



SAFETY Network

December 2009

www.michigan.gov/ohsp

Michigan law enforcement cracking down on drunk drivers over holidays

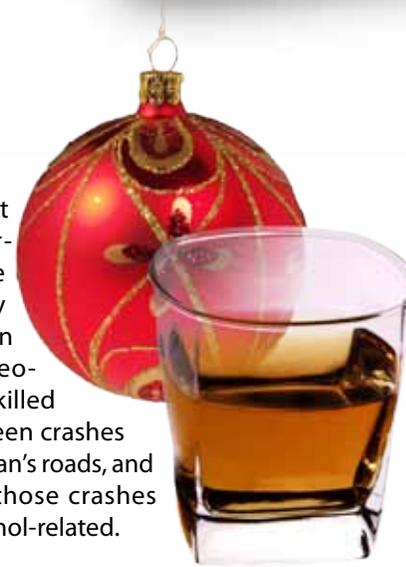
'Tis the season to be jolly, but Michigan law enforcement officers will be out in force to ensure motorists stay off the naughty list this holiday season.

More than 200 agencies from thirty counties will be conducting extra enforcement over the Christmas and New Year's holidays, specifically looking for drunk drivers. The Michigan Office of Highway Safety Planning (OHSP) is coordinating the *Drunk Driving. Over the Limit. Under Arrest.* crackdown, paid for with federal traffic safety dollars. More than \$280,000 will be

spent to fund the two-week enforcement effort, December 23 – January 3.

Counties receiving federal funding for overtime enforcement include: Allegan, Barry, Bay, Berrien, Calhoun, Cass, Chippewa, Genesee, Grand Traverse, Houghton, Ingham, Isabella, Jackson, Kalamazoo, Kent, Lapeer, Livingston, Macomb, Marquette, Monroe, Muskegon, Oakland, Ottawa, Saginaw, St. Clair, Tuscola, Van Buren, Washtenaw, Wayne, and Wexford.

Last year during the holiday season twenty people were killed in seventeen crashes on Michigan's roads, and three of those crashes were alcohol-related.



State receives favorable traffic records assessment

Upon request by the Office of Highway Safety Planning (OHSP), the National Highway Traffic Safety Administration assembled a team of professionals with backgrounds and expertise in the several component areas of traffic records data systems to conduct a traffic records assessment in late October.

The assessment's purpose was to determine whether the state's traffic records system is capable of identifying safety problems, managing the countermeasures applied to reduce or eliminate those problems, and evaluating those programs for their effectiveness. A similar assessment was conducted in 2004, and it was noted that Michigan has made considerable progress since that time.

The assessment covered the components of a traffic records system including crash records, citation and adjudication

records, driver and vehicle records, injury surveillance system components, Michigan Health and Hospital Association hospital discharge data, and roadway information.

The team was impressed with Michigan's data programs, particularly its quality controls, stating, "It must be noted that the state's crash data quality control process is the most comprehensive that the team has encountered anywhere. Users have almost universally praised the improvement in the accuracy and timeliness of the crash data. It truly is a model for other states to copy."

Some of the recommendations made by the assessment team include:

>> Develop a formal plan to spread electronic crash data reporting implementations throughout law enforcement agencies.

- >> Add the capability to access relevant additional files - such as an image of the crash, crash scene photos, additional narratives, etc. - into a future release of Traffic Crash Records System.
- >> Establish a data set through the integration of crash, EMS, and hospital discharge data to enhance problem identification and program analysis efforts.
- >> Determine how best to develop the information available in the Judicial Data Warehouse into a citation tracking system and a DUI tracking system.
- >> Design and commit to a consistent and complete data collection procedure for road features on the state system, including more discrete roadway data segmentation.



