

Underage Alcohol Investigations: A Law Enforcement Guide

I. INTRODUCTION

Law enforcement officers dealing with minors and alcohol face several problems. The laws that apply to underage drinking change frequently, requiring law enforcement professionals to adjust their techniques in dealing with violations.

This guide is a compilation of various laws related to the consumption of alcohol. It also suggests different procedures for law enforcement officers to use during an investigation into underage drinking and when filing charges and presenting cases in Probate, District, and Circuit Court. As always, you should refer to your departmental policies for specific alcohol-related enforcement procedures.

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II. LAWS APPLICABLE TO MINORS

A. MINOR IN POSSESSION – CURRENT LAW UNTIL DECEMBER 31, 2017.

Description of Offense: Person under 21 years of age shall not purchase, consume, or possess alcohol, or have any bodily alcohol content. MCL 436.1703.

Penalty

| | |
|-----------------------------|--|
| First Offense: Misdemeanor | \$100; Community service and/or rehabilitative programs, deferral possible |
| Second Offense: Misdemeanor | 30 days in jail and/or \$200; community service and/or rehabilitative programs |
| Third Offense: Misdemeanor | 60 days in jail and/or \$500; community service and/or rehabilitative programs |

Enforcement Options

- Ticket the 17, 18, 19 and 20-year-olds – District Court
- Under age 17 – Petition required for Probate Court
- Confiscate or destroy alcohol

Important Notes

- (1) An officer who witnesses this violation may stop and detain a person in order to obtain satisfactory identification.
- (2) “Any bodily alcohol content” is defined as: .02 BAC or higher or any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as part of a generally recognized religious service or ceremony.
- (3) MCL 436.1703(6) states an officer may require a non-driving minor to submit to a PBT if there is reasonable cause to believe the minor has consumed alcohol. However, in *Platte v. Thomas Township*, et. al. (released 9/27/07), the U.S. District Court, Eastern District of Michigan ruled that section to be unconstitutional because it violated the 4th Amendment prohibition against unreasonable searches. Officers should no longer rely on MCL 436.1703(6) to compel a PBT.
- (4) A 19 or 20-year-old person who lawfully consumes alcohol in Canada cannot be convicted with the unlawful consumption of alcohol.
- (5) An officer who determines that a person less than 18 years of age has violated this statute is required to notify the person's parents (if the parent's or guardian's names are reasonably ascertainable) of the nature of the violation within 48 hours of violation in person, by telephone, or by first class mail. If a person less than 17 years of age is incarcerated for violating this statute, the officer is required to notify the person's parents immediately.
- (6) SOS will suspend license if second offense (90 days) or third offense (365 days) within 7 years.

B. MINOR IN POSSESSION – EFFECTIVE JANUARY 1, 2018

Description of Offense: Person under 21 years of age shall not purchase, consume, or possess alcohol, or have any bodily alcohol content. MCL 436.1703.

Penalty

| | |
|---------------------------------|---|
| First Offense: Civil Infraction | \$100; Community service and/or rehabilitative programs; no deferral possible |
| Second Offense: Misdemeanor | 30 days in jail and/or \$200; community service and/or rehabilitative programs; deferral possible |
| Third Offense: Misdemeanor | 60 days in jail and/or \$500; community service and/or rehabilitative programs |

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C. POSSESSING OR TRANSPORTING ALCOHOL IN A MOTOR VEHICLE BY A MINOR

Description of Offense: Person under 21 years of age who knowingly transports or possesses alcohol in a motor vehicle. It does not matter whether alcohol is open or capped. Charge applies equally to drivers and passengers. MCL 257.624b.

Penalty

90 days in jail and/or \$500 fine; community service; substance abuse assessment

Enforcement Options

- Appearance ticket or custodial arrest (if offense was committed within officer's presence) or release and seek warrant
- Confiscate or destroy alcohol
- Petition to impound vehicle after conviction
- Under age 17, file a petition in Probate Court

Important Notes

- (1) Within 30 days of conviction of the driver, officer may file a complaint with the court to impound the vehicle for up to 30 days.
- (2) If person who violates this statute is less than 18 years of age, officer must notify the parents within 48 hours of violation in person, by telephone, or by first class mail.
- (3) SOS will suspend license for second offense (90 days) within 7 years or third offense (365 days).

