~~  
 15 ~~combination of intoxicating liquor and a controlled~~  
 16 ~~substance, or~~ was less than 21 years of age, and had  
 17 any bodily alcohol content..... 5 points

18 (e) The offender's ability to operate a vehicle,  
 19 vessel, ORV, snowmobile, aircraft, or locomotive was  
 20 not affected by an **alcoholic or** intoxicating liquor or  
 21 a controlled substance or a combination of **alcoholic**  
 22 **or** intoxicating liquor and a controlled substance..... 0 points

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

25 (a) An alcohol content of ~~not less than~~ 0.02 grams or more  
 26 **but less** than ~~0.07~~ **0.08** grams per 100 milliliters of blood, per  
 27 210 liters of breath, or per 67 milliliters of urine.

1 (b) Any presence of alcohol within an individual's body  
2 resulting from the consumption of **alcoholic or** intoxicating  
3 liquor other than the consumption of **alcoholic or** intoxicating  
4 liquor as part of a generally recognized religious service or  
5 ceremony.

6 Enacting section 1. This amendatory act takes effect  
7 September 30, 2003.

8 Enacting section 2. This amendatory act does not take  
9 effect unless Senate Bill No. \_\_\_\_\_ or House Bill No. 4247  
10 (request no. 00871'03 \*) of the 92nd Legislature is enacted into  
11 law.