Chapter 2: Civil Infractions

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2.1 Introduction and Scope Note

The Motor Vehicle Code contains hundreds of traffic offenses. This chapter includes the most frequent of those offenses that are classified as civil infractions. The discussion in this chapter of each civil infraction includes:

- the name of the offense;
- quotations of the actual statute, or significant parts thereof;
- civil sanctions, if they differ from standard civil sanctions;
- licensing sanctions; and
- issues of importance regarding that offense.

This chapter does not contain motor carrier violations or civil infractions that may be committed only by operation of a motorcycle. See MCL 257.656–257.662 (civil infractions applicable to operation of motorcycles). Other provisions may also govern the operation of motorcycles. See MCL 257.656(4) ("[t]he regulations applicable to motorcycles . . . shall be

considered supplementary to other provisions of this chapter governing the operation of motorcycles").

2.2 Equipment Violations

A. General Statutes for Equipment Violations

MCL 257.683(1) states:

> "A person shall not drive or move or the owner shall not cause or knowingly permit to be driven or moved on the highway a vehicle or combination of vehicles which is in such an unsafe condition as to endanger a person, or which does not contain those parts or is not at all times equipped with lamps and other equipment in proper condition and adjustment as required in sections 683 to 714a, or which is equipped in a manner in violation of sections 683 to 714a. A person shall not do an act forbidden or fail to perform an act required under sections 683 to 714a."

Sections 683 to 714a contain provisions with respect to lighting equipment, brakes, mirrors, windshields and windshield wipers, horns and other warning devices, muffler and exhaust systems, tires, etc. MCL 257.683–257.714a.

> "Except as otherwise provided in section 698 or 707d,* a person who violates a provision of sections 683 to 714a with respect to equipment on vehicles is responsible for a civil infraction." MCL 257.683(6).

*§698 contains a misdemeanor offense for misuse of police or emergency lights, and §707d contains noise restrictions, some of which are misdemeanor offenses.

As a general rule, it is a valid exercise of the police power to require motor vehicles to be equipped with various items of safety equipment. The Motor Vehicle Code prohibits a person from operating a vehicle in an unsafe condition, or which is not properly equipped as required by law. MCL 257.683(1). If a person violates this provision he or she is responsible for a civil infraction. Aside from the statute, the driver's knowledge of the condition of the vehicle and the area in which it is operated have bearing on the degree of care to be exercised. *Grant v Richardson*, 276 Mich 151, 156–57 (1936).

B. Equipment Violations

Equipment violations* include:

*See also MCL 257.658a (requirements for seats and footrests on motorcycles).

- Brakes—MCL 257.705;
- Brake lights—MCL 257.697;
- Bumper or other energy absorption systems—MCL 257.710c;

- Cowl, running board, or back-up lights—MCL 257.698;
- Device causing smoke or flame—MCL 257.682a;
- Failing to maintain equipment—MCL 257.683;
- Flag, light, or lantern on projecting load—MCL 257.693;
- Headlights (defective, improper, or none)—MCL 257.684–257.686, MCL 257.695, MCL 257.699, MCL 257.701, MCL 257.702, and MCL 257.704;
- Headlights (failure to dim)—MCL 257.700;
- Horn, siren—MCL 257.706;
- Mirror and obstruction of view—MCL 257.708 and MCL 257.709;
- Mud flaps (trucks)—MCL 257.714a;
- Muffler or exhaust system—MCL 257.707;
- Parking lights—MCL 257.694;
- Plates (lighting and visibility)—MCL 257.686;
- Reflectors and clearance markers—MCL 257.687–MCL 257.691;
- Safety chains (towing)—MCL 257.721(3);
- Safety glass in bus—MCL 257.711;
- Slow moving vehicles, lights and reflectors—MCL 257.688(g) and MCL 257.703;
- Spotlights and fog lights—MCL 257.696;
- Taillights (defective, improper, or none)—MCL 257.686 and MCL 257.695;
- Television—MCL 257.708b;
- Tires—MCL 257.710;
- Tinted windows—MCL 257.709;
- Trailer, trailer hitch, towing equipment—MCL 257.721;
- Turn signals (defective, improper, or none)—MCL 257.697–257.697a; and
- Windshield, windows, wipers/washers (defective, improper, or none)—MCL 257.708a and MCL 257.709.