D. FALSE ID TO PURCHASE ALCOHOL

Description of Offense: Using fraudulent identification to purchase alcohol by a person less than 21 years of age. MCL 436.1703(2).

Penalty

Misdemeanor 93 days in jail and/or \$100 fine

Enforcement Options

- Appearance ticket or custodial arrest or release and seek warrant
- Confiscate or destroy alcohol
- Confiscate the identification papers
- Under age 17, file a petition in Probate Court

Important Notes

- (1) SOS will suspend driver's license 90 days.
- (2) An officer who witnesses this violation may stop and detain a person and obtain satisfactory identification.

E. CONSUMING ALCOHOL ON A HIGHWAY

Description of Offense: Consuming alcoholic liquor on a public highway. MCL 436.1915.

Penalty

Misdemeanor 90 days in jail and/or \$500 fine

Enforcement Options

- Appearance ticket or custodial arrest (if offense was committed in officer's presence) or release and seek warrant
- Confiscate or destroy alcohol
- Under age 17, file a petition in Probate Court

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Important Notes

An individual need not be in a vehicle to be charged with offense.

F. OPERATING A MOTOR VEHICLE – MINOR WITH ANY BAC [ZERO TOLERANCE]

Description of Offense: A person less than 21 years of age who operates a vehicle on a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, while having a bodily alcohol content of .02% or more but less than .08% or having any presence of alcohol resulting from the consumption of alcoholic liquor. MCL 257.625(6).

Penalty

Misdemeanor 360 hours community service and/or \$250 fine; rehabilitative programs

Enforcement Options

Custodial arrest or release and seek warrant

Important Notes

- (1) Check your departmental guidelines for policies regarding the release of intoxicated individuals placed under arrest. See also, Section IV, Custodial Arrests and Bond.
- (2) If person's bodily alcohol content is .08% or higher, pursue Operating While Intoxicated.
- (3) Punishment may be enhanced if subject has a prior alcohol-related driving offense; however, only one zero tolerance conviction may be used for a felony drunk driving enhancement.
- (4) SOS to impose 30 day restricted license.
- (5) Upon conviction, subject may be ordered to pay costs of prosecution and provide reimbursement for emergency response.

G. OPERATING A MOTOR VEHICLE – MINOR WITH ANY BAC – OCCUPANT LESS THAN 16 YEARS OF AGE

Description of Offense: A person less than 21 years of age who operates a vehicle on a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, while having a bodily alcohol content of .02% or more but less than .08% while another person who is less than 16 years of age is occupying the vehicle. MCL 257.625(7)(b).

Penalty

Misdemeanor Fine not less than \$200 up to \$1,000 and 1 or more of the following:
A: Imprisonment not less than 5 days up to 1 year or
B: Community Service not less than 30 days or more than 90 days.

Enforcement Options

Custodial arrest or release and seek warrant

Important Notes

- (1) Check your departmental guidelines for policies regarding the release of intoxicated individuals placed under arrest. See also, Section IV, Custodial Arrests and Bond.
- (2) Vehicle immobilization or vehicle forfeiture may be ordered by the court.
- (3) Upon conviction, subject may be ordered to pay costs of prosecution and provide reimbursement for emergency response.
- (4) SOS to suspend license for 180 days. Subject may be eligible for a restricted driver's license after first 90 days.

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H. OPERATING AN ORV – MINOR WITH ANY BAC

Description of Offense: A person who is less than 21 years of age, whether licensed or not, shall not operate an ORV if the person has any bodily alcohol content. MCL 324.81134(6).

Penalty

Misdemeanor Fine not more than \$200 and/or community service for not more than 60 days.

Enforcement Options

Custodial arrest or release and seek warrant

Important Notes:

- (1) "Any bodily alcohol content" means either of the following:
 - (a) An alcohol content of 0.02 grams or more but less than 0.089 grams per 100 milliliters of blood, per 210 liters of breath or per 67 milliliters of urine, or beginning October 1, 2018, an alcohol content of 0.02 grams or more but less than 0.10 grams per 100 milliliters of blood, per 210 liters of breath or per 67 milliliters of urine.
 - (b) Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as part of a generally recognized religious service or ceremony.

