

Michigan Legislation Update

A Summary of Recently Enacted Michigan Laws and Legislation to Watch

RECENTLY ENACTED MICHIGAN LAWS

Crowdfunding for Small Businesses



Karen M. Daley

“Crowdfunding” is a term used to describe a method of raising money through the Internet. For several years, this funding method has been used to generate financial support for things like films and musical recordings, typically through small individual contributions from a large number of people.

Although crowdfunding can be used to raise money for many things, it typically has not been used as a means to offer and sell securities. This is because offering a share or profit from business activities can trigger the application of federal securities laws. The existing federal SEC regulations make it almost impossible for small businesses to receive investment from “non-accredited” investors, which is defined as individuals with less than \$1 million of net worth or an annual income of less than \$200,000. Approximately 97% of Americans fit this definition.

This law changes that, at least for Michigan-based companies and investors. The new law legalizes crowdfunding by using an exemption in the federal law that allows non-accredited individuals to invest in companies that are based in the same state that the non-accredited investor lives in. As a result, the new law gives all Michigan residents a way to invest in local businesses, and provides a way for Michigan businesses to raise funds from any Michigan citizen.

Student Safety Hotline

According to a study of 37 incidents of school violence, the U.S. Secret Service and U.S. Department of Education found that in 81% of the surveyed incidents, at least one other person had some prior knowledge of the attacker’s plan. The study also found that bystanders were more likely to come forward if they knew that they would be believed and the report would be kept confidential.

Following the 1999 school shooting in Columbine, Colorado, a program called “Safe2Tell” was developed to provide for anonymous reporting of threats of violence. According to the Attorney General, the “Safe2Tell” program has resulted in the intervention of 28 planned school attacks, 275 weapon incidents, 442 sexual offenses, 890 planned suicides, and 1,636 bullying incidents.

Because this approach has proven successful in deterring violence, the Michigan Legislature has passed the “Student Safety Act” to provide for the development and implementation of a statewide program that would allow for confidential reports of potential harm or criminal acts directed at students, school employees, or schools to a hotline. Any report or information submitted to the hotline is confidential and is not subject to the Freedom of Information Act, and can only be released under very limited circumstances.

Attention Wine Lovers

A new law was recently enacted that amends the Michigan

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Michigan Legislation Update (cont.)

Liquor Control Code to authorize restaurants with a liquor license to allow patrons to bring in their own wine for consumption. The wine must be brought into the premises in its original sealed container and must have been produced by a wine maker, a small wine maker, or an out-of-state entity that was the substantial equivalent of a wine maker or small wine maker. The restaurant can charge a corkage fee for each bottle of wine brought in and opened on the premises, and patrons are not allowed to leave with the wine unless the restaurant caps the bottle or reinserts the cork so that the top of the cork is level with the lip of the bottle.

Billboard Regulations

Legislation recently signed by the Governor revises existing law regarding the placement and maintenance of billboards in Michigan, bringing the state in line with required federal highway administration standards. Rules surrounding billboards, their maintenance, and their surroundings had not been updated in nearly 15 years and did not meet current federal highway regulations. As a result, Michigan was at risk of losing up to \$100 million in federal funding.

The new law clarifies the definitions of digital billboards, defines the permitting process for billboards more concisely, and specifies the rules for trimming trees and vegetation around billboards. It also establishes the Michigan Billboard Advisory Council, to advise MDOT and the State Transportation Commission regarding general policy for effective control of outdoor advertising.

SDD Liquor License Transfers

Under a new law, escrowed Specially Designated Distributor (SDD) licenses, which permit the sale of spirits for off-premise consumption, can be transferred to an applicant whose proposed operation is located within any municipality in the county in which the SDD license was located. The most common businesses with SDD licenses are grocery stores, drug stores, and convenience stores.

Although the transfer requires the approval of the Liquor Control Commission, approval from the local legislative body is not necessary.

LEGISLATION TO WATCH

Candidates Must Declare Felonies

2 Under a new bill that recently passed the House Elections

and Ethics committee, a candidate for office would have to reveal any felony convictions in the previous ten years. Juvenile convictions would not have to be listed. The bill now moves to the full House for consideration.

Optional Michigan State Bar

Legislation recently introduced would make lawyers' membership in the State Bar of Michigan voluntary. Currently, attorneys licensed to practice law in Michigan must be members of the bar and pay annual dues of \$305 a year, \$110 of which covers the cost of discipline enforcement within the profession. Under the legislation, the disciplinary regulation fee would still be required. The bill has been referred to the Committee on Government Operations.

