

Legislative Update for Year 2000

Motor Vehicle Code

Drivers Must Move Over for Stationary Emergency Vehicles

MCL 257.653a Amends the Motor Vehicle Code to require drivers to move over one lane when possible if approaching a stationary emergency vehicle which has its emergency lights activated. Effective date March 28, 2001.

Minors Cannot Ride in the Bed of Pickup Trucks

MCL 257.682b Amends the Motor Vehicle Code to prohibit a person under the age of 18 from riding in the open bed of a pickup at a speed greater than 15 miles per hour. The operator of the vehicle is responsible for a civil infraction.

This law does not apply to a vehicle moving as part of a parade, a military vehicle, an authorized emergency vehicle, a vehicle operated by an employer or employee of a farm operation, construction business, or similar business during the course of work activities, or a vehicle used to transport a search and rescue team to and from the site of an emergency. Effective March 28, 2001.

Motorcycle Seizure Requirements

MCL 257.230 Amends the Motor Vehicle Code to permit a police officer to seize and secure a motorcycle that does not have a visible VIN to determine if it was stolen or otherwise in violation of law. Unless otherwise required by law, the motorcycle must be returned to the person from whom it was seized or the lawful owner within 30 calendar days. If the motorcycle is unlawfully held for longer than 30 days, a civil action could be filed against the police agency and the agency may be liable for damages and attorney fees. Effective March 28, 2001.

Abandoned Vehicles May Be Removed 24 Hours After Tagging

MCL 257.252a Amends the Motor Vehicle Code to allow the removal of vehicles from a state trunkline highway if the vehicle has been inspected and an abandoned vehicle sticker has been affixed and the vehicle was not removed within **24 hours**. A state trunkline highway is defined as a roadway that is designated by an "I" (I-75), "US" (US-2), or "M" (M-53). Effective October 16, 2000.

Parking in a Fire Lane

MCL 257.674 Amends the Motor Vehicle Code to add an additional violation of parking in a place or manner that blocks access to a space clearly designated as a fire lane. Effective October 1, 2000.

No Need for Bells on Bikes

MCL 257.662 Amends the Michigan Vehicle Code to repeal the requirement that bicycles be equipped with a bell or similar device. Effective June 1, 2000.

Surge Brakes on Commercial Vehicles

MCL 480.13a Amends the Motor Carrier Safety Act to permit trailers with a gross vehicle weight (GVW) or gross vehicle weight rating (GVWR) of up to 15,000 or trailer-vehicle combinations with an actual GVW or GVWR of up to 26,000 pounds to be equipped with surge brakes for intrastate operation under the Michigan vehicle code. Effective June 27, 2000.

School Zone Speed Limits

MCL 257.627a Amends the Michigan Vehicle Code's provisions on school zone speed limits to permit school zones at high schools and areas where students are transported to school by motor vehicles. In addition, the bill requires that the school speed limits be in force at least 30 minutes before but not more than one hour preceding the start and dismissal of school. Effective May 22, 2000.

Most Motor Carrier Violations Now Civil Infractions

MCL 480.17 et al. Amends the Motor Carrier Safety Act to create all previous misdemeanor violations, except hazardous materials violations, as civil infractions. Effective March 15, 2000.

Low Speed Vehicles

MCL 257.217b et al. Adds sections 25b, 606a, and 658b Amends the Motor Vehicle Code to allow the use of low speed vehicles on public roads under the general provisions that prescribe the conditions for operating a bicycle or moped. Effective July 1, 2000.

Blocking of Handicapped Ramps

MCL 257.674 and 257.252d Amends the Motor Vehicle Code to prohibit a vehicle from parking in an area that interferes with the use of a curb cut or ramp by persons with disabilities and allows for the removal of the vehicle. Violation is a civil infraction. Effective October 1, 2000.

ORV Prohibited if Driver Suspended

MCL 324.81140a If a person's driving privileges are suspended or revoked in Michigan or another state they may not operate an ORV in Michigan for the same period of time. This law does not apply to watercraft. Effective October 1, 2000.

