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CODIFIED ORDINANCES OF SHELBY

PART FOUR - TRAFFIC CODE

CHAPTER 410
Uniform Traffic Code

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CROSS REFERENCES

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§§257.601 et seq., 257.634 et seq.

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Vehicle equipment - see TRAF. Ch. 430

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Inoperable motor vehicles - see GEN. OFF. Ch. 640

410.01 ADOPTION BY REFERENCE.

The Uniform Traffic Code for Cities, Townships and Villages, hereinafter referred to as the Uniform Traffic Code, promulgated by the Director of State Police and published in the 1979 edition of the Michigan Administrative Code, and amendments as published in Quarterly Supplement No. 5 to the 1979 edition of the Michigan Administrative Code, in accordance with Act 62 of the Public Acts of 1956, as amended (Sections 257.951 to 257.954 of the Compiled Laws of 1970, as amended, and as amended by Act 121 of the Public Acts of 1988, as amended), are hereby adopted by reference, save and except such portions as may be hereinafter amended or deleted. Said Uniform Traffic Code is reprinted in full following the text of this Chapter 410.

410.02 GOVERNMENTAL UNIT DEFINED.

References in the Uniform Traffic Code, as adopted in Section 410.01, to "governmental unit" shall mean the Village of Shelby.

410.03 PUBLICATION OF CHAPTER AND NOTICE; FILE AND DISTRIBUTION COPIES.

The Village Clerk shall publish this chapter in the manner required by law and at the same time publish a supplementary notice setting forth the purpose of the Uniform Traffic Code and the fact that complete copies of the Code are available at the office of the Clerk for inspection by and distribution to the public at all times.

410.04 AMENDMENTS.

The Uniform Traffic Code, as adopted in Section 410.01, is hereby amended as follows:

Sec. 2.5. Reports of stolen and recovered vehicles. (Amended)

A police agency, upon receiving reliable information that any vehicle registered under this act has been stolen, shall immediately report the theft through the law enforcement information network. Upon receiving information that a vehicle previously reported as stolen has been recovered, the police agency shall immediately report the fact of the recovery through the law enforcement information network.

Sec. 2.5a. Abandoned vehicle procedures. (Amended)

(1) As used in this section, "abandoned vehicle" means a vehicle which has remained on public property or private property for a period of 48 hours after a police agency or other governmental agency designated by the police agency has affixed a written notice to the vehicle.

(2) If a vehicle has remained on public or private property for a period of time so that it appears to the police agency to be abandoned, the police agency shall do all of the following:

- (a) Determine if the vehicle has been reported stolen.
- (b) Affix a written notice to the vehicle. The written notice shall contain

the following information:

- (i) The date and time the notice was affixed.
- (ii) The name and address of the police agency taking the action.
- (iii) The name and badge number of the police officer affixing the

notice.

(iv) The date and time the vehicle may be taken into custody and stored at the owner's expense or scrapped if the vehicle is not removed.

(v) The year, make, and vehicle identification number of the vehicle, if available.

(3) If the vehicle is not removed within 48 hours after the date the notice was affixed, the vehicle is deemed abandoned and the police agency may have the vehicle taken into custody.

(4) A police agency which has a vehicle taken into custody shall do all of the following:

(a) Recheck to determine if the vehicle has been reported stolen.

(b) Within 24 hours after taking the vehicle into custody, enter the vehicle as abandoned into the law enforcement information network.

(c) Within 7 days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first-class mail or personal service, notice that the vehicle has been deemed abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:

(i) The year, make, and vehicle identification number of the vehicle if available.

(ii) The location from which the vehicle was taken into custody.

(iii) The date on which the vehicle was taken into custody.

(iv) The name and address of the police agency which had the vehicle taken into custody.

(v) The business address of the custodian of the vehicle.

(vi) The procedure to redeem the vehicle.

(vii) The procedure to contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees.

(viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.

(ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale.

(5) The registered owner may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond in an amount equal to the accrued towing and storage fees with the court. The owner of a vehicle who

requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(6) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(7) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle and the police agency for its accrued costs.

(8) Not less than 20 days after the disposition of the hearing described in subsection (5) or, if a hearing is not requested, not less than 20 days after the date of the notice, the police agency shall offer the vehicle for sale at a public sale pursuant to section 2.5g.

(9) If the ownership of a vehicle which has been deemed abandoned under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 2.5g, not less than 30 days after public notice of the sale has been published.

Sec. 2.5b. Abandoned scrap vehicle procedures. (Added)

(1) As used in this section:

(a) "Registered abandoned scrap vehicle" means a vehicle which meets all of the following requirements:

(i) Is on public or private property.

(ii) Is 7 or more years old.

(iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe as required by section 5.71 would exceed the fair market value of that vehicle.

(iv) Is currently registered in the state or displays current year registration plates from another state.

(v) Is not removed within 48 hours after a written notice as described in section 2.5a(2)(b) is affixed to the vehicle.

(b) "Unregistered abandoned scrap vehicle" means a vehicle which meets all of the following requirements:

(i) Is on public or private property.

(ii) Is 7 or more years old.

(iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe as required by section 5.71 would exceed the fair market value of that vehicle.

(iv) Is not currently registered in this state and does not display current year registration plates from another state.

(v) Is not removed within 48 hours after a written notice as described in section 2.5a(2)(b) is affixed to the vehicle.

(2) A police agency may have an unregistered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:

(a) Determine if the vehicle has been reported stolen.

(b) Take 2 photographs of the vehicle.

(c) Make a report to substantiate the vehicle as an unregistered abandoned scrap vehicle. The report shall contain the following information:

(i) The year, make, and vehicle identification number if available.

(ii) The date of abandonment.

(iii) The location of abandonment.

(iv) A detailed listing of the damage or the missing equipment.

(v) The reporting officer's name and title.

(vi) The location where the vehicle is being held.

(d) Within 24 hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.

(3) Within 24 hours, excluding Saturday, Sunday, and legal holidays, after taking the vehicle into custody, the police agency shall complete a release form and release the vehicle to the towing service or a used vehicle parts dealer or vehicle scrap metal processor, who shall then transmit that release form to the secretary of state and apply for a certificate of title or a certificate of scrapping. Upon receipt of the release form and application, the secretary of state shall issue a certificate of title or a certificate of scrapping.

(4) The release form described in subsection (3) shall be furnished by the secretary of state and shall include a certification executed by the applicable police agency when the abandoned scrap vehicle is released. The certification shall state that the police agency has complied with all the requirements of subsection (2)(b) and (c).

(5) The secretary of state shall retain the records relating to an abandoned scrap vehicle for not less than 2 years. The 2 photographs taken pursuant to subsection (2)(b) shall be retained by the police agency for not less than 2 years. After the certificate of scrapping has been issued, a certificate of title for the vehicle shall not be issued again.

- (6) A police agency may have a registered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:
- (a) Determine if the vehicle has been stolen.
 - (b) Take 2 photographs of the vehicle.
 - (c) Make a report to substantiate the vehicle as a registered abandoned scrap vehicle. The report shall contain the following information:
 - (i) The year, make, and vehicle identification number if available.
 - (ii) The date of abandonment.
 - (iii) The location of abandonment.
 - (iv) A detailed listing of the damage or the missing equipment.
 - (v) The reporting officer's name and title.
 - (vi) The location where the vehicle is being held.
 - (d) Within 24 hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.
 - (e) Within 7 days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first-class mail or personal service, notice that the vehicle has been deemed abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:
 - (i) The year, make, and vehicle identification number of the vehicle if available.
 - (ii) The location from which the vehicle was taken into custody.
 - (iii) The date on which the vehicle was taken into custody.
 - (iv) The name and address of the police agency which had the vehicle taken into custody.
 - (v) The business address of the custodian of the vehicle.
 - (vi) The procedure to redeem the vehicle.
 - (vii) The procedure to contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees.
 - (viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.
 - (ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the termination of all rights of the owner and the secured party to the vehicle.