Human Trafficking Commission

Human trafficking is the second largest and fastest growing criminal industry in the world. Advocates against human trafficking estimate that at least 29 million people are trafficked worldwide, with more than two million of those children. Human trafficking includes forced labor (agricultural, industrial, and domestic) and forced prostitution.

The extent of human trafficking in Michigan is not known. However, in the summer of 2013, the FBI conducted a sting in more than 70 cities, culminating in the arrest of 159 pimps and the rescue of over 100 children. Fifty-nine of the arrests and ten of the rescued children were from the Detroit area.

A bill recently passed by the House would create the Human Trafficking Commission Act, which would establish a Commission within the Department of Attorney General to coordinate information gathering and training between public and private agencies. The Commission would be tasked with identifying the scope of human trafficking in Michigan and formulating effective strategies to combat it and provide meaningful services to victims. The bill has been referred to the Committee on Families, Seniors and Human Services.

Karen M. Daley

Karen M. Daley is an attorney in our Livonia office and is the head of the Firm's appellate division. She concentrates her practice on appellate law and municipal law. She can be reached at (734) 261-2400 or kdaley@cmda-law.com.

Attorney Joins Firm



Sara E. Lowry

We are pleased to announce that Sara Lowry has joined our Firm as an attorney in our Livonia office.

She focuses her practice on municipal law and litigation. Prior to joining CMDA, Ms. Lowry worked at the Wayne County Prosecutors Office, Wayne County Solution Orientated

Domestic Violence Prevention Court, Immigration Clinic at University of Detroit Mercy, and Freedom House in Detroit. She received a Juris Doctor degree, *cum laude*, from the Uni-

versity of Detroit Mercy School of Law and a Bachelor of Arts degree in International Relations from Grand Valley State University.

When not practicing law, Ms. Lowry has volunteered her time at the Boys and Girls Club of Oakland County and a warming shelter in Detroit. Additionally, she has assisted an ongoing water project in Haiti that aims to provide clean, safe water for communities in Haiti. She enjoys running and practicing yoga.

Ms. Lowry can be reached at (734) 261-2400 or slowry@cnda-law.com.

Traverse City Attorney Wins Defamation Case for Michigan Sheriff



Gregory R. Grant

Greg Grant, an attorney in our Traverse City office, recently obtained a dismissal in a defamation case filed against a Michigan sheriff. The plaintiff in the case ran against the incumbent sheriff during the last election. The plaintiff claimed that the sheriff made numerous defamatory statements to others regarding the plaintiff's background and qualifications

during the campaign.

Through discovery, Mr. Grant was able to demonstrate that any statements made by the sheriff about the plaintiff were

either absolutely true or not capable of defamatory meaning. The circuit court agreed and dismissed the plaintiff's lawsuit with prejudice prior to trial.

Mr. Grant subsequently filed a motion against the plaintiff seeking an award of all costs and attorney fees for having to defend the case. The court found the plaintiff's lawsuit to be frivolous under Michigan law and ordered the plaintiff to pay all of the sheriff's costs and attorney fees since the inception of the case.

Mr. Grant can be reached at (231) 922-1888 or ggrant@cnda-law.com.

Attorneys Present at MACP Training Conference

Several attorneys from our Firm participated in the Michigan Association of Chiefs of Police (MACP) Mid-Winter Training Conference recently held in Grand Rapids, MI.



Ethan Vinson, Andy Brege and Ken Galica at the MACP Mid-Winter Training Conference

The conference was attended by chiefs of police, sheriffs, 911 dispatch coordinators and various law enforcement-related officials.

Ethan Vinson and Ken Galica, both attorneys in our Livonia office, gave a presentation to a well-attended crowd on the court rules regarding

electronic discovery (e-discovery). E-discovery refers to any process in which electronic data is sought, located, secured, and searched with the intent of using it as evidence in a civil or criminal legal case. Mr. Vinson and Mr. Galica explained some common issues with e-discovery, including accessibility, spoliation, collection, and form of production. They also outlined the implications of e-discovery on law enforcement agencies. If your governmental entity is interested in a similar presentation, please contact either Mr. Vinson or Mr. Galica at (734) 261-2400.

Allan Vander Laan and Andrew Brege, both attorneys in our Grand Rapids office, also attended the conference and enjoyed having the opportunity to further enhance and develop new relationships with MACP members.

Office Locations

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Our Vision

To meld our legal expertise, professional support staff, technical resources and variety of locations to deliver first rate legal services at a fair value to a full range of business, municipal, insurance and individual clients.

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