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## Substance Abuse and Driving

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When you drink alcohol, or use other drugs, and drive, you endanger your life, and the lives of your passengers and others on the road. Each year, thousands of people are killed or permanently disabled because someone drove while intoxicated or impaired after consuming alcohol or other chemical substances.

Michigan takes a strong stand against intoxicated and impaired drivers.

### Driving While Intoxicated or Impaired is Illegal

Drink or use drugs and drive, and the results can be deadly. In addition to thousands of injuries, several hundred people die every year in Michigan from alcohol and drug-related crashes.

The courts, law enforcement, state and local governments, as well as a number of private agencies, are working together to reduce and prevent the thousands of injuries and deaths that result from drunk driving and drugged driving in Michigan.

Under Michigan law, it is illegal to drive:

- While intoxicated, or impaired, by alcohol, illegal drugs, and some prescribed medications.
- With a bodily alcohol content of 0.08 or more. (This crime is one of the driving while intoxicated offenses.)
- With a bodily alcohol content of 0.17 or more. (This "High BAC" crime is one of the driving while intoxicated offenses.)
- With any amount of cocaine or a Schedule 1 controlled substance in your body. (For more information about Schedule 1 drugs, see section 7212 of the Michigan Public Health Code; MCL 333.7212.)

Additionally, if you are under age 21, it is also against the law to:

- Drive with a bodily alcohol content of 0.02 or more, or with any presence of alcohol in your body except for that consumed at a generally recognized religious ceremony.
- Buy, possess, or consume alcoholic beverages. You may transport alcohol in a vehicle **only** when accompanied by someone age 21 or older. If you are stopped by the police, with alcohol in your vehicle, and there is no adult with you, you can be charged with a misdemeanor, whether you are on the road or in a parking lot.

It is best to never drink or use drugs and drive. Select a designated driver ahead of time, who will stay sober. You can also ask someone else to give you a ride, call a taxi, or use public transportation.

Never ride with anyone who has been drinking or using drugs. If necessary, take away the person's vehicle keys, and offer him or her a place to sleep. Be sure drivers are completely sober before they get behind the wheel.

### Types of Charges

**Operating While Visibly Impaired (OWVI)** means that because of alcohol or other drugs, your ability to operate a motor vehicle was visibly impaired.

**Operating While Intoxicated (OWI)** includes 3 types of violations:

- Alcohol or drugs in your body substantially affected your ability to operate a motor vehicle safely.
- A bodily alcohol content (BAC) at or above 0.08. This level can be determined through a chemical test.
- High BAC means the alcohol level in your body was at or above 0.17. This level can be determined through a chemical test.

**Operating With Any Presence of a Schedule 1 Drug or Cocaine (OWPD)** means having even a small trace of these drugs in your body, even if you do not appear to be intoxicated or impaired. This can be determined through a chemical test.

**Under Age 21 Operating With Any Bodily Alcohol Content (Zero Tolerance)** means having a BAC of 0.02 to 0.07, or any presence of alcohol in your body other than alcohol that is consumed at a generally recognized religious ceremony.

### Effects of Alcohol

Driving requires concentration, motor skills, common sense, and a concern for the safety of everyone on the road. Alcohol affects people differently. Mixing drugs or medications with alcohol and then driving can be especially dangerous, and even deadly.

The effects of alcohol are the same whether you drink beer, wine, or whiskey. A 12-ounce can of beer, a 5-ounce glass of wine, and a 1.5-ounce shot of whiskey all contain the same amount of alcohol. Drink a standard serving of any of these, and the effects will be the same. Your judgment and self-control will be affected. Even one drink can impair your ability to drive, slow your reaction time, dull your concentration, and cause vision problems.

Many people mistakenly believe that coffee, a cold shower, exercise, or fresh air can sober them up. Time is the only thing that sobers you up.

### Teen Drivers and Alcohol

Drivers who are between the ages of 16 and 20 are typically the least experienced ones on the road. When alcohol is added to that inexperience, the results can be deadly.

Male teenage drivers with a BAC of 0.05 or more are 18 times more likely than a sober male teen driver to be killed in a single vehicle crash. Female teen drivers are 54 times more likely to be killed in a crash than their sober counterparts.

