



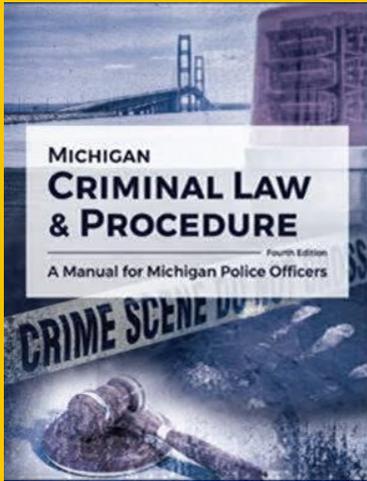
# MICHIGAN STATE POLICE LEGAL UPDATE

No. 134  
October 12, 2018

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## COMING SOON

### CRIMINAL LAW AND PROCEDURE MANUAL FOURTH EDITION



The fourth edition of *Michigan Criminal Law & Procedure: A Manual for Michigan Police Officers* will be available soon in print and eBook formats. The manual is published by [Kendall Hunt Publishing Co.](#) Copies may be [pre-ordered online](#) or by calling Kendall Hunt Customer Service at (800) 228-0810.

## VEHICLE CODE

### *The Michigan Vehicle Code amended to define and regulate "electric skateboards"*

#### Definition

**Public Act 204 of 2018** amended the Michigan Vehicle Code (MVC) by adding [MCL 257.13f](#) to define "electric skateboard" as a wheeled device with a floorboard to stand on that is not more than 60 inches long and 18 inches wide and is designed for only one person at a time. To be an electric skateboard, the device must have an electrical propulsion system that does not exceed 2,500 watts and a maximum speed on a paved level surface that does not exceed 25 mph. An electric skateboard may be designed to be powered by human propulsion, in addition to the electric propulsion system.

#### General operating rules

An electric skateboard is exempted from the definition of "motor vehicle" under [MCL 257.33](#), but a person riding an electric skateboard "has all of the rights and is subject

to all of the duties applicable to the driver of a vehicle." [MCL 257.657](#).

A person shall not use an electric skateboard to carry more than one person at a time. [MCL 257.658\(3\)](#).

A person less than 19 years old shall wear a crash helmet when operating an electric skateboard. [MCL 257.658\(4\)](#).

A person less than 12 years old shall not operate an electric skateboard on a public highway or street. [MCL 257.658\(9\)](#).

A person shall not operate an electric skateboard at more than 25 mph or on a highway or street with a speed limit of more than 25 mph, except to cross that highway or street. [MCL 257.660\(10\)](#).

#### Operating on roadway

A person operating an electric skateboard on a roadway shall ride as near to the right side of the roadway as practicable and exercise due care when passing a standing vehicle or a vehicle proceeding in the same direction. [MCL 257.660\(1\)](#).

A person riding an electric skateboard on a roadway shall not ride more than two abreast, except on a path or part of a roadway set aside for the exclusive use of electric skateboards and other certain types of vehicles. [MCL 257.660\(2\)](#).

A person operating an electric skateboard shall not pass between lines of traffic but may pass on the left of traffic moving in the same direction when on a two-way street, or on the left or right when on a one-way street, in an unoccupied lane. [MCL 257.660\(4\)](#).

#### Operating on sidewalk

A person operating an electric skateboard on a sidewalk constructed for the use of pedestrians shall yield the right-of-way to a pedestrian and give an audible signal before overtaking and passing the pedestrian. [MCL 257.660\(5\)](#).

#### Local ordinances and rules

A local ordinance may require electric skateboards to be operated on a usable path designated for bicycles adjacent to a highway or street. [MCL 257.660\(3\)](#). Local

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governments and certain state entities may adopt regulations and certain prohibitions regarding the operation of electric skateboards within its jurisdiction. See [MCL 257.660\(11\)](#), [\(13\)](#), [\(14\)](#). Operating electric skateboards is prohibited in a special charter city and state park under the jurisdiction of the Mackinac Island State Park Commission. [MCL 257.660\(12\)](#).

### **Equipment requirements**

An electric skateboard operated on a roadway between 1/2 hour after sunset and 1/2 hour before sunrise must be equipped with a lamp on the front emitting a white light visible from at least 500 feet to the front and a red reflector on the rear visible from 100 to 600 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle. A lamp emitting a red light from a distance of 500 feet to the rear may be used in addition to the red reflector. [MCL 257.662\(1\)](#).

An electric skateboard must enable the operator to bring it to a controlled stop. [MCL 257.662\(3\)](#).

### **Electric skateboard violations**

Violations of the MVC involving electric skateboards are generally civil infractions. [MCL 257.656](#); [MCL 257.662\(6\)](#).

Although treated similarly under the MVC, officers should note that electric skateboards are distinguished from “electric personal assistive mobility devices” defined under [MCL 257.13c](#) as “a self-balancing nontandem 2-wheeled device, designed to transport only 1 person at a time, having an electrical propulsion system with average power of 750 watts or 1 horsepower and a maximum speed on a paved level surface of not more than 15 miles per hour.” The definitions of electric skateboard and electric personal assistive mobility device should be considered when determining whether a particular device is subject to the MVC, and if so, which provisions of the MVC should apply.

## **SEARCH AND SEIZURE**

### ***A person generally has an expectation of privacy in a wireless carrier’s cell-site location information revealing the person’s physical movements***

In [Carpenter v. United States](#), Carpenter was arrested for a series of robberies involving numerous people in Michigan and Ohio. The federal government obtained court orders directing wireless carriers to disclose cell-site location information (CSLI) under the Stored Communications Act (SCA), [18 USC 2703\(d\)](#), which

requires “reasonable grounds” to believe the records are “relevant and material to an ongoing criminal investigation.” The government obtained 127 days of data from MetroPCS and two days of data from Sprint. Expert testimony showed that each time a cell phone taps into the wireless network, the wireless carrier logs a time-stamped record of the cell site that was used. From this information, the government was able to establish Carpenter’s location near the robberies when they occurred.

Carpenter was federally charged with six counts of robbery and firearms offenses. Carpenter filed a motion to suppress the CSLI provided by the wireless carriers on the grounds that obtaining the data without a warrant supported by probable cause violated the Fourth Amendment. The district court denied his motion. On appeal, the Sixth Circuit Court of Appeals affirmed.

The United States Supreme Court reversed, holding that individuals have an “expectation of privacy in the record of [their] physical movements as captured through CSLI.” The Court explained that “the time-stamped data provides an intimate window into a person’s life, revealing not only his particular movements, but through them his ‘familial, political, professional, religious, and sexual associations.’” The Court considered government access to CSLI an intrusion into privacies of life that “is remarkably easy, cheap, and efficient compared to traditional investigative tools.” The Court concluded that seven days of access to CSLI data is enough to be a “search” under the Fourth Amendment.

The Court held that the Fourth Amendment was violated in this case because the government failed to obtain a warrant supported by probable cause before acquiring CSLI from the wireless carriers and no judicially recognized exception to the search warrant rule, such as exigent circumstances, applied. Although the government obtained a court order under the SCA, a determination of probable cause requires a higher and more particularized level of proof than was required under the SCA.

Officers should know that the Court did not address whether “real-time CSLI” or “tower dumps,” i.e., “a download of information on all the devices that connected to a particular cell site during a particular interval,” would be a “search” under the Fourth Amendment. The Court explained that its opinion did not call into question conventional surveillance techniques and tools, such as security cameras, or address business records that might incidentally reveal location information or other collection techniques involving foreign affairs or national security.