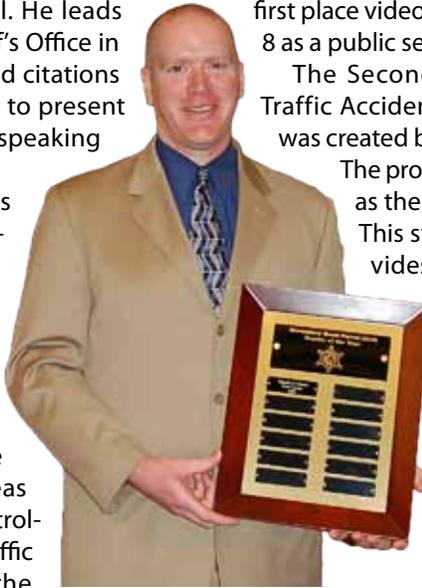
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Kent County Sheriff's Erhardt is Secondary Road Patrol Deputy of the Year

A ten-year veteran of the Kent County Sheriff's Office received the inaugural Secondary Road Patrol (SRP) Deputy of the Year Award at the Michigan Sheriffs' Association (MSA) 2009 Fall Training Conference in October.

An experienced crash reconstructionist, Deputy Timothy P. Erhardt was the first recipient of the award for his eight years of SRP duty. Erhardt is recognized by the courts as an expert witness and known for his thorough investigations and attention to detail. He leads the Kent County Sheriff's Office in traffic stops, arrests, and citations and is often requested to present at traffic safety public speaking engagements.

The SRP award was created to honor deputies or sergeants who show initiative, display a positive image of the sheriff's office both on and off-duty, and show outstanding work performance in the four service areas of the SRP program: patrolling and monitoring traffic violations, enforcing the



law, investigating motor vehicle crashes, and providing emergency assistance. The awards program is sponsored by the Office of Highway Safety Planning (OHSP) in partnership with the MSA.

Erhardt helped coordinate a distracted driver awareness program that challenged five Kent County high schools to submit posters and videos to a contest judged by a panel of local government, media, and business leaders. The winning poster was displayed on a billboard on US-131 and the first place video was aired on WOOD TV 8 as a public service announcement.

The Secondary Road Patrol and Traffic Accident Prevention program was created by Public Act 416 of 1978.

The program is often referred to as the "SRP" or "416" program.

This state grant program provides county sheriff offices with funding to patrol county and local roads outside the limits of cities and villages. The program is managed by OHSP and in 2009, eighty-one counties participated.



Montrose man Saved by the Belt

A Montrose man's decision to buckle up most likely saved his life when he was struck by a drunk driver on August 3.

The 59-year-old man had slowed to make a right turn when he was rear-ended by a vehicle traveling an estimated 60 to 80 mph. The force of the impact pushed the victim's vehicle up an incline and into a tree on the opposite side of the roadway, causing extensive damage to the front and rear of the vehicle. The Jaws of the Life were required to extricate the man from the car, and he suffered several broken ribs and cuts and bruises. According to the Montrose Township Police Department, had he not been wearing his seat belt, the crash very likely would have been fatal.

In an ironic twist, the alcohol-involved crash occurred directly in front of a recently hung *Drunk Driving. Over the Limit. Under Arrest.* banner the police department had received to help promote the end-of-summer drunk driving crackdown.

U.S. DOT and FCC join forces to combat distracted driving

U.S. Transportation Secretary Ray LaHood and Federal Communications Commission (FCC) Chairman Julius Genachowski recently announced that they are launching a joint effort to evaluate technologies that may help curb the dangerous epidemic of distracted driving.

The DOT-FCC partnership will also include outreach efforts to educate the

public about the dangers of texting while driving, talking on cell phones while driving, and other distracting behavior that can lead to deadly crashes.

Officials from the DOT and FCC will establish a working group to evaluate technology-based solutions to the problem of distracted driving and will coordinate consumer outreach and education.



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Sessions, speakers announced for Michigan Traffic Safety Summit

Two general session speakers and several session topics have been announced for the 15th annual Michigan Traffic Safety Summit March 30 - April 1, 2010, at the Kellogg Center in East Lansing.

Included in the line-up are:

James Hedlund, Ph.D., who spent twenty-two years at the National Highway Traffic Safety Administration in various research and program positions. Hedlund now runs Highway Safety North in Ithaca, New York, and will present on behavioral countermeasures that work.

Newell Cerak of Gaylord, Michigan, will discuss his family's life after the 2006 crash they thought had killed their daughter, Whitney Cerak, and the journey that began with a middle of the night call telling them she was alive five weeks later.

A representative from New Mexico's Department of Transportation, Traffic Safety Bureau, will discuss strategies and programs that have significantly reduced the state's alcohol-involved traffic deaths including interlocks, sobriety checkpoints, tough mandatory sentencing laws for driving while intoxicated, and the creation of the nation's first DWI czar.