Any involvement with alcohol by teens can result in the loss of their drivers' licenses. Simply purchasing or possessing any alcoholic beverage, whether in a motor vehicle or not, can result in a driver's license suspension for a teen.

For more information about license actions for drivers under the age of 21, please see the Zero Tolerance section under Driver's License Actions, below.

### **Illegal or Street Drugs and Medications**

Because everyone's metabolism is different, it's difficult to predict the effect of drugs and medications. Those substances can be as dangerous as alcohol when mixed with driving.

Illegal or "street" drugs are sold without a prescription, and are particularly dangerous. Users do not always know the contents, purity, or possible effects of these drugs.

Prescription and non-prescription medications may also contain things that can have an adverse effect on your ability to drive safely. Some drugs such as antihistamines, which are found in many cold and allergy preparations, tranquilizers, sleeping pills, and pain relievers may cause drowsiness. Diet pills, "stay awake" drugs, and other medications with stimulants, such as caffeine, ephedrine, or pseudoephedrine, may cause excitability or drowsiness. The effects may also vary depending on the combination of drugs. Know the contents and possible side effects of any drugs you take, and be sure it is safe to drive when you use them. For more information, consult your physician or pharmacist.

### **Recognizing Drivers Who Have Been Drinking Alcohol or Using Other Drugs**

It is possible to recognize drivers who may have been drinking alcohol or using other drugs. They may:

- Weave within their lane.
- Wander from one lane to another.
- Run off the paved part of the road.
- Stop too quickly or slowly.
- Drive too fast or too slow.
- Fail to obey stop signs or other signals.
- Drive on the wrong side of the road.

These things do not always mean that the driver has been drinking or using drugs, but they do require your full attention.

If you observe a dangerous situation, do not become personally involved. Get an accurate description of the vehicle and its license plate number. Call 911, the local Michigan State Police post, or a telephone operator for police help.

You are most likely to encounter drivers who have been drinking or using drugs:

- At night or early in the morning, particularly from 8 p.m. to 4 a.m.
- On the weekends, especially late Friday and Saturday nights.
- On holidays.
- Near bars and other businesses that sell alcohol.

If you see a suspected drunk or drugged driver, put as much distance as possible between yourself and him or her. Think twice about passing a suspected drunk or drugged driver. Let the driver pass you, especially when his or her vehicle is approaching rapidly. Avoid the driver's uncertain actions. Stay alert. You might meet the same driver further down the road.

### **Anti-Drunk and Drugged Driving Laws**

Michigan's anti-drunk and drugged driving laws require swift and sure action and stiff penalties for drivers who violated them. The laws require:

- Courts to decide drunk driving and drugged driving cases within 77 days after the arrest.
- A mandatory 6-month driver license suspension, even for a first conviction. The driver may be eligible for a restricted license after serving 30 days of the suspension.
- A mandatory 1-year driver license suspension for a first conviction of operating with a BAC of .17 or higher. This "High BAC" crime is one of the operating while intoxicated offenses. A High BAC driver may be eligible for a restricted license after serving 45 days of the license suspension, but only if an ignition interlock device is installed on any vehicle the offender owns or intends to operate.
- Court to order participation in, and successful completion of, 1 or more rehabilitation programs, including alcohol treatment or a self-help program, or another program the court decides is appropriate. The court must order this rehabilitation if the defendant has 1 or more prior convictions, or is convicted of High BAC.
- Five days to 1 year of consecutive jail time, or 30 to 90 days of community service, or both for a second conviction of drunk or drugged driving.
- Harsher license sanctions of revocation and denial for persons with multiple drunk or drugged driving convictions.
- A reinstatement fee of \$125 if your driver's license was suspended, revoked, or restricted.
- A Driver Responsibility Fee of \$1,000 for 2 consecutive years for a driving while intoxicated conviction, including a High BAC conviction.
- A Driver Responsibility Fee of \$500 for 2 consecutive years for convictions for driving while impaired, with any presence of a Schedule 1 drug or cocaine, or child endangerment.

Additionally, the laws make the following drunk and drugged driving offenses felonies:

- A third conviction in the driver's lifetime.
- A conviction for drunk or drugged driving that causes death.
- A conviction for drunk or drugged driving that causes serious injury to another person.