C. Reasonable Grounds Required to Stop and Inspect Vehicle

"A police officer on reasonable grounds shown may stop a motor vehicle and inspect the motor vehicle, and if a defect in equipment is found, the officer may issue the driver a citation for a violation of a provision of sections 683 to 714a." MCL 257.683(2). This statute is, of course, subject to constitutional limitation on stops and searches.

D. Exempted Vehicles

"[S]ections 683 to 714a with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors, except as specifically provided . . . ." MCL 257.683(5).

E. Civil Sanctions for Equipment Violations

1. Standard Civil Sanctions for Equipment Violations

Except as noted in sub-subsection (2), below, the general rules for assessing a civil fine and costs apply to equipment violations. See Section 1.20 of this volume for a discussion of the general rules governing the assessment of a civil fine and costs.

2. Special Civil Sanction Provisions for Equipment Violations

The court shall waive the civil fine and costs for a violation of defective equipment, written under MCL 257.683, on receipt of certification by a law enforcement agency that repair was made before the appearance date on the citation. MCL 257.907(9). If the citation for defective equipment is written under any other section, the automatic waiver does not apply.

F. Licensing Sanctions for Equipment Violations

No points are assessed for defective equipment. MCL 257.320a(4). The finding of responsibility is not reported to the Secretary of State. MCL 257.732(16)(b). The Secretary of State has interpreted "defective equipment" to include improper equipment and missing equipment.

However, two points are assessed for improper use of lights. This includes driving with bright lights, driving without lights, failure to dim lights, glaring lights, and too many lights lit. The finding of responsibility is reported to the Secretary of State. In assessing points, the Secretary of State has interpreted "[a]ll other moving violations" to include improper use of lights. See MCL 257.320a(1)(s).

G. Issues

In *People v Pitts*, 222 Mich App 260 (1997), the defendant was found responsible for a violation of MCL 257.709 for having tinted film on the front side windows of his car. The court assessed two points against defendant's driver's license. The Court of Appeals held that assessment of points for the violation was error. *Pitts, supra* at 271. Violation of MCL 257.709 is an "equipment violation" for which no points may be assessed. In reaching this conclusion, the Court of Appeals also sought to distinguish equipment violations and moving violations:

> "The prosecutor further argues that a violation of [MCL 257.709] is by definition a moving violation because the language contained within the section states that '[a] person shall not drive a motor vehicle with any of the following . . . .' We disagree. The use of the word drive does not convert a violation of [MCL 257.709] into a moving violation in the face of the legislative scheme of which [MCL 257.709] is a part.
>
> "Under the applicable statutory sections (683 to 714a), there is language stating that the vehicle shall not be driven or operated with any of the enumerated defects. MCL 257.700 (multiple-beam headlights), MCL 257.705 (defective brakes), MCL 257.706 (defective horn), MCL 257.707b (defective exhaust system). That being the case, under the prosecution's rationale, operating a car with a defective horn or brakes should be a moving violation subject to the assessment of two points rather than an equipment violation, because the applicable section states that the vehicle shall not be operated in such a manner. This reading would emasculate the statutory handling of equipment and moving violations. . . ." *Pitts supra* at 270–71.

The provisions of MCL 257.709 that prohibit adding tinted film to car windows but allow factory-installed tinting or tinting pursuant to a doctor's order do not violate the Equal Protection clauses of the Michigan and federal constitutions. *People v Pitts*, 222 Mich App 260, 271–75 (1997).

"[A] motor vehicle equipped with multiple tail lamps is in violation of [MCL 257.686(2)] of the Vehicle Code if one or more of its tail lamps is inoperative." *People v Williams*, 236 Mich App 610, 615 (1990).