(7) The registered owner of a registered abandoned scrap vehicle may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the court in an amount as determined by the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(8) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(9) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(10) Not less than 20 days after the disposition of the hearing described in subsection (7), or if a hearing is not requested, not less than 20 days after the date of the notice described in subsection (6)(e), the police agency shall follow the procedures established in subsections (3) to (5).

Sec. 2.5c. Vehicle removed from private property. (Added)

(1) When a vehicle is removed from private property at the direction of a person other than the registered owner of the vehicle or a police agency, the custodian of the vehicle immediately shall notify the police agency from whose jurisdiction the vehicle was towed. The custodian shall supply that information which is necessary for the police agency to enter the vehicle into the law enforcement information network.

(2) Upon receipt of the notification described in subsection (1), the police agency immediately shall do all of the following:

(a) Determine if the vehicle has been reported stolen.

(b) Enter the vehicle into the law enforcement information network.

(3) The owner of the vehicle removed as described in subsection (1) may obtain release of the vehicle by paying the accrued towing and storage fees to the custodian of the vehicle. Upon release of the vehicle, the custodian shall notify the police agency of the disposition of the vehicle.

(4) If the vehicle described in subsection (1) is not claimed by the owner within 7 days after the police agency has been notified by the custodian that it has been taken into custody, the vehicle is deemed abandoned and the procedures prescribed in section 2.5a(4)(c) to (9) shall apply.

Sec. 2.5d. Vehicle removed by police (Added).

(1) A police agency or a governmental agency designated by the police agency may provide for the immediate removal of a vehicle from public or private property to a place of safekeeping at the expense of the registered owner of the vehicle in any of the following circumstances:

(a) If the vehicle is in such a condition that the continued operation of the vehicle upon the highway would constitute an immediate hazard to the public.

(b) If the vehicle is parked or standing upon the highway in such a manner as to create an immediate public hazard or an obstruction of traffic.

(c) If a vehicle is parked in a posted tow-away zone.

(d) If there is reasonable cause to believe that the vehicle or any part of the vehicle is stolen.

(e) If the vehicle must be seized to preserve evidence of a crime, or when there is reasonable cause to believe that the vehicle was used in the commission of a crime.

(f) If removal is necessary in the interest of public safety because of fire, flood, storm, snow, natural or man-made disaster, or other emergency.

(g) If the vehicle is hampering the use of private property by the owner or person in charge of that property or is parked in a manner which impedes the movement of another vehicle.

(h) If the vehicle is stopped, standing, or parked in a space designated for handicapper parking and is not permitted by law to be stopped, standing, or parked in a space designated for handicapper parking.

(2) A police agency which authorizes the removal of a vehicle under subsection (1) shall do all of the following:

(a) Check to determine if the vehicle has been reported stolen.

(b) Within 24 hours after removing the vehicle, enter the vehicle into the law enforcement information network if the vehicle has not been redeemed. This subdivision does not apply to a vehicle that is removed from the scene of a motor vehicle traffic accident.

(c) If the vehicle has not been redeemed within 10 days after moving the vehicle, send to the registered owner and the secured party as shown by the records of the secretary of state, by first-class mail or personal service, a notice that the vehicle has been removed; however, if the police agency informs the owner or operator of the vehicle of the removal and the location of the vehicle within 24 hours after the removal, and if the vehicle has not been redeemed within 30 days and upon complaint from the towing service, the police agency shall send the notice within 30 days after the removal. The notice shall be by a form furnished by the secretary of state. The notice form shall contain the following information:

(i) The year, make, and vehicle identification number of the vehicle.
(ii) The location from which the vehicle was taken into custody.
(iii) The date on which the vehicle was taken into custody.
(iv) The name and address of the police agency which had the vehicle taken into custody.

(v) The location where the vehicle is being held.
(vi) The procedure to redeem the vehicle.
(vii) The procedure to contest the fact that the vehicle was properly removed or the reasonableness of the towing and daily storage fees.

(viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.

(ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale or to both the vehicle and the proceeds.

(3) The registered owner may contest the fact that the vehicle was properly removed or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the court in an amount equal to the accrued towing and storage fees. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly removed, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(4) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(5) If the owner does not redeem the vehicle or request a hearing within 20 days, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle prior to the date of the sale.

(6) Not less than 20 days after the disposition of the hearing described in subsection (3), or if a hearing is not requested, not less than 20 days after the date of the notice described in subsection (2)(c), the police agency shall offer the vehicle for sale at a public sale unless the vehicle is redeemed. The public sale shall be held pursuant to section 2.5g.

(7) If the ownership of a vehicle which has been removed under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 2.5g, not less than 30 days after public notice of the sale has been published.

Sec. 2.5e. Abandoned vehicle; jurisdiction of court. (Added)

(1) The following courts shall have jurisdiction to determine if a police agency has acted properly in processing a vehicle under section 2.5a, 2.5b(6) to (10), 2.5c or 2.5d:

- (a) The district court.
- (b) A municipal court.

(2) The court specified in the notice prescribed in section 2.5a(4)(c), 2.5b(6), 2.5c(4) or 2.5d(2)(c) shall be the court which has territorial jurisdiction at the location from where the vehicle was removed or deemed abandoned. Venue in the district court shall be governed by section 8312 of Act 236 of the Public Acts of 1961, as amended, being M.C.L.A. 600.8312.

(3) If the owner fails to pay the accrued towing and storage fees, the towing and storage bond posted with the court to secure release of the vehicle under section 2.5a, 2.5b, 2.5c or 2.5d shall be used to pay the towing and storage fees.

Sec. 2.5f. Abandoned vehicle; duties of court. (Added)

(1) Upon receipt of a petition prescribed in section 2.5a, 2.5b, 2.5c or 2.5d, signed by the owner of the vehicle which has been taken into custody, the court shall do both of the following:

- (a) Schedule a hearing within 30 days for the purpose of determining whether the police agency acted properly.
- (b) Notify the owner and the police agency of the time and place of the hearing.

(2) At the hearing specified in subsection (1), the police agency shall have the burden of showing by a preponderance of the evidence that it has complied with the requirements of this act in processing the abandoned vehicle or vehicle removed pursuant to section 2.5d.

(3) After the hearing the court shall make a decision which shall include 1 or more of the following:

(a) A finding that the police agency complied with the procedures established for the processing of an abandoned vehicle or a vehicle removed under section 2.5d, and an order providing a period of 20 days after the decision for the owner to redeem the vehicle. If the owner does not redeem the vehicle within 20 days, the police agency shall dispose of the vehicle pursuant to section 2.5b or 2.5g.

(b) A finding that the police agency did not comply with the procedures established for the processing of an abandoned vehicle or a vehicle removed pursuant to section 2.5d. After making such a finding, the court shall issue an order directing that the vehicle immediately be released to the owner, and that the police agency is responsible for the accrued towing and storage charges.

(c) A finding that the towing and daily storage fees were reasonable.

(d) A finding that the towing and daily storage fees were unreasonable and issue an order directing an appropriate reduction.

