

SENATE BILL No. 1310

June 15, 2006, Introduced by Senator SWITALSKI and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled
 "The code of criminal procedure,"
 by amending sections 33 and 48 of chapter XVII (MCL 777.33 and
 777.48), as amended by 2003 PA 134.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XVII

Sec. 33. (1) Offense variable 3 is physical injury to a
 victim. Score offense variable 3 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 victim was killed 100 points
- (b) A victim was killed 50 points
- (c) Life threatening or permanent incapacitating

1 injury occurred to a victim 25 points

2 (d) Bodily injury requiring medical treatment

3 occurred to a victim 10 points

4 (e) Bodily injury not requiring medical treatment

5 occurred to a victim 5 points

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

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

8 (a) In multiple offender cases, if 1 offender is assessed

9 points for death or physical injury, all offenders shall be

10 assessed the same number of points.

11 (b) Score 100 points if death results from the commission of a

12 crime and homicide is not the sentencing offense.

13 (c) Score 50 points if death results from the commission of a

14 crime and the offense or attempted offense involves the operation

15 of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive and

16 any of the following apply:

17 (i) The offender was under the influence of or visibly impaired

18 by the use of alcoholic liquor, a controlled substance, or a

19 combination of alcoholic liquor and a controlled substance.

20 (ii) The offender had an alcohol content of 0.08 grams or more

21 per 100 milliliters of blood, per 210 liters of breath, or per 67

22 milliliters of urine. ~~or, beginning October 1, 2013, the offender~~

23 ~~had an alcohol content of 0.10 grams or more per 100 milliliters of~~

24 ~~blood, per 210 liters of breath, or per 67 milliliters of urine.~~

25 (iii) The offender's body contained any amount of a controlled

26 substance listed in schedule 1 under section 7212 of the public

27 health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under

that section, or a controlled substance described in section 7214(a)(iv) of the public health code, 1978 PA 368, MCL 333.7214.

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

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

Sec. 48. (1) Offense variable 18 is operator ability affected by alcohol or drugs. Score offense variable 18 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 operated a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive when his or her bodily alcohol content was 0.20 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine 20 points

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

(c) The offender operated a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive while the offender was under the influence of alcoholic or intoxicating liquor, a controlled substance, or a combination of alcoholic or intoxicating liquor and a controlled substance; or while the offender's body contained any

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

14 (d) The offender operated a vehicle, vessel, ORV,
 15 snowmobile, aircraft, or locomotive while he or she was
 16 visibly impaired by the use of alcoholic or intoxicating
 17 liquor or a controlled substance or a combination of
 18 alcoholic or intoxicating liquor and a controlled substance,
 19 or was less than 21 years of age and had any bodily alcohol
 20 content 5 points

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

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

1 (a) An alcohol content of 0.02 grams or more but less than
2 0.08 grams per 100 milliliters of blood, per 210 liters of breath,
3 or per 67 milliliters of urine. ~~or, beginning October 1, 2013,~~
4 ~~0.02 grams or more but less than 0.10 grams per 100 milliliters of~~
5 ~~blood, per 210 liters of breath, or per 67 milliliters of urine.~~

6 (b) Any presence of alcohol within an individual's body
7 resulting from the consumption of alcoholic or intoxicating liquor
8 other than the consumption of alcoholic or intoxicating liquor as
9 part of a generally recognized religious service or ceremony.

10 Enacting section 1. This amendatory act does not take effect
11 unless Senate Bill No. 1309

12 of the 93rd Legislature is enacted into law.