Other topics being offered at the 2010 Summit include:

- >> Law enforcement and the older driver
- >> OWI enforcement program and metro initiatives
- >> Traffic incident management: communication and partnerships
- >> Safety in a roundabout way
- >> Teen brain development and implications for traffic safety programs and policies
- >> The high-risk DUI offender
- >> The who, when, where, and how of motorcycle crashes in Michigan
- >> Electronic crash data: Michigan's story
- >> Rail crossing safety
- >> Combating the problem of suspended/revoked drivers

The cost to attend the 2010 Michigan Traffic Safety Summit is \$75 for attendees or non-profit exhibitors who register on or before February 19, and \$125 for registrations received after that date. The for-profit exhibitor fee is \$395. Registration forms will be mailed soon. Visit www.michigan.gov/ohsp for more information in the coming months.

MICHIGAN TRAFFIC SAFETY SUMMIT

Belt it Out, Ford DSFL wants you to sing for safety

Ford Driving Skills for Life (DSFL) is offering teens a chance to win up to \$5,000 for creating and performing an original safe driving song.

Songs must be written, composed, and performed by teens ages 15-19. Students may compete individually, or in teams of up to five members and cannot be professionally paid performers. Entries must include elements of Ford's DSFL program including space and speed management, vehicle handling, and hazard recognition. Songs must also include clear and concise messaging about teen driver safety.

DSFL was established in 2003 by Ford Motor Company Fund, the Governors Highway Safety Association (GHSA), and a panel of safety experts to teach newly licensed teens the necessary skills for safe driving beyond what is taught in standard driver education programs.

Entries are due March 1, 2010. All submissions must be in the form of videos. A panel consisting of representatives of the Ford Fund, Ford Safety, and GHSA will identify the top ten finalists. Those ten entries will be posted at www.drivingskillsforlife.com and the public will help select the top five finalists March 16-31. Singer, songwriter and One Tree Hill actress Kate Voegelé will pick top three winning entries.

Visit www.drivingskillsforlife.com for more information.



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Underage drinking and the PBT

By Kenneth Stecker

Traffic Safety Resource Prosecutor, Prosecuting Attorney's Association of Michigan



On September 10, 2009, in *People of the City of Troy v. Chowdhury*, Case No. 288696 (Mich. App., September 10, 2009) (For Publication), a number of young adults under 21 years of age were allegedly drinking alcoholic beverages at a house party in Troy. The officers proceeded to administer preliminary breath tests (PBTs) to the young adults. One of the officers administered a PBT to the defendant, which resulted in 0.025.

The city ordinance at issue in the case reads in pertinent part, that "A peace officer who has reasonable cause to believe a person less than 21 years of age has consumed alcoholic beverages may require the person to submit to a preliminary chemical breath analysis."

After having been charged with violating the ordinance, the defendant moved to suppress the results of the PBT. Defendant argued that the ordinance was unconstitutional because it allowed a police officer to perform a warrantless search, because warrantless searches are generally considered unreasonable unless an exception applies, and because no exception to the warrant requirement was applicable in his case.

In support of his position, the defendant cited two cases in which the U.S. District Court for the Eastern District of Michigan had ruled that a similarly worded ordinance and a similarly worded state statute were unconstitutional. See, *Spencer v. Bay City*, 292 F. Supp. 2d 932 (ED Mich., 2003); *Platte v. Thomas Township*, 504 F. Supp. 2d 227 (ED Mich., 2007).

The City of Troy argued that the federal case law relied on by the district court and circuit court failed to adequately address the "special needs" exception to the search requirement. The city contended that the "special needs" exception should be applied in this case because there is a compelling state interest in protecting

young people from the dangers of alcohol abuse and in protecting the general public from the potential consequences of alcohol abuse by young persons.

The Court of Appeals ruled that "the decisions in *Spencer* and *Platte* are well-reasoned and consistent with existing Fourth Amendment law." The court concluded that the Troy ordinance was unconstitutional on its face.

As to the "special needs" issue the court agreed with the *Spencer* court that "there is nothing special in the need of law enforcement to detect evidence of ordinary criminal wrongdoing and that reasonableness generally requires the obtaining of a judicial warrant." Therefore, the special needs exception to the search warrant requirement was not applicable.