Criminal Law

Prohibited Message Posting

MCL 750.411s Amends the Michigan Penal Code to specify that a person cannot post a message, to or about an individual, through the use of any medium of communication, including the internet or a computer, computer program, computer system, or computer network, or other electronic medium of communication, without that individual's consent. Effective April 1, 2001.

Identity Fraud

MCL 750.285 Amends the Michigan Penal Code making it a felony to obtain or attempt to obtain personal identity information with the intent to unlawfully use that information for the following purposes:

1. To obtain financial credit.
2. To purchase, obtain, or lease any real or personal property.
3. To obtain employment.
4. To obtain access to medical records or information contained in medical records.
5. To commit any illegal act.

Personal identity information is defined as a Social Security Number, a drivers license number or state identification number, employment information or information regarding any financial account held by another person such as savings, checking, or credit card account numbers. Effective April 1, 2001.

Juror Intimidation and Obstruction of Justice

MCL 750.120a Increases the penalties for juror intimidation and retaliation against a juror.

MCL 750.483a Adds prohibitions against obstructing justice, interfering with a police investigation, and altering or concealing evidence.

MCL 750.122 Adds prohibitions against interfering with and retaliating against a witness.

MCL 750.119 Clarifies the penalties for the crime of corrupting or attempting to corrupt by the giving, offering, or promising a gift or gratuity for the purpose of influencing the decision of an appraiser, receiver, trustee, administrator, executor, commissioner, auditor, juror, arbitrator, or referee. Effective date March 28, 2001.

Bomb Threats

MCL 750.411a Amends the Michigan Penal Code to clarify language of the bomb threat statute. The revised statute prohibits knowingly making a false report of a bombing or attempted bombing or a threat to bomb. The threat must be communicated to another person. First offense is a 4-year felony and a second or subsequent offense is a 10-year felony. The bill also includes language that allows a court to order a person convicted under this section to pay the response costs to the governmental agencies for answering the bomb threat. Effective April 1, 2001.

Stone Knives Are Not “Double-Edged Non Folding Stabbing Instruments”

MCL 750.222a Amends the Michigan Penal Code to exclude knives, tools, implements, arrowheads, or artifacts manufactured from stone from “double-edged non-folding stabbing instrument.” The exclusion does not include stone knives being transported in a vehicle unless it was in a container and not accessible to the driver. Effective December 27, 2000.

Felons and Body Armor

MCL 750.227g Creates a new section in the Michigan Penal Code prohibiting anyone convicted of a violent felony from owning, possessing, or using body armor. Effective October 10, 2000.

Vulnerable Adult Fraud

MCL 750.174a Establishes penalties for a person who was in a relationship of trust with a vulnerable adult and through fraud, deceit, misrepresentation, or unjust enrichment used or attempted to obtain or use the vulnerable adult's money or property for his or her own direct or indirect benefit. Effective September 26, 2000.

Illegal Possession of VIN Plates and Other Vehicle Identification Instruments

MCL 750.415 Amends the Michigan Penal Code to prohibit a person from knowingly possessing, buying, delivering, or offering to buy, sell, exchange, or give away any of the following: vehicle identification number (VIN) plate, federal safety certification label, anti-theft label, posident die stamps, Secretary of State vehicle identification label, rosette rivet, or any reproduction of these items.

This also prohibits a person from buying, receiving, or obtaining control of a motor vehicle or motor vehicle part with the intent of selling or disposing of the vehicle or part with knowledge that the VIN has been altered.

If the identification of the motor vehicle or mechanical device cannot be determined, the vehicle may be sold at public auction, used by the government agency responsible for its seizure, or rendered as a scrap vehicle. Effective October 1, 2000.

Sale of Children

MCL 750.136c Amends the Michigan Penal Code to add a section of law to prohibit the sale of children. To transfer or attempt to transfer legal or physical custody of a child under the age of 16 for money or other valuables, except as otherwise permitted by law, would be a felony. Effective September 1, 2000.

Controlled Substances

Methamphetamine

MCL 333.7401-7404, 7410a Amends the Public Health Code to increase certain penalties relating to the drug methamphetamine.