I. OPERATING AN ORV - OWI OR IMPAIRED – OCCUPANT LESS THAN 16 YEARS OF AGE

Description of Offense. A person shall not operate an ORV in violation of subsection (1), (3), (4), (5), or (6) while another person who is less than 16 years of age is occupying the ORV. MCL 324.81134(7).

Penalty

Misdemeanor Fine of not less than \$200.00 or more than \$1,000.00 and to 1 or more of the following:
A: Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended; or
B: Community service for not less than 30 days or more than 90 days.

Enforcement Options

Custodial arrest or release and seek warrant

III. LAWS APPLICABLE TO ALL

A. FURNISHING TO MINORS

Description of Offense: Knowingly sell or furnish alcohol to a person under the age of 21; failure to make diligent inquiry whether the person is less than 21 years of age. MCL 436.1701.

Penalty

First Offense: Misdemeanor 60 days in jail and/or \$1,000 fine
Second Offense: Misdemeanor 90 days in jail and/or \$2,500 fine; community service

Enforcement Options

- Appearance ticket or custodial arrest (if offense was committed within officer's presence) or release and seek warrant
- Confiscate or destroy alcohol

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Important Notes

- (1) The penalties assessed against retail establishments or clerks/agents employed by retail establishments are different from the penalties assessed against individuals (fine up to \$100).
- (2) This charge also applies to minors (i.e. persons under 21 years of age) who furnish alcohol to other minors.
- (3) If the minor receives alcohol from a retail establishment or a clerk/agent employed by a retail establishment as a result of an undercover operation by the state police, the commission, or local law enforcement, the clerk, agent, or employee is responsible for a state civil infraction and civil fine of \$100.
- (4) SOS will suspend license 180 days with restrictions for second or subsequent offense.

B. FURNISHING TO MINORS – CAUSING DEATH

Description of Offense: Knowingly sell or furnish alcohol to a person under the age of 21, or failure to make diligent inquiry whether the person is less than 21 years of age, and the subsequent consumption of alcohol by minor is a direct and substantial cause of that person's death or an accidental injury that causes that person's death. MCL 436.1701(2).

Penalty

Felony Imprisonment – 10 years and/or \$5,000 fine

Enforcement Options

Custodial arrest or release and seek warrant

C. CONSUMPTION OF ALCOHOL ON UNLICENSED PREMISES

Description of Offense: A person shall not maintain a premise, not licensed under the Liquor Control Act, and allow other persons to consume alcohol for consideration. MCL 436.1913.

Penalty

Felony 1 year in jail and/or \$1,000 fine

Enforcement Options

Custodial arrest or release and seek warrant; confiscate alcohol.

Important Note

The term "consideration" is defined to include: "any fee, cover charge, ticket purchase, the storage of alcoholic liquor, the sale of food, ice, mixers, or other liquids used with alcoholic liquor drinks, or the purchasing of any service or item, or combination of service and item; or includes the furnishing of glassware or other containers for use in the consumption of alcoholic liquor in conjunction with the sale of food."

MCL 436.1913 prohibits "blind pigs" or other commercial establishments that charge an entry fee or sell food, ice, mixer or other liquids to consumers and allow consumers to bring in their own alcoholic beverages. The statute would also prohibit any other non-licensed business from serving or allowing the consumption of alcoholic beverages as part of their business when the consumer has paid for some other service, such as barbershop, hair salon, tanning salon, limousine service, etc. If consumers are paying any cover charge, entry fee, donation or any other fee for any goods or services, or are purchasing food, ice, mixers or other liquids, the law prohibits allowing the consumption of alcoholic beverages unless the establishment is properly licensed through the Michigan Liquor Control Commission. This law would not prohibit a wedding reception, retirement party, open house or other similar event that is not open to the public in a non-licensed facility whereby the attendees were guests and were not charged any fee whatsoever.

Note that the prohibition is for the consumption of any alcoholic beverage and doesn't matter who is providing the alcohol or whether the person is bringing in his own alcohol. If there is any "consideration"

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involved, as defined by MCL 436.1913, the person providing the place is guilty of a felony pursuant to MCL 436.1909.

D. CONSUMPTION OF ALCOHOL BY A MINOR AT A SOCIAL GATHERING

Description of Offense: Knowingly allow a minor to consume or possess an alcoholic beverage at a social gathering on or within that premises, residence, or other real property. MCL 750.141a.

