

HOUSE BILL No. 5743

June 8, 2016, Introduced by Reps. Pscholka and Sarah Roberts and referred to the Committee on Criminal Justice.

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 2013 PA 24.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XVII

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

- | | | |
|---|------------------------------|------------|
| 6 | (a) A victim was killed..... | 100 points |
| 7 | (b) A victim was killed..... | 50 points |

- 1 (c) Life threatening or permanent incapacitating
 2 injury occurred to a victim..... 25 points
 3 (d) Bodily injury requiring medical treatment
 4 occurred to a victim..... 10 points
 5 (e) Bodily injury not requiring medical treatment
 6 occurred to a victim..... 5 points
 7 (f) No physical injury occurred to a victim..... 0 points

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

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

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

14 (c) Score 50 points if death results from the commission of a
 15 crime and the offense or attempted offense involves the operation
 16 of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive and
 17 any of the following apply:

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

21 (ii) The offender had an alcohol content of 0.08 grams or more
 22 per 100 milliliters of blood, per 210 liters of breath, or per 67
 23 milliliters of urine. ~~or, beginning October 1, 2018, the offender~~
 24 ~~had an alcohol content of 0.10 grams or more per 100 milliliters of~~
 25 ~~blood, per 210 liters of breath, or per 67 milliliters of urine.~~

26 (iii) The offender's body contained any amount of a controlled
 27 substance listed in schedule 1 under section 7212 of the public

1 health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under
 2 that section, or a controlled substance described in section
 3 7214(a)(iv) of the public health code, 1978 PA 368, MCL 333.7214.

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

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

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

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

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

23 (c) The offender operated a vehicle, vessel, ORV,
 24 snowmobile, aircraft, or locomotive while the offender
 25 was under the influence of alcoholic or intoxicating
 26 liquor, a controlled substance, or a combination of
 27 alcoholic or intoxicating liquor and a controlled

1 substance; or while the offender's body contained any
 2 amount of a controlled substance listed in schedule 1
 3 under section 7212 of the public health code, 1978 PA
 4 368, MCL 333.7212, or a rule promulgated under that
 5 section, or a controlled substance described in section
 6 7214(a)(iv) of the public health code, 1978 PA 368, MCL
 7 333.7214; or while the offender had an alcohol content
 8 of 0.08 grams or more but less than 0.15 grams per 100
 9 milliliters of blood, per 210 liters of breath, or per
 10 67 milliliters of urine. ~~or, beginning October 1,~~
 11 ~~2018, the offender had an alcohol content of 0.10 grams~~
 12 ~~or more but less than 0.15 grams per 100 milliliters of~~
 13 ~~blood, per 210 liters of breath, or per 67 milliliters~~
 14 ~~of urine.....~~ 10 points

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

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

27 (2) As used in this section, "any bodily alcohol content"

1 means either of the following:

2 (a) An alcohol content of 0.02 grams or more but less than
3 0.08 grams per 100 milliliters of blood, per 210 liters of breath,
4 or per 67 milliliters of urine. ~~or, beginning October 1, 2018, 0.02~~
5 ~~grams or more but less than 0.10 grams per 100 milliliters of~~
6 ~~blood, per 210 liters of breath, or per 67 milliliters of urine.~~

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

11 Enacting section 1. This amendatory act takes effect 90 days
12 after the date it is enacted into law.

13 Enacting section 2. This amendatory act does not take effect
14 unless Senate Bill No. ____ or House Bill No. 5742 (request no.
15 05936'16) of the 98th Legislature is enacted into law.