2.3 Overtaking or Passing

A driver is not compelled to drive behind another, nor does he or she have an exclusive right to drive ahead of another. The driver behind is entitled to pass ahead when it is safe to do so. Certain duties are imposed on the driver of the overtaking vehicle; other duties are imposed on the driver of the vehicle being overtaken.

A. Duties of Driver of Overtaking Vehicle

The responsibility for safe passing rests primarily with the overtaking driver. The attempt to pass must be made under safe conditions and properly managed. "The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left of that vehicle, and when safely clear of the overtaken vehicle shall take up a position as near the right-hand edge of the main traveled portion of the highway as is practicable." MCL 257.636(1)(a).

Generally, it is unlawful to pass on the right. It is also unlawful to drive off the pavement or the "main traveled" portion of the roadway. MCL 257.637(2). The "main traveled" portion is delineated on the right by a solid white line. Only under conditions permitting the overtaking and passing in safety, in one or more of these instances, is passing on the right permitted:

- when the vehicle overtaken is making or about to make a left turn;
- when vehicles are moving in substantially continuous lanes of traffic on a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two or more lines of moving vehicles in each direction; or
- when vehicles are moving in substantially continuous lanes of traffic on one-way streets, or on a street having sufficient width for two or more lines of traffic moving in the same direction.

MCL 257.637(1)(a)–(c).

If the driver of the vehicle behind had reason to believe that the driver of the vehicle ahead was to make a left-hand turn because of signals, slowing down, or for other reasons, the driver of the vehicle behind attempting to overtake and pass the vehicle ahead must signal his or her intention to do so. *Decker v Woffort*, 360 Mich 644, 648–49 (1960).

B. Duties of Driver of Overtaken Vehicle

"Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle." MCL 257.636(1)(b). In other words, by sounding a warning the driver behind imposes a duty on the driver ahead to yield and move over to the right.

Interpreting a similar former statute, the Michigan Supreme Court held that the statute, which provided that "the driver of a vehicle about to be overtaken shall give way to the right, is not necessarily complied with by the mere fact that such vehicle is in its proper half of the road. The statute contemplates that the driver shall move over towards the edge of the road and thus increase the

space available to the overtaking vehicle." *Hetler v Holtrop*, 285 Mich 570, 577 (1938).

The driver of the front vehicle should exercise ordinary care for the safety of others in the vehicle behind. If the driver of the front vehicle turns left suddenly, without properly signaling, when the vehicle behind is attempting to pass, that driver may be found responsible for a breach of his or her duty to exercise reasonable care. *Decker v Woffort*, 360 Mich 644, 649–50 (1960).

C. Overtaking and Passing Violations:

Overtaking and passing violations include:

- disobeying "no passing" sign, MCL 257.640;
- failing to give way when overtaken, MCL 257.636(1)(b);
- following too closely, MCL 257.643;
- improper lane use (multiple lane highway), MCL 257.642;
- improper lane use (truck), MCL 257.634(3);
- improper overtaking and passing, MCL 257.636–257.640;
- improper passing on hill or curve, MCL 257.639(1)(a);
- improper passing on right, MCL 257.637;
- improper passing within 100 feet of bridge, viaduct, or tunnel with obstructed view, MCL 257.639(1)(b); and
- trucks tailgating, MCL 257.643a.

D. Civil Sanctions for Overtaking or Passing Violations

The general rules for assessing a civil fine and costs apply to overtaking and passing violations. See Section 1.20 of this volume for a discussion of the general rules governing the assessment of a civil fine and costs.

E. Licensing Sanctions for Overtaking or Passing Violations

1. Improper Passing

Three points are assessed for improper passing. MCL 257.320a(1)(p). The finding of responsibility is reported to the Secretary of State.