### **Preliminary Breath Test**

**Preliminary Breath Test**

If you are stopped by a law enforcement officer who believes you may be driving while intoxicated or impaired, you may be asked to take a Preliminary Breath Test (PBT) to determine whether alcohol was involved.

If you refuse to take the PBT, you may be charged with a civil infraction, which carries a fine up to \$150 plus court costs.

A person under age 21 who refuses to take the PBT will have 2 points added to his or her driving record.

Whether you take the PBT or not, you still must take the evidentiary test required by the implied consent law.

**Michigan's Implied Consent Law**

If you are arrested for drunk or drugged driving, you are required to take a chemical test to determine your bodily alcohol content (BAC) or the presence of drugs in your body. Under Michigan's Implied Consent law, all drivers are considered to have given their consent to this test.

Refusing to take this test has driver's license consequences that are separate from those that result from any conviction that flows from the traffic stop. You may request an administrative hearing regarding the alleged refusal. At the hearing, the law enforcement officer would have to prove certain things before the statutory consequences would apply. If you do not request the hearing, or if the officer proves his or her case at the hearing, the following will happen:

- Six points will be added to your driving record.
- Your license will be suspended for 1 year if it is the first time you refused to take the test under the Implied Consent law.
- Your license will be suspended for 2 years if you refused to take the test one or more times within the preceding 7 years. There are no hardship appeals in circuit court for a restricted license in this situation.

If you refuse to take the test, or if the test shows that your BAC is 0.08 or higher, the law enforcement officer will destroy your driver license, and will issue a paper permit to you. You may drive on the paper permit until your criminal case is resolved in court.

**Anti-Drug Laws**

Michigan law requires driver's license suspensions for drug convictions, even if you were not driving at the time of the offense.

If there are no prior drug convictions, your license will be suspended for 6 months. No restricted license is allowed for the first 30 days of that suspension.

If you have one or more prior drug convictions within 7 years, your driver's license will be suspended for 1 year. No restricted license is allowed for the first 60 days of the suspension.

The reinstatement fee for a drug crime driver's license suspension is \$125. This fee is in addition to a reinstatement fee required for any other driver's license sanction.

**Driver's License Sanctions and Other Consequences**

As indicated above, if there are multiple drunk or drugged driving convictions, or a single High BAC conviction, the court must order the defendant to participate in, and successfully complete, a rehabilitation program.

**First Offense:****Operating While Intoxicated (OWI) or Operating With Any Presence of a Schedule 1 Drug or Cocaine (OWPD)**

- \$100 to \$500 fine and one or more of the following:
  - Up to 93 days in jail.
  - Up to 360 hours of community service.
- Driver's license suspension for 30 days, followed by license restrictions for 150 days.
- Possible vehicle immobilization.
- Possible ignition interlock.
- Six points added to driving record.
- Driver Responsibility Fee:
  - \$1,000 for 2 consecutive years for OWI.
  - \$500 for 2 consecutive years for OWPD.

**High Blood Alcohol Content (BAC of .17 or higher). This is one of the operating while intoxicated crimes, but it has harsher consequences.**

- One or more of the following:
  - Up to 180 days in jail.
  - \$200 to \$700 fine.
  - Up to 360 hours of community service.
- Driver's license suspension for 1 year. Eligible for restrictions after 45 days of suspension if an ignition interlock device is installed on all vehicles the offender owns or intends to operate.
- Possible metal license plate confiscation if the offender operates a vehicle without a properly installed ignition interlock device.
- Mandatory vehicle immobilization if the offense is subsequently convicted for operating a vehicle without a properly installed ignition interlock device.
- 6 points added to the offender's driving record.
- Driver Responsibility Fee of \$1000 for 2 consecutive years.

**Operating While Visibly Impaired**

- Up to a \$300 fine, and one or more of the following:
  - Up to 93 days in jail.
  - Up to 360 hours of community service.
- Driver's license restrictions for 90 days (180 days if impaired by a controlled substance).

- Possible vehicle immobilization.
- 4 points added to the offender's driving record.
- Driver Responsibility Fee of \$500 for 2 consecutive years.