Sec. 2.5g. Abandoned vehicle; public sale. (Added)

(1) A public sale for a vehicle which has been deemed abandoned under section 2.5a or 2.5c or removed under section 2.5d shall be conducted in the following manner:

(a) It shall be under the control of the police agency or agent of the police agency.

(b) It shall be open to the public and consist of open auction bidding or bidding by sealed bids. If sealed bids are received, the person submitting the bid shall receive a receipt for the bid from the police agency or agent of the police agency.

(c) Except as provided by sections 2.5a(9) and 2.5d(7), it shall be held not less than 5 days after public notice of the sale has been published.

(d) The public notice shall be published at least once in a newspaper having a general circulation within the County in which the vehicle was abandoned. The public notice shall give a description of the vehicle for sale and shall state the time, date, and location of the sale.

(2) The money received from the public sale of the vehicle shall be applied in the following order of priority:

(a) Towing and storage charges.

(b) Expenses incurred by the police agency.

(c) To the secured party, if any, in the amount of the debt outstanding on the vehicle.

(d) Remainder to the owner. A reasonable attempt shall be made to mail the remainder to the registered owner. If delivery of the remainder cannot be accomplished, the remainder shall become the property of the municipality.

(3) If there are no bidders on the vehicle, the police agency may do 1 of the following:

(a) Turn the vehicle over to the towing firm to satisfy charges against the vehicle.

(b) Obtain title to the vehicle for the police agency or the municipality, by doing the following:

(i) Paying the towing and storage

(ii) Applying for title to the vehicle.

(c) Hold another public sale pursuant to subsection (1).

(4) A person who acquires ownership of a vehicle under subsection (1) or (3), which vehicle has been designated as a distressed vehicle, shall make application for a salvage certificate of title within 15 days after obtaining the vehicle.

(5) Upon disposition of the vehicle, the police agency shall cancel the entry into the law enforcement information network.

Sec. 5.15. Driving under the influence of intoxicating liquor and/or controlled substance. (Amended)

(1) A person, whether licensed or not, shall not operate a 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, within the municipality, if either of the following applies:

(a) The person is under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance;

(b) The person has a blood alcohol content of 0.10% or more by weight of alcohol.

(2) The owner of a vehicle or a person in charge or in control of a vehicle shall not authorize or knowingly permit the vehicle to be operated 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 motor vehicles, within the municipality, by a person who is under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or who has a blood alcohol content of 0.10% or more by weight of alcohol.

(3) A person, whether licensed or not, shall not operate a 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 within the municipality when, due to the consumption of an intoxicating liquor, a controlled substance, or a combination of an intoxicating liquor and a controlled substance, the person's ability to operate the vehicle is visibly impaired. If a person is charged with violating subsection (1), a finding of guilty under this subsection may be rendered.

- (4) If a person is convicted of violating subsection (1), the following shall apply:
- (a) Except as otherwise provided in subdivision (b), the person is guilty of a misdemeanor, and may be punished by 1 or more of the following:
 - (i) Service to the community for a period of not more than 45 days;
 - (ii) Imprisonment for not more than 90 days;
 - (iii) A fine of not less than \$100.00 or more than \$500.00.
 - (b) If the violation occurs within 7 years of a prior conviction, the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00 and either of the following:
 - (i) Performing service to the community for a period of not less than 10 days or more than 93 days, and may be imprisoned for not more than 1 year;
 - (ii) Imprisonment for not less than 48 consecutive hours or more than 1 year, and may be sentenced to service to the community for a period of not more than 93 days.
 - (c) A term of imprisonment imposed under subdivision (b)(ii) shall not be suspended.
 - (d) A person sentenced to perform service to the community under this subsection shall not receive compensation, and shall reimburse the municipality for the cost of supervision incurred by the municipality as a result of the person's activities in that service.
 - (e) As used in this subsection, "prior conviction" means a conviction for a violation of section 5.15(1), or former section 5.15(1) or (2), or a conviction of section 625(1), (4) or (5), or former section 625(1) or (2), of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (4) or (5), or former M.C.L.A. 257.625(1) or (2), or a law of another state substantially corresponding to section 625(1), (4) or (5), or former section 625(1) or (2), of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (4) or (5), or former M.C.L.A. 257.625(1) or (2).
- (5) In addition to imposing the sanctions prescribed under subsection (4), the court may, pursuant to the code of criminal procedure, Act 175 of the Public Acts of 1927, being M.C.L.A. 760.1 to 776.21, order the person to pay the costs of the prosecution.
- (6) The court shall impose license sanctions pursuant to section 5.15b.
 - (7) A person who is convicted of violating subsection (2) is guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not less than \$100.00 or more than \$500.00, or both.

- (8) If a person is convicted of violating subsection (3), the following shall apply:
- (a) Except as otherwise provided in subdivisions (b) and (c), the person is guilty of a misdemeanor punishable by 1 or more of the following:
 - (i) Service to the community for a period of not more than 45 days;
 - (ii) Imprisonment for not more than 93 days;
 - (iii) A fine of not more than \$300.00.
 - (b) If the violation occurs within 7 years of 1 prior conviction, the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00, and either of the following:
 - (i) Performing service to the community for a period of not less than 10 days or more than 93 days, and may be sentenced to imprisonment for not more than 1 year;
 - (ii) Imprisonment for not more than 1 year, and may be sentenced to community service for not more than 93 days.
 - (c) If the violation occurs within 10 years of 2 or more prior convictions, the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00, and either of the following:
 - (i) Performing service to the community for a period of not less than 10 days or more than 93 days, and may be sentenced to imprisonment for not more than 1 year;
 - (ii) Imprisonment for not more than 1 year, and may be sentenced to community service for not more than 93 days.
 - (d) As used in subdivisions (b) and (c), "prior conviction" means a conviction for a violation of section 5.15(1) or (3), or former section 5.15(1) or (2), or former section 5.15b, or a conviction of section 625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (3), (4) or (5), or former M.C.L.A. 257.625(1) or (2), or former M.C.L.A. 257.625b, or a law of another state substantially corresponding to section 625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (3), (4) or (5), or former M.C.L.A. 257.625(1) or (2), or former M.C.L.A. 257.625b.
 - (e) In addition to imposing the sanctions prescribed in subdivision (a), (b) or (c), the court may, pursuant to the code of criminal procedure, Act 175 of the Public Acts of 1927, order the person to pay the costs of the prosecution.
 - (f) The court shall order the secretary of state to impose license sanctions pursuant to Section 5.15b.

(g) A person sentenced to perform service to the community under this subsection shall not receive compensation, and shall reimburse the municipality for the cost of supervision incurred by the municipality as a result of the person's activities in that service.

(9) If the prosecuting attorney intends to seek an enhanced sentence under subsection (4)(b) or (8)(b) or (c) based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information filed in district court, circuit court, recorder's court, municipal court, or probate court a statement listing the defendant's prior convictions.

(10) A prior conviction shall be established at sentencing by 1 or more of the following:

- (a) An abstract of the conviction;
- (b) A copy of the defendant's driving records;
- (c) An admission by the defendant.

(11) A person who is convicted of an attempted violation of subsection (1) or (3) shall be punished as if the offense had been completed.

(12) When taking licensing action under this section, the court shall treat a conviction of an attempted violation of subsection (1) or (3) the same as if the offense had been completed.