Penalty

| | |
|------------------------------|--------------------------------------|
| First Offense - Misdemeanor | 30 days in jail and/or \$1,000 fine |
| Second Offense – Misdemeanor | 90 days in jail and/or \$10,000 fine |

Enforcement Options

Appearance ticket or custodial arrest (if offense was committed within officer's presence) or release and seek warrant

Important Notes

- (1) "Social gathering" means an assembly of two or more individuals for any purpose, unless all of the individuals attending the assembly are members of the same household or immediate family.
- (2) "Allow" means to give oral or written permission for or approval of. It also includes failing to take corrective action that would cause a reasonable person to believe that permission or approval has been given.
- (3) This section also prohibits an individual from knowingly allowing any individual to consume or possess a controlled substance on or within premises, residence, or other real property.

E. FURNISHING FALSE ID TO ANOTHER TO PURCHASE ALCOHOL

Description of Offense: Furnishing fraudulent identification to a person less than 21 years of age for the purpose of purchasing alcohol. MCL 436.1703(2).

Penalty

| | |
|-------------|--|
| Misdemeanor | 93 days in jail and/or \$100 fine; SOS shall suspend license for 90 days |
|-------------|--|

Enforcement Options

Appearance ticket or custodial arrest or release and seek warrant; confiscate false identification

Important Note

An officer who witnesses this violation may stop and detain a person and obtain satisfactory identification.

F. OPEN ALCOHOL CONTAINER IN A MOTOR VEHICLE

Description of Offense: Transport or possess an alcoholic liquor in a container that is open, uncapped, or with a seal broken inside the passenger compartment of a vehicle on a highway or place open to the general public or parking lot. MCL 257.624a.

Penalty

| | |
|-------------|---|
| Misdemeanor | 90 days in jail and/or \$500 fine; substance abuse screening; community service |
|-------------|---|

Enforcement Options

Appearance ticket or custodial arrest (if offense was committed within officer's presence) or release and seek warrant; confiscate or destroy alcohol.

Important Notes

- (1) Applies regardless of age.

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- (2) Charge applies to both drivers and passengers.
- (3) SOS to suspend license; second offense (90 days); third offense (365 days).
- (4) When not on a highway, charge applies to moving vehicles only.
- (5) "Passenger area" means the area designed to seat the operator and passengers of a motor vehicle while it is in operation and any area that is readily accessible to the operator or a passenger while in his or her seating position, including the glove compartment.
- (6) Does not apply to a passenger in a commercial quadricycle.

G. OPERATING A MOTOR VEHICLE WHILE VISIBLY IMPAIRED BY ALCOHOLIC LIQUOR, CONTROLLED SUBSTANCE, OR OTHER INTOXICATING SUBSTANCE (OWVI)

Description of Offense: Operating a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, while subject's ability to operate that vehicle was visibly impaired due to the consumption of alcoholic liquor and/or a controlled substance and/or other intoxicating substance. MCL 257.625(3).

Penalty

| | |
|-----------------------------|---|
| First Offense: Misdemeanor | 93 days in jail and/or \$300 fine; 360 hours community service; rehabilitative programs |
| Second Offense: Misdemeanor | 1 year in jail and/or up to \$1,000 fine; incarceration mandatory |
| Third Offense: Felony | Imprisonment not less than 1 year or more than 5 years; and/or a fine of \$500-\$5,000 |

Enforcement Options

Custodial arrest or release and seek warrant

Important Notes

- (1) Check your departmental guidelines for policies regarding the release of intoxicated individuals placed under arrest. See also Section IV, Custodial Arrests and Bond.
- (2) Vehicle immobilization may be ordered by the court with a first offense. Vehicle immobilization is mandatory with a prior alcohol-related driving conviction.
- (3) Upon conviction, subject may be ordered to pay costs of prosecution and provide reimbursement for emergency response.
- (4) SOS to suspend license 180 days. Subject may be eligible for a restricted driver's license.
- (5) Officer should check whether individual has prior alcohol-related driving convictions as penalties may be enhanced.