- Possession of methamphetamine increases from a 2-year felony to a 10-year felony.
- Manufacture, delivery, or possession with intent to deliver increases from a 7-year felony to a 20-year felony.

The new public act also creates new crimes:

- 10-year felony to own or use a building, vehicle, structure, or place to manufacture a controlled substance.
- 10-year felony to own or possess chemical laboratory equipment in order to manufacture a controlled substance.
- 20-year felony for unlawfully disposing of hazardous wastes.
- 20-year felony if the violation occurs in the presence of a minor or occurs within 500 feet of a residence, business, school, or church.
- 25-year felony if the violation involves a firearm.
- These new penalties do not apply to cocaine and marijuana.
- Effective January 1, 2001.

GBL

MCL 333.7401-7410a Amends the Public Health Code to prohibit the manufacture, delivery, or possession of Gamma-Butyrolactone (GBL), a precursor to GHB, or any material containing GBL. Because GBL has legitimate commercial uses, it is an affirmative defense to a prosecution if commercial use can be proven. Effective January 1, 2001.

Nitrous Oxide (Laughing Gas)

MCL 752.272a Prohibits the sale or distribution of devices containing or devices used to dispense any quantity of nitrous oxide (laughing gas). Exempts from the law those who sell or distribute catering supplies or compressed gases for industrial or medical use, pharmacists or health care professionals, and persons licensed under the Food Processing Act of 1977. Effective January 1, 2001.

Sale of Alcohol Over Internet

MCL 436.1203 Amends the Liquor Control Code to expressly prohibit the sale of alcoholic beverages to minors over the Internet. Effective July 10, 2000.

Laws of Arrest

Adjacent State Police Officers' Powers in Michigan

MCL 764.2b Allows a law enforcement officer of an adjacent state (Indiana, Ohio, Minnesota, and Wisconsin) to have the same authority and immunity as a law enforcement officer of Michigan if he or she is on duty, is authorized to arrest in the adjacent state, and notifies a law enforcement agency in Michigan that he or she is in Michigan for one of the following reasons:

- The officer is engaged in pursuing, arresting, or attempting to arrest an individual for a violation of a law in an adjacent state.
- The officer is in Michigan at the request of a Michigan police officer.
- The officer is working in conjunction with a Michigan police officer.
- The officer is responding to an emergency.
- Effective October 17, 2000.

93-Day Misdemeanor Arrest Authority

MCL 764.15 Amends the Code of Criminal Procedure to allow a peace officer to make an arrest without a warrant for misdemeanors punishable by imprisonment for more than 92 days if the officer has reasonable cause to believe a crime has been committed and reasonable cause to believe the person committed the crime. In addition, a peace officer may make an arrest without a warrant for any misdemeanor committed on "school property" if the officer has reasonable cause to believe a misdemeanor has or is taking place and reasonable cause to believe the person is committing or has committed the violation. Effective August 21, 2000. *See correspondence dated July 18, 2000, for further information.*

PPO Arrest Authority

MCL 28.6 Amends Public Act 59 of 1935 which created the Department of State Police to grant the Director and enlisted officers of the Department of State Police the authority to serve domestic violence or ex parte personal protection orders and to arrest anyone who violates such orders. *See correspondence dated May 26, 2000, for more information.* Effective July 1, 2000.

Miscellaneous

New CCW Law

MCL 28.421 et seq. Changes Michigan's carrying concealed weapons (CCW) law from "may issue" to "shall issue" permit process. This change requires county gun boards to issue a CCW permit to an applicant if they have not been convicted of a felony or found to be mentally ill. Those who have been convicted of certain enumerated misdemeanors must wait eight years to apply for a permit and those convicted of ANY misdemeanor must wait three years to apply for a permit. There are numerous other requirements in the law that will be addressed through forthcoming official correspondence. Effective July 1, 2001.

Crime Victims Rights

MCL 780.752 et al Amends the Crime Victims Rights Act requiring new information be provided to the crime victim within 24 hours after initial contact. The following statement shall be added to the information provided to crime victims, "If you would like to be notified of an arrest in your case or the release of the person arrested, or both, you should call (identify law enforcement agency and telephone number) and inform them."