Sec. 5.15a. Arrest; chemical tests and analyses; presumptions. (Amended)

(1) A peace officer, without a warrant, may arrest a person when the peace officer has reasonable cause to believe that the person was, at the time of an accident, the operator of a vehicle involved in the accident in the municipality while in violation of section 5.15(1) or (3).

(2) A peace officer who has reasonable cause to believe that a person was operating a vehicle upon a public highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, in the municipality, and that the person by the consumption of intoxicating liquor may have affected his or her ability to operate a vehicle, may require the person to submit to a preliminary chemical breath analysis. The following provisions shall apply with respect to a preliminary chemical breath analysis:

(a) A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis.

(b) The results of a preliminary chemical breath analysis are admissible in a criminal prosecution for a crime enumerated in section 5.15(1) or (3) in an administrative hearing solely to assist the court or hearing officer in determining a challenge to the validity of an arrest. This subdivision does not limit the introduction of other competent evidence offered to establish the validity of an arrest.

(c) A person who submits to a preliminary chemical breath analysis shall remain subject to the requirements of sections 5.15c, 5.15d and 5.15e for the purposes of chemical tests described in these sections.

(d) A person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a peace officer is responsible for a civil infraction.

(3) The following provisions apply with respect to chemical tests and analysis of a person's blood, urine or breath, other than preliminary chemical breath analysis:

(a) The amount of alcohol or presence of a controlled substance or both in a driver's blood at the time alleged as shown by chemical analysis of the person's blood, urine or breath is admissible into evidence in any civil or criminal proceeding.

(b) A person arrested for a crime described in section 5.15(1) or (3) shall be advised of all of the following:

(i) That if he or she takes a chemical test of his or her blood, urine or breath administered at the request of a peace officer, he or she has the right to demand that a person of his or her own choosing administer 1 of the chemical tests; that the results of the test are admissible in a judicial proceeding as provided under Act 300 of the Public Acts of 1949, as amended, and shall be considered with other competent evidence in determining the innocence or guilt of the defendant; and that he or she is responsible for obtaining a chemical analysis of a test sample obtained pursuant to his or her own request;

(ii) That if he or she refuses the request of a peace officer to take a test described in subparagraph (i), a test shall not be given without a court order, but the peace officer may seek to obtain such a court order;

(iii) That his or her refusal of the request of a peace officer to take a test described in subparagraph (i) shall result in the suspension of his or her operator's or chauffeur's license or operating privilege, and in the addition of 6 points to his or her driver record.

(c) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or a licensed nurse or medical technician under the direction of a licensed physician and qualified to withdraw blood acting in a medical environment, at the request of a peace officer, may withdraw blood for the purpose of determining the amount of alcohol or presence of a controlled substance or both in the person's blood, as provided in this subsection. Liability for a crime or civil damages predicated on the act of withdrawing or analyzing blood and related procedures shall not attach to a qualified person who withdraws or analyzes blood or assists in the withdrawal or analysis in accordance with Act 300 of the Public Acts of 1949, as amended, unless the withdrawal or analysis is performed in a negligent manner.

(d) A chemical test described in this subsection shall be administered at the request of a peace officer having reasonable grounds to believe the person has committed a crime described in section 5.15(1) or (3). A person who takes a chemical test administered at the request of a peace officer, as provided in this section, shall be given a reasonable opportunity to have a person of his or her own choosing administer 1 of the chemical tests described in this subsection within a reasonable time after his or her detention, and the results of the test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant. If the person charged is administered a chemical test by a person of his or her own choosing, the person charged shall be responsible for obtaining a chemical analysis of the test sample.

(e) If, after an accident, the driver of a vehicle involved in the accident is transported to a medical facility and a sample of the driver's blood is withdrawn at that time for the purpose of medical treatment, the results of a chemical analysis of that sample shall be admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance or both in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subdivision. A medical facility or person disclosing information in compliance with this subsection shall not be civilly or criminally liable for making the disclosure.

(f) If, after an accident, the driver of a vehicle involved in the accident is deceased, a sample of the decedent's blood shall be withdrawn in a manner directed by the medical examiner for the purpose of determining the amount of alcohol or the presence of a controlled substance, or both, in the decedent's blood. The medical examiner shall give the results of the chemical analysis of the sample to the law enforcement agency investigating the accident, and that agency shall forward the results to the department of state police.

(4) The provisions of subsection (3) relating to chemical testing do not limit the introduction of any other competent evidence bearing upon the question of whether or not a person was impaired by, or under the influence of, intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or whether the person had a blood alcohol content of 0.10% or more by weight of alcohol.

(5) If a chemical test described in subsection (3) is administered, the results of the test shall be made available to the person charged or the person's attorney upon written request to the prosecution, with a copy of the request filed with the court. The prosecution shall furnish the results at least 2 days before the day of trial. The results of the test shall be offered as evidence by the prosecution in that trial. Failure to fully comply with the request shall bar the admission of the results into evidence by the prosecution.

(6) Except in a prosecution relating solely to a violation of section 5.15(1)(b), the amount of alcohol in the driver's blood at the time alleged as shown by chemical analysis of the person's blood, urine or breath shall give rise to the following presumptions:

(a) If there was at the time 0.07% or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant's ability to operate a motor vehicle was not impaired due to the consumption of intoxicating liquor, and that the defendant was not under the influence of intoxicating liquor.

(b) If there was at the time in excess of 0.07% but less than 0.10% by weight of alcohol in the defendant's blood, it shall be presumed that the defendant's ability to operate a vehicle was impaired within the provisions of section 5.15(3) due to the consumption of intoxicating liquor.

(c) If there was at the time 0.10% or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor.

(7) A person's refusal to submit to a chemical test as provided in subsection (3) shall be admissible in a criminal prosecution for a crime described in section 5.15(1) or (3) only for the purpose of showing that a test was offered to the defendant, but not as evidence in determining the innocence or guilt of the defendant. The jury shall be instructed accordingly.

Sec. 5.15b. Arraignment; pre-trial conference; advise of rights; screening, assessment and rehabilitative services; licensing sanctions. (Amended)

(1) A person arrested for a misdemeanor violation of section 5.15(1) or (3) shall be arraigned on the citation, complaint or warrant not more than 14 days after the date of arrest or, if an arrest warrant is reissued, not more than 14 days after the reissued arrest warrant is served.

(2) The court shall schedule a pretrial conference between the prosecuting attorney, the defendant and the defendant's attorney, in each case in which the defendant is charged with a misdemeanor violation of section 5.15(1) or (3). The pretrial conference shall be held not more than 35 days after the date of the person's arrest for the violation or, if an arrest warrant is reissued, not more than 35 days after the date the reissued arrest warrant is served, unless the court has only 1 judge who sits in more than 1 location in that district, in which case the pretrial conference shall be held not more than 42 days after the date of the person's arrest for the violation or, if

an arrest warrant is reissued, not more than 42 days after the date the reissued arrest warrant is served. The court shall order the defendant to attend the pretrial conference and may accept a plea by the defendant at the conclusion of the pretrial conference. The court may adjourn the pretrial conference upon the motion of a party for good cause shown. Not more than 1 adjournment shall be granted to a party, and the length of an adjournment shall not exceed 14 days. The court shall, except for delay attributable to the unavailability of the defendant, a witness or material evidence, or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, finally adjudicate, by a plea of guilty or nolo contendere, or the entry of a verdict, or by other final disposition, a case in which the defendant is charged with a misdemeanor violation of section 5.15(1) or (3) within 77 days after the person is arrested for the violation or, if an arrest warrant is reissued, not more than 77 days after the date the reissued arrest warrant is served.