H. OPERATING WHILE INTOXICATED – ALCOHOLIC LIQUOR, CONTROLLED SUBSTANCE, OR OTHER INTOXICATING SUBSTANCE (OWI)

Description of Offense: Operating a motor vehicle upon a highway, or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, while intoxicated. "Operating while intoxicated" means either (1) the person is under the influence of alcoholic liquor and/or a controlled substance and/or intoxicating substance or (2) the person has an alcohol content of .08% or more. MCL 257.625(1).

Penalty

| | |
|-----------------------------|---|
| First Offense: Misdemeanor | 93 days in jail and/or \$100-\$500 fine; 360 hours community service; rehabilitative programs |
| Second Offense: Misdemeanor | 1 year in jail and/or up to \$1,000 fine; incarceration mandatory |
| Third Offense: Felony | Imprisonment not less than 1 year or more than 5 years; and/or a fine of \$500-\$5,000 |

Enforcement Options

Custodial arrest or release and seek warrant

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Important Notes

- (1) Check your departmental guidelines for policies regarding the release of intoxicated individuals placed under arrest. See also Section IV, Custodial Arrests and Bond.
- (2) Vehicle immobilization may be ordered by the court with a first offense. Vehicle immobilization is mandatory with a prior alcohol-related driving conviction.
- (3) Upon conviction, subject may be ordered to pay costs of prosecution and provide reimbursement for emergency response.
- (4) SOS to suspend license 180 days. Subject may be eligible for a restricted driver's license after first 30 days.
- (5) Officer should check whether individual has prior alcohol-related driving convictions as penalties may be enhanced.

I. OPERATING WITH SCHEDULE 1 CONTROLLED SUBSTANCE OR COCAINE

Description of Offense: Operating a motor vehicle upon a highway, or other place open to the general public or generally accessible to motor vehicles, including the parking of vehicles, while having any amount of a Schedule 1 controlled substance or cocaine in his or her body. MCL 257.625(8).

Penalty

| | |
|-----------------------------|---|
| First Offense: Misdemeanor | 93 days in jail and/or \$100-\$500 fine; 360 hours community service; rehabilitative programs |
| Second Offense: Misdemeanor | 1 year in jail and/or up to \$1,000 fine; incarceration mandatory |
| Third Offense: Felony | Imprisonment not less than 1 year or more than 5 years; and/or a fine of \$500-\$5,000 |

Enforcement Options

Custodial arrest or release and seek warrant

Important Notes

- (1) Penalties the same as in an OWI case.
- (2) "Zero tolerance" to Schedule 1 drugs or cocaine. It is only necessary for the prosecutor to show that person was driving and drugs were in person's system.
- (3) For any other controlled substance, the prosecutor must prove that the person was under the influence or impaired.
- (4) SOS to suspend license 180 days. Subject may be eligible for a restricted driver's license after first 30 days.

J. OWI/OWVI – CAUSING DEATH

Description of Offense: Operating a motor vehicle upon a highway, or other place open to the general public or generally accessible to motor vehicles, including the parking of vehicles, while either (1) under the influence of an alcoholic liquor and/or a controlled substance and/or other intoxicating substance or (2) while having a bodily alcohol level of .08% or more or (3) while the subject's ability to operate the vehicle was visibly impaired due to the consumption of intoxicating liquor and/or a controlled substance and/or other intoxicating substance or (4) while having any amount of a Schedule 1 drug or cocaine in their body and by the operation of that vehicle caused the death of another person. MCL 257.625(4).

Penalty

| | |
|--------|--|
| Felony | 15 years and/or \$2,500-\$10,000 fine; rehabilitative programs If BAC .17 or above, 20 years and/or \$2,500-\$10,000 fine |
|--------|--|

Enforcement Options

Custodial arrest or release and seek warrant

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Important Notes

- (1) Check your departmental guidelines for policies regarding the release of intoxicated individuals placed under arrest. See also Section IV, Custodial Arrests and Bond.
- (2) Forfeiture of the vehicle may be ordered by the court. If vehicle is not forfeited, vehicle immobilization is mandatory.
- (3) Upon conviction, subject may be ordered to pay costs of prosecution and provide reimbursement for emergency response.
- (4) SOS to revoke license.