2. Following Too Closely, Tailgating, Improper Lane Use

Two points are assessed for following too closely, tailgating, and improper lane use. In assessing points, the Secretary of State has interpreted "[a]ll other

moving violations" to include following too closely, tailgating, and improper lane use. MCL 257.320a(1)(s). The finding of responsibility is reported to the Secretary of State.

2.4 Parking, Stopping, or Standing

The regulatory power of a state legislature with respect to the use of motor vehicles extends to such matters as stopping, standing, and parking. See MCL 257.672–257.676 for Michigan's statutory provisions governing these matters.

Local authorities may regulate these matters on streets and highways under their jurisdiction; they may also regulate traffic in privately owned parking areas, e.g., shopping center parking, if requested to do so by the owner or the person in charge of general operation and control of the parking area. MCL 257.606(1)(a) and MCL 257.942.

The power to regulate implies the power to exact a fee for the cost of such regulation. Local authorities have the right to establish a system of parking meters on their public streets. *Bowers v City of Muskegon*, 305 Mich 676, 681 (1943).

A. Statutes for Parking

Parking violations include:

*See Section 2.4(C), below, for a detailed discussion of disabled person parking violations.

- disabled person parking* violations—disregarding sign; improper use of handicap ID, plate, or tag; blocking access aisle or curb-cut, MCL 257.674(1)(s)–(u) and MCL 257.675(5);
- meter violations and metered stall lines, MCL 257.674(1)(x);
- parking in clear vision areas, MCL 257.674a;
- parking on a highway or limited-access highway, MCL 257.672;
- prohibited parking areas, MCL 257.674; and
- an unattended vehicle, MCL 257.676(1).

The Motor Vehicle Code defines parking as "standing a vehicle, whether occupied or not, upon a highway, when not loading or unloading except when making necessary repairs." MCL 257.38.

MCL 257.672(1) states:

> "Outside of the limits of a city or village, a vehicle shall not be stopped, parked, or left standing, attended or unattended, upon the paved or main traveled part of a highway, when it is possible to

> stop, park, or to leave the vehicle off the paved or main traveled part of the highway. Inside or outside of the limits of a city or village, a vehicle shall not be stopped, parked, or left standing, attended or unattended, upon the paved or unpaved part of a limited access highway, except in an emergency or mechanical difficulty. . . .”

The statute governing parking on the highway is “self-explanatory and unambiguous.” *Ter Haar v Steele*, 330 Mich 167, 174 (1951).

There is a difference between stopping and parking. Parking is merely one form of stopping and implies something more than a mere temporary stop for a necessary reason. *Bensinger v Happyland Shows, Inc*, 44 Mich App 696, 702 (1973), and *Sahms v Marcus*, 239 Mich 682, 684–85 (1927).

MCL 257.674(1) prohibits a vehicle from parking in any of the following places, except when it is necessary to avoid conflict with other traffic or in compliance with the law or directions of a police officer or traffic control device:

> “(a) On a sidewalk.
>
> “(b) In front of a public or private driveway.
>
> “(c) Within an intersection.
>
> “(d) Within 15 feet of a fire hydrant.
>
> “(e) On a crosswalk.
>
> “(f) Within 20 feet of a crosswalk, or if there is not a crosswalk, then within 15 feet of the intersection of property lines at an intersection of highways.
>
> “(g) Within 30 feet of the approach to a flashing beacon, stop sign, or traffic-control signal located at the side of a highway.
>
> “(h) Between a safety zone and the adjacent curb or within 30 feet of a point on the curb immediately opposite the end of a safety zone, unless a different length is indicated by an official sign or marking.
>
> “(i) Within 50 feet of the nearest rail of a railroad crossing.
>
> “(j) Within 20 feet of the driveway entrance to a fire station and on the side of a street opposite the entrance to a fire station within 75 feet of the entrance if properly marked by an official sign.
>
> “(k) Alongside or opposite a street excavation or obstruction, if the stopping, standing, or parking would obstruct traffic.

"(l) On the roadway side of a vehicle stopped or parked at the edge or curb of a street.

"(m) Upon a bridge or other elevated highway structure or within a highway tunnel.