(3) Before accepting a plea of guilty or nolo contendere under section 5.15, the court shall advise the accused of the maximum possible term of imprisonment and the maximum possible fine that may be imposed for the violation, and shall advise the defendant that the maximum possible license sanctions that may be imposed will be based upon the master driving record maintained by the secretary of state pursuant to section 204a of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.204a.

(4) Before imposing sentence, other than court-ordered license sanctions, for a violation of section 5.15(1) or (3), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services, to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment and rehabilitative services.

(5) Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 5.15(1) or (3), whether or not the person is eligible to be sentenced as a multiple offender, the court shall consider all prior convictions currently entered upon the Michigan driving record of the person, except those convictions which, upon motion by the defendant, are determined by the court to be constitutionally invalid, and shall impose the following licensing sanctions:

(a) For a conviction under Section 5.15(1):

(i) If the court finds that the person has no prior convictions within 7 years for a violation of section 5.15(1) or (3), or former section 5.15(1) or (2), or former section 5.15b, or a conviction of section 625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (3), (4) or (5), or former M.C.L.A. 257.625(1) or (2), or former M.C.L.A. 257.625b, or a law of another state substantially corresponding to section 625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (3), (4) or (5), or former M.C.L.A. 257.625(1) or

(2), or former M.C.L.A. 257.625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 6 months or more than 2 years. The court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the period of suspension, except that a restricted license shall not be issued during the first 30 days of the period of suspension.

(ii) If the court finds that the person has 1 prior conviction within 7 years for a violation of section 5.15(3), or former section 5.15b, or a conviction of section 625(3) or former section 625b of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(3), or former M.C.L.A. 257.625b, or a law of another state substantially corresponding to section 625(3), or former section 625b, of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(3), or former M.C.L.A. 257.625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 6 months or more than 2 years. The court may order the secretary of state to issue to the person a restricted license during all or any portion of the period of suspension, except that a restricted license shall not be issued during the first 60 days of the period of suspension.

(iii) If the court finds that the person has 1 or more prior convictions within 7 years for a violation of section 5.15(1), or former section 5.15(1) or (2), or a conviction of section 625(1), (4) or (5), or former section 625(1) or (2), of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (4) or (5), or former M.C.L.A. 257.625(1) or (2), or a law of another state substantially corresponding to section 625(1), (4) or (5), or former section 625(1) or (2), of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (3), (4) or (5), or former M.C.L.A.

257.625(1) or (2), or former M.C.L.A. 257.625b, the court shall order the secretary of state to revoke the operator's or chauffeur's license of the person and shall not order the secretary of state to issue a restricted license to the person.

(b) For a conviction under Section 5.15(3):

(i) If the court finds that the person has no prior conviction within 7 years for a violation of section 5.15(1) or (3), or former section 5.15(1) or (2), or former section 5.15b, or a conviction of section 625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (3), (4) or (5), or former M.C.L.A. 257.625(1) or (2), or former M.C.L.A. 257.625b, or a law of another state substantially corresponding to section

625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (3), (4) or (5), or former M.C.L.A. 257.625(1) or (2), or former M.C.L.A. 257.625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 90 days or more than 1 year. The court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the period of suspension.

(ii) If the court finds that a person has 1 prior conviction within 7 years for a violation of section 5.15(1) or (3), or former section 5.15(1) or (2), or former section 5.15b, or a conviction of section 625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (3), (4) or (5), or former M.C.L.A. 257.625(1) or (2), or former M.C.L.A. 257.625b, or a law of another state substantially corresponding to section 625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (3), (4) or (5), or former M.C.L.A. 257.625(1) or (2), or former M.C.L.A. 257.625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 6 months or more than 2 years. The court may order the secretary of state to issue to the person a restricted license during all or any portion of the suspension period, except that a restricted license shall not be issued during the first 60 days of the period of suspension.

(iii) If the court finds that a person has 2 or more prior convictions within 10 years for a violation of section 5.15(1) or (3), or former section 5.15(1) or (2), or former section 5.15b, or a conviction of section 625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (3), (4) or (5), or former M.C.L.A. 257.625(1) or (2), or former M.C.L.A. 257.625b, or a law of another state substantially corresponding to section 625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (3), (4) or (5), or former M.C.L.A. 257.625(1) or (2), or former M.C.L.A. 257.625b, the court shall order the secretary of state to revoke the operator's or chauffeur's license of the person and shall not order the secretary of state to issue a restricted license to the person.

(6) A restricted license issued pursuant to an order under subsection (5) shall permit the person to whom it is issued to do one or more of the following:

- (a) Drive to and from the person's residence and work location;
- (b) Drive in the course of the person's employment or occupation;
- (c) Drive to and from the person's residence and an alcohol or drug education or treatment program as ordered by the court;
- (d) Drive to and from the person's residence and the court probation department, or a court-ordered community service program, or both;
- (e) Drive to and from the person's residence and an educational institution at which the person is enrolled as a student.

(7) The court may order that the restricted license issued pursuant to subsection (5) include the requirement that the person shall not operate a motor vehicle unless the vehicle is equipped with a functioning ignition interlock device. The device shall be set to render the motor vehicle inoperable if the device detects a blood alcohol content of 0.02% or more by weight of alcohol in the person who offers a breath sample. The court may order installation of an ignition interlock device on any motor vehicle that the person owns or operates, the cost of which shall be borne by the person whose license is restricted.

(8) The court shall not order the secretary of state under subsection (5) to issue a restricted license that would permit a person to operate a truck or truck tractor, including a trailer, that hauls hazardous materials.

(9) The court shall not order the secretary of state to issue a restricted license unless the person states under oath, and the court finds pursuant to testimony taken in open court or pursuant to statements contained in a sworn affidavit on a form prescribed by the state court administrator, that the person is unable to take public transportation to and from his or her work location, place of alcohol or drug education treatment, court-ordered community service program, or educational institution, and does not have any family members or other individuals able to provide transportation.

(10) The court order issued under subsection (5) and the restricted license shall indicate the permitted destination of the person, the approved route or routes if specified by the court, and permitted times of travel.

(11) As used in this section, "work location" means, as applicable, either the specific place or places of employment, or the territory or territories regularly visited by the person in pursuance of the person's occupation, or both.

(12) Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 5.15(1) or (3), the person shall surrender to the court his or her operator's or chauffeur's license or permit. The court shall immediately destroy the license or permit and forward an abstract of conviction with court-ordered license sanctions to the secretary of state. Upon receipt of, and pursuant to, the abstract of conviction with court-ordered license sanctions, the secretary of state shall suspend or revoke the person's license and, if ordered by the court and the person is otherwise eligible for a license, issue to the person a restricted license stating the limited driving privileges indicated on the abstract. If the judgment and sentence are appealed to the circuit court, the court may, ex parte, order the secretary of state to stay the suspension, revocation or restricted license issued pursuant to this section pending the outcome of the appeal.

Sec. 5.15c. Implied consent. (Amended)

(1) A person who operates a vehicle upon a public highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the municipality, is considered to have given consent to chemical tests of his or her blood, breath or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood pursuant to section 625c of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625c.

(2) A person who is afflicted with hemophilia, diabetes or a condition requiring the use of an anticoagulant under the direction of a physician, shall not be considered to have given consent to the withdrawal of blood.

(3) The tests shall be administered as provided in section 5.15a(3).