What this means for future MIP investigations

Bottom line, police officers should not request a minor submit to a PBT unless they have previously secured a search warrant for the test or alternatively, have obtained a valid and documented consent from the minor to be tested.

Law enforcement officers will have to do an investigation using the tools they learned before technology:

- >> What is in their hands?
- >> How do their eyes look?
- >> How do they smell?
- >> How do they speak?
- >> How do they act?
- >> Are there beer bottles around the person?
- >> What evidence is there that the minor had been drinking?

It is these kinds of questions that an officer should ask. MIP charges are not dead and buried, just the use of the PBT when trying to compel a test. Of course, in the appropriate situation, an officer can always get a search warrant for the person's blood.

Additionally, another tool that some law enforcement officers have is the Passive Alcohol Sensor (P.A.S.) flashlight.

This is a flashlight that has an alcohol sensor. The P.A.S. is used to check for the presence or absence of alcohol with or without a subject's direct participation. When used without the subject's direct participation it is known as passive sampling, as opposed to active testing where the subject blows directly into a mouthpiece. While it does not give a BAC reading, it provides an indication and may be very useful in these cases – now that there are issues with the PBT. Since it is taking a reading of the air around the person, there should be no issues under the 4th amendment.

It should be noted that MIP cases are important tools in indicating future alcoholism. Alcohol can damage a child's brain, causing long term damage as the brain is not fully developed. There is the obvious concern, minors drink and then drive – and then all too often, they die. Being proactive in these cases can help the community in the long run and save lives right now. While we can no longer compel a PBT to be given to a minor, this does not mean that these cases shouldn't be enforced and prosecuted.

For more information on these cases and statutes and PAAM training programs, contact Kenneth Stecker, Traffic Safety Resource Prosecutor, at (517) 334-6060 or e-mail at kstecker@michigan.gov. Please consult your prosecutor before adopting practices suggested by reports in this article.

The court decisions in this article are reported to help you keep up with trends in the law. Discuss your practices that relate to these statutes and cases with your commanding officers, police legal advisors, and the prosecuting attorney before changing your practices in reliance on a reported court decision or legislative change.

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State studying motorcycle crashes

The Office of Highway Safety Planning is conducting an in-depth review of crash data and conducting focus groups to more precisely understand motorcycle fatalities and the skill set and training of riders most likely to be involved in fatal crashes.

As the number of motorcycle registrations has increased in the past decade, the number of motorcyclist deaths has increased as well.

Crash data indicates the average age of a motorcyclist killed in a crash is 42 and nearly all are men. Almost half of all fatal motorcycle crashes occur in seven counties: Wayne 18.6 percent, Macomb 6.2 percent, Genesee 5.9 percent, Kent 5.6 percent, Oakland 5.3 percent, Washtenaw 3.4 percent, and Livingston 2.8 percent.

Other findings include:

- >> Seasonality: Nearly all fatalities occur April - October
- >> Roadways: 80.5 percent of crashes occur on secondary roads, 28 percent at intersections, and 19.5 percent on freeways
- >> Majority of crashes occur in well lit, dry roadways.
- >> Type of crash: 55 percent multi-vehicle crashes, 45 percent single vehicle (39

percent of single vehicle crashes are had-been-drinking (HBD))

- >> Multi-vehicle crashes generally due to other vehicle failing to yield (i.e. left hand turn in front of motorcycle)
- >> Single vehicle crash citations: Loss of control (48 percent), speeding (37 percent), swerving to avoid animal (12.5 percent), reckless driving (6.5 percent). No citations noted in 17 percent of crashes.
 - > 39 percent of single vehicle crashes had no endorsement
- >> The percentage of HBD crashes for all motorcyclists is 28 percent, less than the rate of 35 percent for all motor vehicle crashes.

Motorcycle riders from Wayne County took part in focus groups this fall to better understand their level of training and awareness of training opportunities as well as their perception of enforcement of motorcycle laws.

The information from crash data and focus groups will be used to develop strategies to help reduce the number of motorcycle fatalities.

GTSAC task force examines suspended driver issue

In an effort to determine the scope of the suspended driver problem, the Governor's Traffic Safety Advisory Commission (GTSAC) conducted the first meeting of a Task Force on Suspended and Revoked Drivers in October. Called by GTSAC Chair Robert Morris, the task force assembled a cross-section of the criminal justice community to examine the issue of suspended drivers and the possible role they play in traffic safety and crashes.