The new act also requires the law enforcement agency having responsibility for investigating the crime to promptly notify the victim of the arrest or pretrial release of the defendant, or both, if the victim requests or has requested that information. If the defendant is released from custody by the sheriff or juvenile facility, the sheriff or juvenile facility shall notify the law enforcement agency having responsibility for investigating the crime. Effective June 1, 2001.

Restitution For Governmental Agencies

MCL 769.1f Amends the Code of Criminal Procedure to include "attempted" violations of crimes for which judges are permitted to order convicted persons to reimburse the state or local unit of government for expenses incurred in responding to, investigating, and prosecuting certain offenses. Effective April 1, 2001.

LEIN Access For School Authorities

MCL 28.214 Authorizes public or private school superintendents, principals, or assistant principals to receive the vehicle registration information of vehicle within 1,000 feet of school property through LEIN via a law enforcement agency. Effective October 25, 2000. See LEIN News Bulletin, November/December 2000 for more information.

Firearms Sales and Trigger Locks

MCL 28.421 to 28.434 Prohibits a federally licensed firearms dealer from selling a firearm in Michigan unless the sale includes a commercially available trigger lock or other device designed to disable the firearm and prevent its discharge or a commercially available gun case or storage container that can be secured to prevent unauthorized access to the firearm. This does not apply to the sale of a firearm to a police officer, police agency, or an antique firearm. Effective June 29, 2000.

"Baby drop off" Law

MCL 712A.14 et al., 750.135, 722.628 Amends the Juvenile Code to require that an "emergency service provider" (a fire department, hospital, or police station) take into temporary protective custody a newborn child voluntarily delivered to it by the child's parent and immediately notify the Family Independence Agency, which shall assume care, control, and custody of the child. *Official Orders will be updated to reflect department policy regarding this new law.*

An emergency service provider shall do all of the following:

- Transfer the child to the nearest hospital under the assumption that the child is a newborn.
- Provide written material provided by FIA and inform the parent that by surrendering the newborn, the parent is releasing the newborn to a child-placing agency to be placed for adoption.
- Inform the parent that they have 28 days to petition the court to regain custody of the newborn. When the 28-day period to petition ends, there will be a hearing to terminate parental rights.
- Advise the parent there will be a public notice of this hearing. The notice will not contain the parent's name.
- The parent will not receive personal notice of this hearing.
- Information the parent provides to an emergency service provider will not be made public.
- Encourage the parent to provide any relevant family or medical information. The parent is not required to provide this or any other information.
- Ask the parent to identify himself or herself as well as the other parent. The parent is not required to provide this or any other information.
- Advise the parent that confidential services can be provided to them through FIA.
- Inform the parent that they may sign a release for the newborn to be used at the parental rights termination hearing.
- Effective January 1, 2001.

Computer Crimes

MCL 600.4701 Amends the Revised Judicature Act to provide for the forfeiture of property used in or obtained through crimes against minors involving the Internet, a computer, computer program, network, or system. Effective September 19, 2000.

MCL 777.17, 752.796, 752.797, 752.792 Prohibits the use of computers, computer systems, and computer networks to commit or attempt to commit certain crimes. Committing a crime by the use of a computer is now expanded to include "attempting to commit." Effective September 19, 2000.

Change in Township Authority to Set Speed Limits

MCL 257.628 Amends the Michigan Vehicle Code to permit a township board to petition a county road commission or board of commissioners for a change in the speed limit on a county road without an engineering and traffic investigation being conducted. The road must be under review for a proposed change, and there must be more than one mile of residential lots with road frontage of 300 feet or less. This also requires a speed limit of 25 miles per hour unless otherwise posted on a road or interconnected group of roads that is less than one mile in length and connects with the county road system with one entrance and exit. Effective June 20, 2000.

School Locker Searches

MCL 380.1306 Amends the Revised School Code to specify that a student's locker is the property of the school district, and the student has no expectation of privacy with regard to the locker or its contents. A public school principal or designee can search a student's locker at any time in accordance with the school district search policy, and a law enforcement agency having jurisdiction over the school may assist school personnel in conducting a search at the request of the school principal. Effective May 1, 2000.