Sec. 5.15d. Refusal to take chemical test. (Amended)

(1) If a person refuses the request of a peace officer to submit to a chemical test offered pursuant to section 5.15a(3), a test shall not be given without a court order, but the officer may seek to obtain the court order.

(2) A written report shall immediately be forwarded to the secretary of state by the peace officer. The report shall state that the officer had reasonable grounds to believe that the person had committed a crime described in Section 5.15(1) or (3), and that the person had refused to submit to the test upon the request of the peace officer and had been advised of the consequences of the refusal. The form of the report shall be prescribed and furnished by the secretary of state.

Sec. 5.15e. Hearing; suspension of license. (Amended)

(1) If a person refuses to submit to a chemical test pursuant to section 5.15d, the peace officer shall immediately notify the person in writing that within 14 days of the date of the notice the person may request a hearing as provided in section 625f of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625f. The form of the notice shall be prescribed and furnished by the secretary of state.

(2) The notice shall specifically state that failure to request a hearing within 14 days will result in the suspension of the person's license or permit to drive. The notice shall also state that there is not a requirement that the person retain counsel for the hearing, though counsel would be permitted to represent the person at the hearing.

Sec. 5.15f. Confiscation of license or permit; temporary license or permit. (Amended)

(1) If a person refuses a chemical test offered pursuant to Section 5.15a(3), or submits to the chemical test and the test reveals a blood alcohol content of 0.10% or more by weight of alcohol, the peace officer who requested the person to submit to the test shall do all of the following:

(a) On behalf of the secretary of state, immediately confiscate the person's license or permit to operate a motor vehicle, and, if the person is otherwise eligible for a license or permit, issue a temporary license or permit to the person that is valid until the criminal charges against the person are dismissed, or until the person pleads guilty or nolo contendere to, or is found guilty of, those charges. The temporary license or permit shall be on a form provided by the secretary of state.

(b) Except as provided in subsection (2), immediately do all of the following:

(i) Forward a copy of the written report of the person's refusal to submit to a chemical test to the secretary of state.

(ii) Notify the secretary of state by means of the law enforcement information network that a temporary license or permit was issued to the person.

(iii) Except as provided in subsection (2), destroy the person's driver's license or permit.

(2) If a person submits to a chemical test offered pursuant to section 5.15a(3) that requires the withdrawal of blood and a report of the results of that chemical test is not immediately available, the peace officer who requested the person to submit to the test shall comply with subsection (1)(a) pending receipt of the test report. If, upon receipt, the report reveals a blood alcohol content of 0.10% or more by weight of alcohol, the peace officer who requested the person to submit to the test shall immediately comply with subsection (1)(b). If, upon receipt, the report reveals a blood alcohol content of less than 0.10% by weight of alcohol, the peace officer who requested the person to submit to the test shall immediately notify the person of the test results, and immediately return the person's license or permit by first-class mail to the address given at the time of arrest.

Sec. 5.82. Mandatory child restraints. (Added)

(1) Except as provided in this section, or as otherwise provided by law, a rule promulgated pursuant to administrative procedures Act of 1969, Act 306 of the Public Acts, as amended, being M.C.L.A. 24.201 to 24.315, or Federal regulations, each driver transporting a child in a motor vehicle shall properly secure each child in a child restraint system as follows:

(a) Any child less than 1 year of age, in a child restraint system which meets the standards prescribed in 49 C.F.R. 571.213, except as provided in subsection (6).

(b) Any child 1 year of age or more but less than 4 years of age, when transported in the front seat, in a child restraint system which meets the standards prescribed in 49 C.F.R. 571.213, except as provided in subsection (6).

(c) Any child 1 year of age or more but less than 4 years of age, when transported in the rear seat, in a child restraint system which meets the standards prescribed in 49 C.F.R. 571.213, unless the child is secured by a safety belt provided in the motor vehicle, except as provided in subsection (6).

(2) This section does not apply to any child being nursed.

(3) This section does not apply if the motor vehicle being driven is a bus, school bus, taxicab, moped, motorcycle or other motor vehicle not required to be equipped with safety belts under Federal law or regulations.

- (4) A person who violates this section is responsible for a civil infraction.
- (5) Points shall not be assessed for a violation of this section.
- (6) The secretary of state may exempt by rules promulgated pursuant to Act 306 of the Public Acts of 1969, as amended, a class of children from the requirements of this section, if the secretary of state determines that the use of the child restraint system required under subsection (1) is impractical because of physical unfitness, a medical problem or body size. The secretary of state may specify alternate means of protection for children exempted under this subsection.

Sec. 5.83. Safety belt required; enforcement. (Added)

- (1) This section shall not apply to a driver or passenger of:
 - (a) A motor vehicle manufactured before January 1, 1965.
 - (b) A bus.
 - (c) A motorcycle.
 - (d) A moped.
 - (e) A motor vehicle if the driver or passenger possesses a written verification from a physician that the driver or passenger is unable to wear a safety belt for physical or medical reasons.
 - (f) A motor vehicle which is not required to be equipped with safety belts under Federal law.
 - (g) A commercial or United States postal service vehicle which makes frequent stops for the purpose of pick-up or delivery of goods or services.
 - (h) A motor vehicle operated by a rural carrier of the United States postal service while serving his or her rural postal route.
- (2) This section shall not apply to a passenger of a school bus.
- (3) Each driver and front seat passenger of a motor vehicle operated on a street or highway in this state shall wear a properly adjusted and fastened safety belt, except that a child less than 4 years of age shall be protected as required in section 5.82.
- (4) Each driver of a motor vehicle transporting a child 4 years of age or more but less than 16 years of age in a motor vehicle shall secure the child in a properly adjusted and fastened safety belt. If the motor vehicle is transporting more children than there are safety belts available for use, all safety belts available in the motor vehicle are being utilized in compliance with this section, and the driver and all front seat passengers comply with subsection (3), then the driver of a motor vehicle transporting a child 4 years of age or more but less than 16 years of age for which there is not an available safety belt is in compliance with this subsection, if that child is seated in other than the front seat of the motor vehicle. However, if that motor vehicle is a pick-up truck without an extended cab or jump seats, and all safety belts in the front seat are being used, the driver may transport such a child in the front seat without a safety belt.

(5) Enforcement of this section by state or local law enforcement agencies shall be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of another section of this act.

(6) Failure to wear a safety belt in violation of this section may be considered evidence of negligence and may reduce the recovery for damages arising out of the ownership, maintenance, or operation of a motor vehicle. However, such negligence shall not reduce the recovery for damages by more than 5%.

(7) A person who violates this section is responsible for a civil infraction.

(8) Points shall not be assessed for a violation of this section.

Sec. 5.97. School buses; overtaking, meeting, or passing. (Amended)

(1) The driver of a vehicle overtaking or meeting a school bus which has stopped and is displaying 2 alternately flashing red lights located at the same level shall bring the vehicle to a full stop not less than 20 feet from the school bus and shall not proceed until the school bus resumes motion or the visual signals are no longer actuated. At an intersection where traffic is controlled by an officer or a traffic stop-and-go signal, a vehicle need not be brought to a full stop before passing a stopped school bus, but may proceed past the school bus at a speed not greater than is reasonable and proper but not greater than 10 miles per hour and with due caution for the safety of passengers being received or discharged from the school bus. The driver of a vehicle who fails to stop for a school bus as required by this subsection, who passes a school bus in violation of this subsection, or who fails to stop for a school bus in violation of an ordinance that complies with this subsection, is responsible for a civil infraction.