According to Morris, "This summer we saw more than our share of crashes where the driver was suspended, revoked, or never licensed. It seemed only appropriate that we look at that issue more closely to determine the extent of the problem and what we could do to mitigate it."

Driving While License Suspended (DWLS) is the most common traffic violation in Michigan each year. In 2008, there were 193,000 suspensions for driving reasons and another 427,194 suspensions for non-driving reasons which could include but not be limited to drug convictions, non-payment of child support, unpaid parking tickets, or failure to pay a fine or appear in court. Penalties include jail time, plate confiscation, and vehicle immobilization.

The task force included attendees from law enforcement, traffic engineering, traffic safety, courts, licensing, and public defenders. Among the issues discussed were the number of drivers suspended for non-driving reasons, DWLS impact on court caseloads, lack of jail space for DWLS offenders, and consistency of the application of sanctions on offenders.

What's Ahead

DECEMBER

National Drunk & Drugged Driving (3D) Prevention Month

www.stopimpaireddriving.org

16-Jan.3 **Drunk Driving. Over the Limit.**

Under Arrest. National Crackdown

www.stopimpaireddriving.org



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Using Michigan Traffic Crash Facts Web site to examine weather-related crashes

Winter in Michigan presents motorists with an additional set of challenges to travel safely. The Query Tool on Michigan Traffic Crash Facts (MTCF) Web site can help examine the impact winter weather has on crashes. Inclement weather conditions alone can make travel difficult with poor visibility and weather can impact road conditions, making travel surfaces snow covered or icy.

In this example, Kent County was chosen to examine the winter weather impact. On the main screen of the Query Builder, the Analysis Level crash was selected and Kent County was chosen through the Geographic Filter. Years 2004-2008 were selected on the Date Filter, and Weather and Road Conditions were selected as Analysis Variables.

Not surprisingly, it appears there is a correlation between weather and road conditions. When it rains the road is wet, but often it is wet (or icy, snowy, etc.) when weather conditions are cloudy or even clear.

Next, road conditions for years 2004-2008 were examined. According to this chart, Kent County has quite a variation in the number of snowy and icy-road crashes which is probably due to the nature of the winters in each of the years. This sort of analysis can be useful in understanding year-to-year changes in crash frequencies.

To determine the severity of the 105,292 crashes occurring in Kent County during that four year period, the filter Worst Injury in the Crash being fatal or serious (A) injury was selected. The results indicate there were 2,013 such crashes.

Continued on page 7 >

MTCF Data Query Tool
Two-way Table View of Your Query Results

Current Query: Crashes for the years 2008 and 2007 and 2006 and 2005 and 2004 in Kent County

105,292 Crashes

Analysis Variables: [?]
Row Variable: Weather
Column Variable: Road Conditions

2008, 2007, 2006, 2005, 2004		Road Conditions									Total Crashes
		Dry	Wet	Icy	Snowy	Muddy	Slushy	Debris	Otherunknown	Uncoded & errors	
Weather	Clear	42,322	1,673	1,125	604	8	223	39	65	430	46,489
	Cloudy	21,650	7,101	1,993	1,404	22	561	13	96	327	33,167
	Fog/smoke	175	193	18	3	1	4	0	5	11	419
	Rate	86	9,057	296	11	10	106	8	12	141	10,528
	Snow/blowing snow	93	1,379	3,835	5,979	0	719	1	10	119	12,135
	Severe wind	40	135	248	348	0	43	10	1	11	836
	Sleet/hail	2	79	237	14	0	56	1	0	8	437
	Otherunknown	189	36	45	36	0	9	3	737	14	1,815
	Uncoded & errors	76	27	16	14	0	3	0	5	74	215
	Total Crashes		64,633	20,483	7,813	8,416	41	1,764	76	931	1,135

PLEASE NOTE: The user is responsible for the accuracy of any report or opinion based on the use of this data query tool.

