



MICHIGAN STATE POLICE LEGAL UPDATE

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This update is published by the Michigan State Police Executive Division. Questions and comments may be directed to MSPLegal@Michigan.gov. Past editions can be found at www.michigan.gov/msp-legal.

CRIMINAL PROCEDURE

Drug field tests admissible at preliminary examinations

Effective December 29, 2007

Public Act 89 of 2007 amends the Code of Criminal Procedure to allow the results of drug field tests to be admissible during preliminary examinations. Such tests will be admissible for the limited purpose of establishing that evidence is a controlled substance. Formal laboratory tests are still required for trials.

[Public Act 89 of 2007](#)

ATTORNEY GENERAL OPINION

Michigan driver's licenses may not be issued to illegal aliens

In AG Opinion No. 7210, the Michigan Attorney General opined that Michigan law only allows driver's licenses to be issued to Michigan residents, and that aliens illegally in the United States cannot be residents of Michigan as contemplated by the Vehicle Code. As a result, illegal aliens are not eligible for Michigan driver's licenses.

The opinion serves to clarify the law concerning driver's licenses, and guides the Secretary of State (SOS). However, it changes little for police officers – when a LEIN check reveals that a particular license is valid, officers should treat it as such. Any action taken on licenses previously issued to illegal aliens will be taken by the SOS and should be reflected in LEIN license checks.

[A.G. Opinion No. 7210](#)

BACK TO BASICS

Note: The following material does not represent new law. Instead, it is intended to reinforce basic rules of law that police officers might apply.

Border search exception to the search warrant requirement

In order to search an area protected by the Fourth Amendment, officers must have either a search warrant or search pursuant to a recognized exception to the search warrant requirement. One such exception is the so-called "border exception."

The United States Supreme Court has held the border exception allows suspicionless searches at fixed border checkpoints (*Alemida-Sanchez v. United States*). Further, such searches may only be conducted by federal law enforcement or non-federal police officers specifically authorized by the federal government.

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