(2) The driver of a vehicle upon a highway which has been divided into 2 roadways by leaving an intervening space, or by a physical barrier, or clearly indicated dividing sections so constructed as to impede vehicular traffic, need not stop upon meeting a school bus which has stopped across the dividing space, barrier, or section.

(3) In a proceeding for a violation of subsection (1), proof that the particular vehicle described in the citation was in violation of subsection (1), together with proof that the defendant named in the citation was, at the time of the violation, the registered owner of the vehicle, shall constitute in evidence a presumption that the registered owner of the vehicle was the driver of the vehicle at the time of the violation.

(4) In addition to a civil fine and costs, the judge, district court referee, or district court magistrate may order a person who violates this section to perform not to exceed 100 hours of community service at a school.

CHAPTER 420
Street Obstructions and Special Uses

- 420.01 Duty of Street Administrator to keep streets and alleys free and clear of obstructions; expenses; collection.
- 420.02 Obstruction and encroachment of public ways; excavations.

420.03 Deposit of ashes, rubbish, debris or snow in streets and alleys.
420.04 Through traffic stop streets.
420.99 Penalty.

CROSS REFERENCES

- Streets and alleys generally - see CHTR. Ch. VII, §§12 et seq.
- Council powers re street obstructions - see CHTR. Ch. VII, §20
- Street Administrator - see ADM. Ch. 254
- Sidewalk obstructions - see S.U. & P.S. 1020.03

420.01 DUTY OF STREET ADMINISTRATOR TO KEEP STREETS AND ALLEYS FREE AND CLEAR OF OBSTRUCTIONS; EXPENSES; COLLECTION.

(a) It shall be the duty of the Street Administrator to keep the streets and alleys of the Village free and clear of all obstructions, rubbish, ashes and any other matter or thing.

(b) Should any expense be incurred by said Street Administrator in removing any of such obstructions, rubbish, ashes or other matter or thing from any of the streets and alleys of said Village, it shall be his or her duty to keep an account thereof, and report the same to the Council. The same shall become a charge against the person placing or causing such obstructions, rubbish, ashes or other matter or thing to be placed in the streets or alleys in said Village, and may be collected by said Village in an action of debt, or assumpsit, against such person. If such person is the owner of the premises or the street or alley in which such obstruction, rubbish, ashes or other matter or thing is placed, then the expense of the removal thereof may be levied and collected as a special assessment on said premises. (Ord. 17. Passed 7-11-1892.)

420.02 OBSTRUCTION AND ENCROACHMENT OF PUBLIC WAYS;
EXCAVATIONS.

No person shall erect or place or cause to be erected or placed any incumbrances, encroachments or obstructions upon any street, sidewalk, lane, alley, park or public grounds. No person shall dig upon, or in any manner excavate, any portion of any street, alley, lane or public grounds within said Village, except by permission of the Council and under the direction of the Street Administrator. (Ord. 10. Passed 7-11-1892.)

420.03 DEPOSIT OF ASHES, RUBBISH, DEBRIS OR SNOW IN STREETS
AND ALLEYS.

(a) No person shall deposit in any of the streets and alleys of the Village any ashes, rubbish, debris or any other objectionable material, or any snow.

(b) No person shall permit any ashes, rubbish, debris or any other objectionable material, or any snow, to be or to remain in any of the streets and alleys of said Village, adjacent to the premises occupied by him or her.

(c) This section shall not apply to leaves left for pick-up and disposal by the Department of Public Works.

420.04 THROUGH TRAFFIC STOP STREETS.

(a) Michigan Avenue, from First Street North to Fifth Street.

(1) Michigan Avenue from and including its intersection with First Street north to and including its intersection with Sixth Street, in the Village, is hereby designated as a through traffic stop street.

(2) The driver or operator of a vehicle being driven or operated upon the public streets, alleys and ways of the Village shall bring his or her vehicle to a complete stop before entering upon said Michigan Avenue either from the east or west, at First Street, Second Street, Third Street, Fourth Street and Fifth Street. (Ord. 90. Passed 10-12-42.)

(b) Sixth Street from Pine Street East to Elm Street.

(1) Sixth Street from and including its intersection with Pine Street and extending east to and including its intersection with Elm Street, is hereby designated as a through traffic stop street.

(2) The driver or operator of any vehicle being driven or operated in a northerly direction, upon either Pine Street, Dewey Street, Michigan Avenue, Maple Street or Elm Street, or upon the alley between Michigan Avenue and Maple Street, or upon the alley between Maple Street and Elm Street, shall, before entering upon said Sixth Street, bring his or her vehicle to a complete stop.

(Ord. 89. Passed 9-28-42.)

(c) First Street, Second Street, Third Street, Fifth Street and Pine Street.

(1) No driver of any vehicle, nor any person owning or having control of such vehicle, shall drive or cause or permit such vehicle to enter into or upon the following streets in the Village, without first bringing such vehicle to a complete stop:

First Street, Second Street, Third Street, Fifth Street and Pine Street, except at the intersections of First Street, Second Street, Third Street and Fifth Street with Pine Street, Michigan Avenue and State Street, and except for the intersections of Pine Street with First Street and Sixth Street.

(2) First Street, Second Street, Third Street, Fifth Street and Pine Street, with the exceptions noted in paragraph (c)(1) hereof, are hereby declared to be through streets, and subject to the restrictions upon the use of the same as provided in paragraph (c)(1) hereof. (Ord. 101. Passed 5-2-52.)

(d) Signs. The Department of Public Works shall obtain appropriate through street stop signs and place the same in appropriate places at all streets provided for in this section.

420.99 PENALTY.

Whoever violates any of the provisions of this chapter is responsible for a civil infraction.

CHAPTER 430
Vehicle Equipment

430.01 Lugs or other rough material on wheels.

430.99 Penalty.

CROSS REFERENCES

Regulation of use of streets and motor vehicles - see CHTR.

Ch. VII, §23

Fire-fighting equipment - see CHTR. Ch. X, §§2, 3

Inoperable vehicles - see GEN. OFF. Ch. 640

430.01 LUGS OR OTHER ROUGH MATERIAL ON WHEELS.

No vehicle shall be driven or operated upon any portion of the streets, alleys or ways of the Village, which have been covered with blacktop material, if such vehicle's wheels or any wheel thereof is equipped with lugs or other rough material which if so driven or operated upon such blacktop would tend to break up the same. (Ord. 88. Passed 9-14-42.)

430.99 PENALTY.

Whoever violates any of the provisions of this chapter is responsible for a civil infraction.

CHAPTER 440
Bicycles, Skateboards and Rollerblades

440.01 Operation on sidewalks.

440.99 Penalty.

CROSS REFERENCES

Skateboards - see U.T.C. §3.4

Operation of bicycles, motorcycles, mopeds and toy vehicles - see U.T.C. Ch. 6

440.01 OPERATION ON SIDEWALKS.

(a) Definitions. As used in this section:

(1) "Bicycle" means a device having one, two or three wheels and which is propelled by human power.

(2) "Operate" means using, putting into motion and causing the movement of a bicycle, skateboard, or rollerblades, when mounted thereon.

(3) "Pedestrian" means any person afoot.

(4) "Rollerblades" means a device, also known as in-line skates, which is propelled by human power, and any similar devices.

(5) "Skateboard" means a device having four or more wheels and which is propelled by human power.

The definitions contained in paragraphs (a)(1), (4) and (5) hereof shall apply to any device similar to those defined in such paragraphs.

(b) Operation on Certain Sidewalks; Duty to Yield to Pedestrians.