MTCF Data Query Tool
Two-way Table View of Your Query Results

Current Query: Crashes for the years 2008 and 2007 and 2006 and 2005 and 2004 in Kent County

105,292 Crashes

Analysis Variables: [?]
Row Variable: Road Conditions
Column Variable: Accident Year

2008, 2007, 2006, 2005, 2004		Accident Year					Total Crashes
		2008	2007	2006	2005	2004	
Road Conditions	Dry	10,463	12,229	13,068	13,661	16,322	64,633
	Wet	3,326	3,393	4,561	3,823	5,361	20,483
	Icy	2,719	1,665	804	1,394	1,031	7,813
	Snowy	2,436	1,806	542	1,845	1,787	8,416
	Muddy	8	4	11	7	11	41
	Slushy	461	449	145	399	290	1,764
	Debris	17	17	19	13	10	76
	Otherunknown	164	158	202	157	250	931
	Uncoded & errors	167	210	195	248	315	1,135
	Total Crashes		19,788	20,131	19,537	21,447	24,297

PLEASE NOTE: The user is responsible for the accuracy of any report or opinion based on the use of this data query tool.



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To highlight the dangers of distractions such as cell phone use and texting while driving, Lansing area teens attempted to navigate a driving course while utilizing cellular devices at the Michigan State Police (MSP) Training Academy in Lansing. Instructors from the MSP Precision Driving Team supervised the exercise.

Parents need to set the rules of the road for teen drivers

Despite the fact teen driving fatalities have declined over the past five years in Michigan, traffic crashes remain the No. 1 killer of young adults ages 16-20.

National Teen Driver Safety Week, Oct. 18-24, was an effort to raise awareness and provide solutions to young driver crashes. It also provided an opportunity for parents to discuss the dangers of distracted driving, speeding, and cell phone use with their teens.

According to research by The Children's Hospital of Philadelphia (CHOP) and State Farm, teens who say their parents set rules and pay attention to their activities in a helpful, supportive way are half as likely to be involved in a crash.

Last year in Michigan, 174 people were killed and 1,517 seriously injured in crashes involving drivers ages 16-20. Of those fatalities, 106 were a 16- 20-year-old driver or passenger.

Nationally, among 16-17 year-olds, the main cause of teen driver crashes is inexperience mixed with other distractions (75 percent), speeding (40 percent) or alcohol (17 percent), or some combination of these factors. According to CHOP and State Farm, a teen driver's fatal crash risk increases up to five times when there are two or more teen passengers in the vehicle.

SFST assessment shows positive results

As the summer of 2009 drew to a close, the Office of Highway Safety Planning conducted its first ever Standard Field Sobriety Testing (SFST) program assessment. Professionals from law enforcement and SFST programs around the country assembled to evaluate the strengths and weaknesses of Michigan's SFST program.

The purpose of the assessment was to hear testimony from law enforcement, prosecutors, judges, forensic scientists, highway safety professionals, and SFST trainers. Ultimately the assessment will be used to enhance Michigan's impaired driving enforcement efforts. When law enforcement receive the best possible training in detecting and arresting impaired drivers, it provides a solid case for prosecutors to use at trial.

The assessment team gathered information on the type and length of training provided, access to training, funding, communication, the Michigan Commission on Law Enforcement Standards certification and documentation process, and received

a tour of the extensive data resources available to law enforcement and the criminal justice community.

The team was impressed with the strong support by the state's law enforcement for impaired driving programs. The state was also congratulated on its training program housed in the Michigan State Police Training Division.

Some recommendations made by the assessment team include:

- >> Establish Michigan as a Drug Classification and Recognition (DEC) program state.
- >> Assemble or create an advisory panel to oversee the statewide SFST program. This panel should establish comprehensive standards for the SFST program.
- >> Encourage the participation and attendance of prosecutors and judges at SFST training sessions.
- >> Identify and train officers who have not completed the 24-hour NHTSA-IACP SFST training course

Current Query: Crashes for the years 2006 and 2007 and 2008 and 2005 and 2004 in Kent County filtered by Worst Injury in Accident (Fatal or A - incapacitating injury)

2013 Crashes

Row Variables: Road Conditions
Column Variables: Weather

Year Table

Crashes for the years 2006 and 2007 and 2008 and 2005 and 2004 in Kent County filtered by Worst Injury in Accident (Fatal or A - incapacitating injury)

