



MICHIGAN STATE POLICE LEGAL UPDATE

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CRIMINAL LAW AND PROCEDURE MANUAL

The third edition of *Michigan Criminal Law and Procedure: A Manual for Michigan Police Officers* is available for purchase in print and eBook formats.

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VEHICLE CODE

A person may be prosecuted for operating while intoxicated in a place "generally accessible to motor vehicles" if the place is one that is usually capable of being reached by self-propelled vehicles

Legal Update No. 122 discussed the Michigan Court of Appeals' opinion in *People v. Rea*. In this case, officers were dispatched to Rea's house to investigate a noise complaint. Upon arrival, an officer observed the door to Rea's detached garage open and watched as Rea backed his vehicle "about 25 feet" before stopping at a point in his private driveway in line with his house. Rea then pulled the vehicle back into the garage. Rea was charged with operating a motor vehicle while intoxicated (OWI) in violation of [MCL 257.625\(1\)](#). The Court of Appeals held that because the general public is not widely permitted to access the upper portion of a private driveway, Rea's operation of his vehicle while intoxicated did not fit within the purview of behavior prohibited under [MCL 257.625\(1\)](#).

The Michigan Supreme Court has reversed the Court of Appeals' judgment. In its [opinion](#), the Supreme Court held that whether a vehicle is operated in a place "generally accessible" to motor vehicles as used in [MCL 257.625\(1\)](#) is dependent upon whether the location is a place that is usually capable of being reached by a motor vehicle.

[MCL 257.625\(1\)](#) provides in relevant part:

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 this state if the person is operating while intoxicated.

The Supreme Court stated that the focus is not whether most *people* can access the area, but whether most *motor vehicles* can access the area. Because "generally

accessible" is not defined in the Michigan Vehicle Code (MVC), the Supreme Court consulted dictionary definitions and held that [MCL 257.625\(1\)](#) prohibits an intoxicated person from operating a vehicle in a place that is usually capable of being reached by self-propelled vehicles. The Supreme Court further noted that areas designed for vehicular travel, are by their nature, areas a vehicle is usually capable of accessing.

The Supreme Court concluded that Rea's driveway was generally accessible to motor vehicles under [MCL 257.625\(1\)](#), noting that Rea's private driveway is designed for vehicular travel and that there was nothing on Rea's driveway that would prevent motor vehicles on the public street from turning into it.

Officers should note that a different result may have been reached had there been a gate or something that would otherwise prevent a motor vehicle on a public street from turning into a private driveway.

The Michigan Vehicle Code amended to remove the requirement that flashing, oscillating, or rotating lights on "authorized emergency vehicles" be mounted on the roof of a vehicle

[Public Act 37 of 2017](#), effective August 21, 2017, amended the Michigan Vehicle Code, [MCL 257.698](#), to remove the requirement that "authorized emergency vehicles" equipped with flashing, rotating, or oscillating red lights for use when responding to an emergency call must be mounted on the roof section of the vehicle.

As amended, [MCL 257.698](#) allows such lights to be mounted elsewhere upon an "authorized emergency vehicle" as long as such lights continue to meet the previous visibility requirement that such lights be clearly visible in a 360-degree arc from a distance of 500 feet.

The definition of an "authorized emergency vehicle" is found in [MCL 257.2](#) and includes, but is not limited to, the following:

- Police vehicles
- Fire department vehicles
- Privately owned vehicles of paid or volunteer fire fighters or volunteer members of an emergency rescue unit, when authorized by a chief of an organized fire department, a county sheriff, or the director of the Michigan State Police.

Officers are reminded that it is a 90-day misdemeanor for a person to operate flashing, rotating, or oscillating lights on an authorized emergency vehicle at any time other than when responding to an emergency call.

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