(1) No person shall operate a bicycle, skateboard or rollerblades, or similar devices, on the public sidewalks adjacent to North Michigan Avenue between Second Street and Fourth Street.

(2) All persons operating a bicycle, a skateboard or rollerblades on the public sidewalks within the Village shall at all times yield the right of way to pedestrians. (Ord. 166. Passed 8-27-90; Ord. 176. Passed 5-24-99.)

(c) Responsibility of Parents and Guardians. No person shall permit his or her child or ward less than sixteen years old to violate any of the provisions of this section.

440.99 PENALTY.

Whoever, being an adult, violates any of the provisions of Section 440.01 is responsible for a civil infraction. Any minor who violates any of the provisions of this chapter shall be dealt with in accordance with Juvenile Court law and procedure.

CHAPTER 450
Parking

- 450.01 Parking on streets for more than forty-eight hours.
- 450.02 Overnight parking on streets.
- 450.03 Parking on sidewalks, footpaths, etc.
- 450.04 Parking near fire hydrants or ambulance garage.
- 450.05 Parking on First Street.
- 450.06 Parking on Michigan Avenue between Second and Fourth Streets.

- 450.07 Parking on Michigan Avenue near Fourth Street.
- 450.08 Parking on Michigan Avenue between Second and Fifth Streets.
- 450.09 Parking of commercial and oversized vehicles.
- 450.99 Penalty.

CROSS REFERENCES

Regulation of streets and motor vehicles - see CHTR. Ch. VII, §23

Parking generally - see M.C.L.A. §§257.672 et seq. (U.T.C. §§1.019 et seq., 8.1 et seq.)

Inoperable motor vehicles - see GEN. OFF. Ch. 640

Mobile home parks - see P. & Z. Ch. 1280

Mobile homes - see B. & H. Ch. 1440

450.01 PARKING ON STREETS FOR MORE THAN FORTY-EIGHT HOURS.

No person shall park any motor vehicle or other vehicle on any of the streets or alleys of the Village for a longer time than forty-eight consecutive hours. (Ord. 73. Passed 5-25-31.)

450.02 OVERNIGHT PARKING ON STREETS.

(a) No owner or operator of any motor vehicle shall park such motor vehicle upon any of the streets or alleys of the Village between the hours of 2:00 a.m. and 6:00 a.m., between November 15 and April 1.

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(b) The operator of the snow-removal equipment of the Village shall notify the Police Department of the Village to remove any motor vehicle parked in violation of subsection (a) hereof at the expense of the owner or operator of such motor vehicle, and such expense shall constitute a lien upon such motor vehicle, which the Village may foreclose in the same manner as is provided by Act 290 of the Public Acts of 1939, as amended.

(c) The purpose of this section is hereby declared to be the removal of snow from the Village streets and avenues. (Ord. 87. Passed 11-24-41.)

450.03 PARKING ON SIDEWALKS, FOOTPATHS, ETC.

No driver of a vehicle, nor any person owning such vehicle, shall permit such vehicle to be parked or placed upon any sidewalk, footpath or other place where pedestrians usually travel, outside of the portion of the streets, alleys and ways of the Village where vehicles usually travel.

(Ord. 93. Passed 7-22-46.)

450.04 PARKING NEAR FIRE HYDRANTS OR AMBULANCE GARAGE.

No vehicle or other obstruction shall be allowed to stand on any street in the Village closer than ten feet from any fire hydrant, or in front of the ambulance garage on Third Street.

450.05 PARKING ON FIRST STREET.

No driver of any vehicle, nor any person owning or having control of such vehicle, shall park, or cause or permit such vehicle to be parked, upon First Street.

450.06 PARKING ON MICHIGAN AVENUE BETWEEN SECOND AND FOURTH STREETS.

No owner, driver or operator of any motor vehicle shall park his or her motor vehicle upon either the east side or the west side of Michigan Avenue, in the Village, between Second Street and Fourth Street, on any day of the week, except Sunday, between the hours of 8:30 a.m. and 5:30 p.m., for a period of time longer than two hours.

450.07 PARKING ON MICHIGAN AVENUE NEAR FOURTH STREET.

All vehicles parking upon Michigan Avenue between the extended lines of the south side of Lot 11, Block 19, Barnett Plat of the Village and the north line of Fourth Street in the Village shall be placed with the right side thereof toward the curb and in the center, as near as possible, of the spaces between the painted strips adjacent to the curb and parallel with said painted strips. (Ord. 58. Passed 8-11-24.)

450.08 PARKING ON MICHIGAN AVENUE BETWEEN SECOND AND FIFTH STREETS.

(a) No driver of any motor vehicle or other vehicle, either with or without a trailer attached, shall park the same on Michigan Avenue between the north line of Second Street and the south line of Fifth Street in the Village in any place or position other than between the confining lines as marked on the east and west sides of Michigan Avenue.

(b) No such driver shall permit any part of his or her motor vehicle, trailer or other vehicle, or any projection therefrom, to extend over or outside of the confining lines as marked on the east and west sides of Michigan Avenue. In case any such motor vehicle, trailer or other vehicle is too large to be so parked within such confining lines, so that its outside dimensions, including any platform, box or other extension, and including any projection therefrom, is too large to be so parked within such confining lines, it shall be the duty of the driver thereof to refrain from parking the same on Michigan Avenue, between the north line of Second Street and the south line of Fifth Street, in the Village.

(Ord. 78. Passed 5-13-35; Ord. 92. Passed 7-22-46.)

450.09 PARKING OF COMMERCIAL AND OVERSIZED VEHICLES.

(a) Definitions.

(1) "Commercial vehicles". A commercial vehicle shall be defined as any vehicle, bus designed to carry more than fifteen people, (excluding school buses), machinery, trailer, or any other type of equipment used to generate income or which has the appearance as used in the course of conducting a trade or business, due to size, type, signage, or accessories. A pickup truck, cargo style van, sport utility vehicle or passenger car with signage or accessories shall not be considered as a commercial vehicle, even though it may be used for business purposes.

(2) "Oversized vehicle".

A. Any vehicle twenty-three feet or greater in length, or eight feet or greater in height, or seven feet or greater in width.

B. Any vehicle with more than two axles.

(b) No owner or operator of a commercial vehicle or an oversized vehicle shall park such vehicle on any Village public street, zoned residential at any time unless a permit is obtained, except for purposes of deliveries and services.

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(c) A commercial vehicle or an oversized vehicle may be temporarily parked on any Village public street, zoned residential for no more than forty-eight consecutive hours with a special permit issued by the Village Police Department and displayed in the front window of said vehicle. Permits may be obtained during business hours, only at the Village Police Department.

(d) A commercial vehicle or oversized vehicle, may be temporarily parked on any Village public street not zoned residential and not marked no parking to load and unload materials, goods, merchandise, for a maximum period of no more than 24 consecutive hours.

(e) The owner or operator of any vehicle shall not be allowed to park such vehicle on any Village public street zoned residential, so as to interfere with the delivery of curbside mail or newspaper without the expressed consent of the occupant of that residence.

(f) The owner or operator of any vehicle shall not be allowed to park such vehicle on any Village street zoned residential, so as to interfere with the pickup of curbside trash and or recycling materials by any waste hauler authorized to operate within the Village between the hours of 12:00 a.m. and 5:00 p.m. on the designated date of pick up for that residence.
(Ord. 011112. Passed 11-12-01.)

450.99 PENALTY.

Whoever violates any of the provisions of this chapter is responsible for a civil infraction.