K. OWI/OWVI – CAUSING SERIOUS IMPAIRMENT

Description of Offense: Operating a motor vehicle upon a highway, place open to the general public, or parking lot while either (1) under the influence of an alcoholic liquor and/or a controlled substance or other intoxicating substance; or (2) while having a bodily alcohol level of .08% or more; or (3) while the subject's ability to operate the vehicle was visibly impaired due to the consumption of intoxicating liquor and/or a controlled substance or other intoxicating substance; or (4) while having any amount of a Schedule 1 drug or cocaine in his or her body and by the operation of that vehicle caused a serious impairment of a body function to another person. MCL 257.625(5).

Penalty

Felony 5 years and/or \$1,000-\$5,000 fine; rehabilitative programs
If BAC .17 or above, 10 years and/or \$1,000-\$5,000 fine

Enforcement Options

Custodial arrest or release and seek warrant

Important Notes

- (1) Check your departmental guidelines for policies regarding the release of intoxicated individuals placed under arrest. See also Section IV, Custodial Arrests and Bond;
- (2) Forfeiture of the vehicle may be ordered by the court. If vehicle is not forfeited, vehicle immobilization is mandatory;
- (3) Upon conviction, subject may be ordered to pay costs of prosecution and provide reimbursement for emergency response;
- (4) SOS to revoke license.

L. OWI/OWVI – OCCUPANT LESS THAN 16 [CHILD ENDANGERMENT]

Description of Offense: Operating a motor vehicle upon a highway, or other place open to the general public or generally accessible to motor vehicles, including the parking of vehicles, while being under the influence of an alcoholic liquor and/or a controlled substance and/or intoxicating substance, or while having a bodily alcohol level of .08% or more, or while the subject's ability to operate the vehicle was visibly impaired due to the consumption of intoxicating liquor and/or a controlled substance and/or other intoxicating substance, or while having any amount of a Schedule 1 controlled substance or cocaine in his or her body while a person less than 16 years of age was occupying the vehicle. MCL 257.625(7)(a)(I).

Penalty

First Offense: Misdemeanor \$200-\$1,000 fine and 5 days-1 year in jail; 360 hours community service; rehabilitative programs
Second Offense: Felony \$500-\$5,000 and either 1-5 years in jail; or probation with 30 days to 1 year in jail; 60-180 days community service; plus rehabilitation programs

Enforcement Options

Custodial arrest or release and seek warrant

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Important Notes

- (1) Check your departmental guidelines for policies regarding the release of intoxicated individuals placed under arrest. See also Section IV, Custodial Arrests and Bond.
- (2) Vehicle immobilization or vehicle forfeiture may be ordered by the court with a first offense.
- (3) Upon conviction, subject may be ordered to pay costs of prosecution and provide reimbursement for emergency response.
- (4) SOS to suspend license for 180 days. Subject may be eligible for a restricted driver's license after first 90 days.
- (5) A subject with a prior alcohol-related offense committing this crime is subject to a felony charge.

IV. CUSTODIAL ARRESTS AND BOND

In the event an officer makes a custodial arrest, the non-intoxicated person is subject to the interim bond provisions provided by law. However, if the arresting officer is of the opinion that the arrested person is under the influence, unable to establish or demonstrate his or her identity, or it is unsafe to release him or her, the arrested persons must be held until he or she is in a "proper condition to be released." MCL 780.581(3)

V. CURFEW VIOLATIONS

Michigan law establishes curfew:

For children under the age of 12 years: 10 p.m. to 6:00 a.m. MCL 722.751

For children under the age of 16 years: 12 a.m. to 6:00 a.m. MCL 722.752

Some cities may have stricter curfews. Authorized by MCL 722.754

There is no curfew for children of the full age of 17 and upwards, and there are exceptions for younger children accompanied by parents or parent-designated adults.

Coordination with Probate Court authorities should be made in the enforcement of the curfew law; see your department's special order on this topic. There are no criminal penalties, but the law does allow officers to pick up violators consistent with Probate Court procedures.

VI. SEARCH WARRANTS

A search warrant is generally not needed in "open" spaces such as open fields, even if fenced and posted against trespassing, or forests. If an officer is prevented from entering a building or residence to investigate a crime in progress, or if consent to enter the building or residence is not given, the officer should consider obtaining a search warrant based upon facts developed during the officer's investigation.