#### **Second Offense within 7 Years (any combination):**

##### **Operating While Intoxicated**

- \$200 to \$1000 fine, and one or more of the following:
  - 5 days to 1 year in jail.
  - 30 to 90 days of community service
- Driver's license revocation and denial for a minimum of 1 year (minimum of 5 years if there was a prior revocation within 7 years).
- License plate confiscation.
- Vehicle immobilization for 90 to 180 days, unless the vehicle is forfeited.
- Possible vehicle forfeiture.
- 6 points added to the offender's driving record.
- Driver Responsibility Fee of \$1,000 for 2 consecutive years.

##### **Operating While Visibly Impaired**

- \$200 to \$1,000 fine, and one or more of the following:
  - 5 days to 1 year in jail.
  - 30 to 90 days of community service.
- Driver's license revocation and denial for a minimum of 1 year (minimum of 5 years if there was a prior revocation within 7 years).
- License plate confiscation.
- Vehicle immobilization for 90 to 180 days unless the vehicle is forfeited.
- Possible vehicle forfeiture.
- 4 points added to the offender's driving record.
- Driver Responsibility Fee of \$500 for 2 consecutive years.

#### **Third Offense Within Lifetime (any combination) is a Felony**

##### **Operating While Intoxicated**

- \$500 to \$5,000 fine, and either of the following:
  - 1 to 5 years imprisonment
  - Probation, with 30 days to 1 year in jail.
- 60 to 180 days community service.
- Driver's license revocation and denial if there are 2 convictions within 7 years or 3 convictions within 10 years. The minimum period of revocation and denial is 1 year (minimum of 5 years if there was a prior revocation within 7 years).
- License plate confiscation.
- Vehicle immobilization for 1 to 3 years, unless the vehicle is forfeited.
- Possible vehicle forfeiture.
- Vehicle registration denial.
- 6 points added to the offender's driving record.
- Driver Responsibility Fee of \$1,000 for 2 consecutive years.

##### **Operating While Visibly Impaired**

- \$500 to \$5,000 fine, and either of the following:
  - 1 to 5 years imprisonment
  - Probation, with 30 days to 1 year in jail.
- 60 to 180 days community service.
- Driver's license revocation and denial if there are 2 convictions within 7 years or 3 convictions within 10 years. The minimum period of revocation and denial is 1 year (minimum of 5 years if there was a prior revocation within 7 years).
- License plate confiscation.
- Vehicle immobilization for 1 to 3 years, unless the vehicle is forfeited.
- Possible vehicle forfeiture.
- Vehicle registration denial.
- 4 points added to the offender's driving record.
- Driver Responsibility Fee of \$500 for 2 consecutive years.

#### **Causing Death or Serious Injury if Operating While Intoxicated, Operating While Visibly Impaired, Operating with Any Presence of Drugs, or Operating While License Suspended, Revoked or Denied (First Offense) These crimes are felonies.**

- **Death** -- Up to 15 years imprisonment, or a fine of \$2,500 to \$10,000, or both.
- **Injury** -- Up to 5 years imprisonment, or a fine of \$1,000 to \$5,000, or both.
- **Emergency Responder Death** -- Up to 20 years imprisonment, or a fine of \$2,500 to \$10,000, or both.
- Driver's license revocation and denial for a minimum of 1 year (minimum of 5 years if there was a prior revocation within 7 years).
- License plate confiscation.
- Vehicle immobilization for up to 180 days, unless the vehicle is forfeited.
- Possible vehicle forfeiture.
- 6 points added to the offender's driving record.
- Driver Responsibility Fee of \$1,000 for 2 consecutive years.

#### **Causing Death or Serious Injury if Operating While Intoxicated, Operating While Visibly Impaired, Operating with Any Presence of Drugs, or Operating While License Suspended, Revoked or Denied (Second Offense within 7 years) These crimes are felonies.**

- **Death** -- Up to 15 years imprisonment, or a fine of \$2,500 to \$10,000, or both.
- **Injury** -- Up to 5 years imprisonment, or a fine of \$1,000 to \$5,000, or both.
- **Emergency Responder Death** -- Up to 20 years imprisonment, or a fine of \$2,500 to \$10,000, or both.
- Driver's license revocation and denial for a minimum of 1 year (minimum of 5 years if there was a prior revocation within 7 years).
- License plate confiscation.
- Vehicle immobilization for up to 180 days, unless the vehicle is forfeited.
- Possible vehicle forfeiture.
- 6 points added to the offender's driving record.
- Driver Responsibility Fee of \$1,000 for 2 consecutive years.