		Weather									Total Crashes
		Clear	Cloudy	Fog/smoke	Rain	Snow/Slowing snow	Severe wind	Blizzard	Other unknown	Recorded & missed	
Road Conditions	Dry	529	457	3	4	4	2	0	0	0	1,000
	Wet	23	126	6	126	19	4	1	0	0	365
	Icy	17	28	0	6	47	2	0	0	0	100
	Snowy	6	17	0	0	10	4	0	0	0	40
	Muddy	0	0	0	0	0	0	0	0	0	0
	Slushy	0	0	0	0	11	0	0	0	0	11
	Debris	2	0	0	0	0	0	0	0	0	2
Other unknown	0	4	0	1	0	0	0	1	0	6	
Unrecorded & errors	7	10	0	0	1	0	0	0	1	19	
Total Crashes		1,091	625	9	208	142	14	1	1	4	2,013

PLEASE NOTE: The user is responsible for the accuracy of any report or graphic based on the use of this data query tool.

Continued from page 6 >

It appears more than half of the serious crashes happened on clear/cloudy days with dry roads where weather and road conditions were not factors. Icy, snowy and slushy road conditions are present in

about 11 percent of the serious crashes (225/2,013) but are present in 17 percent of all crashes (from the first table: 17,793/105,292) so it would appear that the drivers in Kent County do drive more carefully when the road conditions are bad.

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OHSP Staff:

Contact	Program Area	Phone	E-mail
Michael L. Prince	Director	(517) 333-5301	princem@michigan.gov
Deborah Sonnenberg	Executive Secretary	(517) 333-5301	sonnenbD@michigan.gov
SAFETY PLANNING AND ADMINISTRATION			
Kathy Farnum	Senior Section Chief	(517) 333-5316	farnumk@michigan.gov
Pat Carrow	Safe Communities, School Bus, Mature Drivers, Pedestrians	(517) 333-5315	carrowp@michigan.gov
Steve Schreier	Engineering, Crash Data, Commercial Motor Vehicles	(517) 333-5306	schreies@michigan.gov
Pietro Semifero	Information Collection and Analysis	(517) 333-5320	semiferp@michigan.gov
Arlene Turner	Secretary	(517) 333-5334	turnera@michigan.gov
COMMUNICATIONS			
Anne Readett	Section Chief	(517) 333-5317	readetta@michigan.gov
Jonathan Benallack	Graphic Designer	(517) 333-5992	benallackj1@michigan.gov
Kim Harris-Burrows	Secretary	(517) 333-5325	harriskk@michigan.gov
Lynn Mears	Secretary	(517) 333-5325	mearsl@michigan.gov
Alyson Kechkaylo	Media Relations and Outreach	(517) 333-5304	kechkayloa@michigan.gov
Lynn Sutfin	Public Information and Marketing	(517) 333-5754	sutfinl@michigan.gov
FINANCIAL MANAGEMENT			
Kim Kelly	Section Chief	(517) 333-5305	kellykw@michigan.gov
Julie Roth	Secondary Road Patrol	(517) 333-5333	rothj3@michigan.gov
Sandy Eyre	Secretary	(517) 333-5303	eyres@michigan.gov
Karen Richardson	Accounting Technician	(517) 333-5332	richardk@michigan.gov
Spencer Simmons	Accountant	(517) 333-5326	simmonssj@michigan.gov
PROGRAM MANAGEMENT			
Deborah Savage	Section Chief	(517) 333-5324	savaged@michigan.gov
Jamie Dolan	Upper Peninsula Traffic Safety Coordinator	(906) 225-7036	dolanj@michigan.gov
Pat Eliason	Police Traffic Services Coordinator	(517) 333-5318	eliasonp@michigan.gov
Jason Hamblen	Impaired Driving, Motorcycle Safety, Adjudication	(517) 333-5319	hamblenj@michigan.gov
Michael Harris	Law Enforcement Liaison Coordinator	(517) 333-4417	harrismichael@michigan.gov
Dianne Perukel	Youth Alcohol, Bicycle Safety, Young Drivers	(517) 333-5337	perukeld@michigan.gov
Brenda Roys	Grants Technician	(517) 333-5302	roysb@michigan.gov
Alicia Sledge	Occupant Protection, Child Passenger Safety, EMS	(517) 333-5321	sledgea@michigan.gov

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Office of Highway Safety Planning
4000 Collins Road, P.O. Box 30633
Lansing, MI 48909-8133
(517) 336-6477