



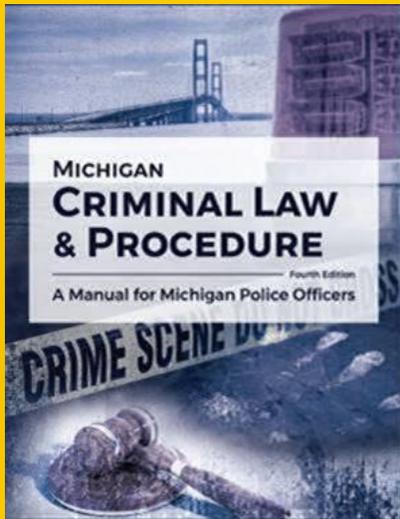
# MICHIGAN STATE POLICE LEGAL UPDATE

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## SEARCH AND SEIZURE

### ***An Electronic Insurance Verification (EIV) indicating no insurance provided reasonable suspicion for a traffic stop***

In [People v Mazzie](#), police officers stopped a vehicle in which Mazzie was a passenger because a LEIN check indicated an electronic insurance verification of no insurance (EIV=N). During the stop, officers found a substance determined to be cocaine scattered throughout the vehicle. That and other evidence obtained from the vehicle led to the search of a residence in which Mazzie was present. The officers found cocaine, drug-related items, and stolen property. Mazzie was charged with possession with intent to deliver cocaine, receiving and concealing stolen property, and maintaining a drug house.

The trial court granted Mazzie's motion to suppress the evidence primarily on the basis that the EIV=N message

did not provide reasonable suspicion to stop the vehicle because the Secretary of State (SOS) only updates LEIN insurance information every two weeks, making the information unreliable as grounds to initiate a traffic stop.

On appeal, the Court of Appeals reversed the trial court's order suppressing the evidence. The Court explained that driving without insurance is an "on-going" infraction, and if "a driver did not have insurance for his vehicle just over two weeks earlier, it is likely he does not currently have it." The Court further explained that there would be at most a 16-day lapse in updated information becoming available on LEIN, and there was no evidence presented that refuted the officers' testimony that the insurance information was accurate. The Court concluded that the EIV=N message was not so unreliable that it could not provide the officers with a minimal level of objective justification for a stop and held that there was at least a reasonable suspicion that the vehicle was operated without insurance.

Officers should be aware that the EIV=N message is not conclusive proof that the vehicle is uninsured; for example, an insurance company may have miscoded the VIN or has yet to report the insurance for a recently-insured vehicle to the SOS. Moreover, insurance companies are only required to electronically transmit policy information to the SOS for private passenger nonfleet automobiles. [MCL 500.3101a\(2\)](#). As a result, any EIV=N message associated with a motorcycle, commercial vehicle, or fleet vehicle would not necessarily provide reasonable suspicion to stop the vehicle. For these reasons, police departments may have a policy prohibiting their officers from initiating any traffic stop based solely on the EIV=N message, even though the EIV=N message may provide reasonable suspicion to justify a traffic stop. Before initiating a traffic stop based only on the EIV=N message, officers should review any applicable policies of their department.

## VEHICLE CODE

### ***The Michigan Vehicle Code (MVC) amended to require a three-foot distance when passing bicycles***

[Public Act 279 of 2018](#) amended [MCL 257.636\(2\)](#) to require a motor vehicle overtaking a bicycle going in the same direction to pass at a safe distance of at least

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three feet to the *left* of the bicycle or, if that is impracticable, at a safe speed and distance to the left. After overtaking the bicycle, the motor vehicle must take up a position as near as practicable to the right-hand edge of the main traveled portion of the highway. A vehicle may pass a bicycle in a no-passing zone if it is safe to do so. [MCL 257.636\(3\)](#).

[Public Act 280 of 2018](#) amended [MCL 257.637\(3\)](#) to require a motor vehicle overtaking a bicycle going in the same direction to pass at a safe distance of at least three feet to the *right* of the bicycle or, if that is impracticable, at a safe speed and distance to the right.

A violation of [MCL 257.636](#) or [MCL 257.637](#) is a civil infraction. [MCL 257.636\(4\)](#); [MCL 257.637\(4\)](#).

Officers are reminded of the general rule that a bicycle must be operated as close as practicable to the right-hand curb or edge of the roadway. [MCL 257.660a](#). However, that rule does not apply if the bicycle is turning left, continuing straight when in a lane of traffic turning right, passing another bicycle or vehicle going in the same direction, operating on the right-hand edge of the roadway is unsafe or reasonably unusable by bicycles, or operating as near as practicable to the left-hand curb or edge when on one-way highway or street with two or more marked lanes. Depending on the position of the bicycle and motor vehicle, [MCL 257.636](#) or [MCL 257.637](#) will control how a motor vehicle may pass the bicycle.

## DID YOU KNOW?

***It is illegal to use an "unmanned aircraft system" (UAS) to interfere with law enforcement and to commit certain other acts***

[Public Act 436 of 2016](#) established the Unmanned Aircraft Systems Act (Act), [MCL 259.301](#) to [MCL 259.331](#). Commonly known as a "drone," the Act defines "unmanned aircraft" as an "aircraft flown by a remote pilot via a ground control system, or autonomously through use of an on-board computer, communication links, and any additional equipment that is necessary for the unmanned aircraft to operate safely." [MCL 259.303\(d\)](#). A UAS is the unmanned aircraft and the equipment necessary to operate it, as listed under [MCL 259.303\(c\)](#).

An individual shall not knowingly and intentionally operate a UAS in a manner that interferes with the official duties of a police officer, firefighter, paramedic, or search and rescue personnel. [MCL 259.321](#).

An individual or a governmental or legal entity shall not knowingly and intentionally operate a UAS to violate surveillance prohibitions under [MCL 750.539j](#) or otherwise invade a person's reasonable expectation of privacy; subject a person to harassment, as defined under [MCL 750.411h](#) or [MCL 750.411i](#); come within a distance that would violate a court order if the operator were personally there; or if the operator is required to register as a sex offender, follow, contact, or record another's images in violation of the operator's criminal sentence. [MCL 259.322](#).

A violation of [MCL 259.321](#) or [MCL 259.322](#) is punishable as a 90-day misdemeanor. [MCL 259.323](#).