#### **Open Intoxicants in a Motor Vehicle**

- Up to a \$100 fine.
- First offense -- No action taken against driver's license.
- Second offense -- Driver's license is suspended for 30 days, followed by restrictions for 60 days.
- Third offense -- Driver's license is suspended for 60 days, followed by restrictions for 305 days.
- Alcohol screening may be required.
- points added to the offender's driving record.

#### **Driver's License Sanctions for Drivers Under Age 21**

##### **Zero Tolerance (under age 21)**

###### **First Offense**

- Up to a \$250 fine, or up to 360 hours of community service, or both.
- Driver's license is restricted for 30 days.
- 4 points are added to the offender's driving record.
- Driver Responsibility Fee of \$500 for 2 consecutive years.

###### **Second Offense with 7 years**

- One or more of the following:
  - Up to a \$500 fine.
  - Up to 60 days of community service.
  - Up to 93 days in jail.
- Driver's license suspension for 90 days. If there is a prior drunk or drugged driving conviction, there is a driver license revocation and denial for a minimum of 1 year (minimum of 5 years if there was a prior revocation within 7 years).
- 4 points are added to the offender's driving record.
- Driver Responsibility Fee of \$500 for 2 consecutive years.

##### **Person Under 21 Purchase/Consume/Possess Alcohol**

- First offense -- \$100 fine. No driver's license sanction.
- Second offense -- \$200 fine. Driver's license is suspended for 30 days and restricted for 60 days.
- Third offense -- \$500 fine. Driver's license is suspended for 60 days and restricted for 305 days.
- Alcohol screening may be required.
- Community service may be required.

##### **Person Under 21 Transporting or Possessing Alcohol in a Motor Vehicle**

- Up to a \$100 fine.
- Driver's license sanctions:
  - First offense -- No driver's license sanction.
  - Second offense -- Driver's license suspension for 30 days, and restriction for 60 days.
  - Third offense -- Driver's license suspension for 60 days, and restriction for 305 days.
- Alcohol screening may be required.
- Community service may be required.
- Vehicle may be impounded for up to 30 days.
- 2 points are added to the offender's driving record.

##### **Using Fraudulent ID to Purchase Alcohol**

- Up to a \$100 fine, or up to 93 days in jail, or both.
- Driver's license is suspended for 90 days.
- Alcohol screening may be required.

##### **Driving While License Suspended, Revoked, or Denied**

###### **First Offense**

- Up to a \$500 fine, or up to 93 days in jail, or both.
- Mandatory additional license sanction.
- 2 points added to the offender's driving record.
- Driver Responsibility Fee of \$500 for 2 consecutive years.

###### **Second Offense**

- Up to a \$1,000 fine, or up to 1 year in jail, or both.
- Mandatory additional license sanction.

- mandatory additional license sanction.
- Vehicle may be immobilized for up to 180 days.
- 2 points added to the offender's driving record.
- Driver Responsibility Fee of \$500 for 2 consecutive years.

**Third Offense**

- Up to a \$1,000 fine, or up to 1 year in jail, or both.
- Mandatory additional license sanction.
- 2 points added to the offender's driving record.
- Driver Responsibility Fee of \$500 for 2 consecutive years.
- If there are 2 prior convictions within 7 years, there are additional consequences:
  - License plate confiscation.
  - Vehicle immobilization for 90 to 180 days.

**Fourth Offense**

- Up to a \$1,000 fine, or up to 1 year in jail, or both.
- Mandatory additional license sanction.
- 2 points added to the offender's driving record.
- Driver Responsibility Fee of \$500 for 2 consecutive years.
- If there are 3 prior convictions within 7 years, there are additional consequences:
  - License plate confiscation.
  - Vehicle immobilization for 90 to 180 days.

**Fifth Offense**

- Up to a \$1,000 fine, or up to 1 year in jail, or both.
- Mandatory additional license sanction.
- 2 points added to the offender's driving record.
- Driver Responsibility Fee of \$500 for 2 consecutive years.
- If there are 4 prior convictions within 7 years, there are additional consequences:
  - License plate confiscation.
  - Vehicle immobilization for 1 to 3 years.

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