An exception to the search warrant requirement may exist, however, if exigent circumstances justify a warrantless search and seizure is necessary in order to avoid the threat of destruction or removal of evidence. This exception requires an actual emergency and an articulation by the officer of specific and objective facts revealing the need for immediate action. Note that a mere possibility of a risk of immediate removal or destruction of evidence is not enough. The officer must have an objectively reasonable basis to believe that removal or destruction of evidence is imminent.

A model search warrant for underage parties is available by contacting Dianne Perukel at perukeld@michigan.gov. Most jurisdictions have an assistant prosecuting attorney on duty at all times to review an officer's preparation of such a search warrant.

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VII. MICHIGAN'S GRADUATED LICENSE SYSTEM

MICHIGAN'S GRADUATED LICENSE SYSTEM

| Driver Education Segment 1 | Level 1 License | Preparation for Driver Education Segment 2 | Driver Education Segment 2 | Preparation for Driving Skills Test | Driving Skills Test | Level 2 License | Level 3 License |
|---|--|---|---|---|--|---|---|
| Minimum age of 14 years and 8 months Vision/health screening prior to behind-the-wheel experience Minimum 24 hours of classroom Minimum six hours behind-the-wheel experience Minimum four hours behind-the-wheel observation time Written exam required | No fee 14 years, 9 months of age Vision exam Health standards Written approval of parents Proof of Social Security number, legal presence, identity and Michigan residency May drive only with parent or designated licensed adult age 21 or older | Complete at least 30 hours of the required 50 hours of behind-the-wheel practice driving with parent, including two hours of the required 10 hours night driving Held a valid Level 1 License for not less than three consecutive months | Minimum six hours of classroom Written exam required | Complete what remains of the required 50 hours behind-the-wheel, including what remains of the 10 hours required night driving Review study guides | Fee will vary Minimum of six months at Level 1 Vehicle inspection Off-road test On-road test | Fee required 16 years of age 90 days crash- and violation-free prior to application for Level 2 License Shall not operate a motor vehicle between 10 p.m. and 5 a.m. except when: driving to or from or in the course of employment; driving to or from an authorized activity; or accompanied by a parent or legal guardian or a licensed driver 21 years of age or older designated by the parent or legal guardian. Shall not operate a motor vehicle at any time with more than 1 passenger in the vehicle who is less than 21 years of age except: when the additional passengers are immediate family members; when driving to or from or in the course of employment; while going to or from an authorized activity; or when accompanied by a parent or legal guardian or a licensed driver 21 years of age or older designated by the parent or legal guardian. For a list of authorized activities refer to the following page. | No fee 17 years of age Minimum of six months at Level 2 12 consecutive months of crash- and violation-free driving at Level 1/Level 2 prior to application for Level 3 License Full driving privileges with no restrictions |
| Minimum three-week class | Minimum of six months | | | | Minimum of six months | | |

AUTHORIZED ACTIVITY UNDER LEVEL 2 LICENSE MEANS ANY OF THE FOLLOWING:

- A school or a school-sanctioned event or activity. School means a public or private school, including a home school.
- A sporting event or activity, or extracurricular event or activity, that is not school-sanctioned but that is part of an official sports league or association or an official extracurricular club, or that is paid for as a service.
- A class or program of vocational instruction offered by a college, community college, nonprofit association, or unit of government or by a business specializing in vocational training.
- An event or activity sponsored by a religious organization that is tax-exempt under federal law.
- Transporting an individual in need of immediate emergency care or personal protection to a health care professional, hospital, police station, domestic violence shelter, or public safety location.

CELL PHONE RESTRICTIONS

Teen drivers with a Level 1 or Level 2 Graduated Driver License are prohibited from initiating a call, answering a call, or listening to or engaging in verbal communication through a mobile phone. If ticketed, up to \$295 in fines and costs may be incurred.

This does not apply if using a voice-operated system integrated into the vehicle or if using a phone to:

- Report a traffic accident, medical emergency or serious road hazard.
- Report a situation in which you believe your personal safety is in jeopardy.
- Report or prevent a crime or potential crime against yourself or another person.

The law banning mobile phone use by teens, called Kelsey's Law, is named in honor of Kelsey Raffaele, 17, of Sault Ste. Marie, who died in a mobile phone-related automobile crash in 2010.