"(n) At a place where an official sign prohibits stopping or parking.

"(o) Within 500 feet of an accident at which a police officer is in attendance, if the scene of the accident is outside of a city or village.

"(p) In front of a theater.

"(q) In a place or in a manner that blocks immediate egress from an emergency exit conspicuously marked as an emergency exit of a building.

"(r) In a place or in a manner that blocks or hampers the immediate use of an immediate egress from a fire escape conspicuously marked as a fire escape providing an emergency means of egress from a building.

* * *

"(v) Within 500 feet of a fire at which fire apparatus is in attendance, if the scene of the fire is outside a city or village. However, volunteer fire fighters responding to the fire may park within 500 feet of the fire in a manner not to interfere with fire apparatus at the scene. A vehicle parked legally previous to the fire is exempt from this subdivision.

"(w) In violation of an official sign restricting the period of time for or manner of parking.

"(x) In a space controlled or regulated by a meter on a public highway or in a publicly owned parking area or structure, if the allowable time for parking indicated on the meter has expired, unless the vehicle properly displays 1 or more of the items listed in section 675(8).

"(y) On a street or highway in such a way as to obstruct the delivery of mail to a rural mailbox by a carrier of the United States postal service.

"(z) In a place or in a manner that blocks the use of an alley.

"(aa) In a place or in a manner that blocks access to a space clearly designated as a fire lane."

"A vehicle shall not be parked in . . . a clear vision area adjacent to or on a highway right of way." MCL 257.674a.

The Motor Vehicle Code also contains provisions about the manner in which vehicles must be parked. MCL 257.675(1) states:

> "Except as otherwise provided in this section and this chapter, a vehicle stopped or parked upon a highway or street shall be stopped or parked with the wheels of the vehicle parallel to the roadway and within 12 inches of any curb existing at the right of the vehicle."

B. Exceptions to Parking, Stopping, and Standing Violations

A person may stop, park, or leave standing a vehicle in an area otherwise prohibited if it is necessary to avoid conflict with other traffic or if the person is otherwise in compliance with the law or the directions of a police officer or traffic-control device. MCL 257.674(1).

The doctrine of sudden emergency is unnecessary when a parking violation is alleged. The statute expressly excepts otherwise prohibited parking when necessary to comply with the law, e.g., a person is required by law to stop at the scene of an accident and exchange certain information. *Mason v Wurth*, 181 Mich App 129, 131 (1989).

A vehicle may be stopped on a highway for various emergency purposes or mechanical difficulties without violating the laws relating to parking. A vehicle is not in violation of a parking provision if it has stopped:

- because of a breakdown, *Russel v Szczawinski*, 268 Mich 112, 115 (1939);
- to render assistance to a disabled vehicle, *Edison v Keene*, 262 Mich 611, 614 (1930);
- to recover a hat that has blown off, *Sahms v Marcus*, 239 Mich 682, 684-685 (1927); or
- to exchange certain information at the scene of an accident, *Mason, supra* at 131.

C. Disabled Person Parking

A person who has been issued an identification, plate, or tab for persons with disabilities "is entitled to courtesy in the parking of a vehicle. The courtesy shall relieve the disabled person or the person transporting the disabled person from liability for a violation with respect to parking, other than in violation of this act." MCL 257.675(6).

The "courtesy" to which a disabled person is entitled under MCL 257.675(6) extends to relief from liability for any parking violations other than those violations contained in the Motor Vehicle Code or where the code expressly excepts certain local parking prohibitions regarding traffic and emergency vehicles. *City of Monroe v Jones*, 259 Mich App 443, 453 (2003).

In *City of Monroe*, the Court of Appeals reversed the trial court's ruling that the defendant was liable for fines and costs associated with parking tickets she received for exceeding the posted time limit for parking spaces near the defendant's place of employment. The Court stated:

> "The language of §675(6) clearly and unambiguously provides, in an all-encompassing manner, that a disabled person shall be relieved of liability for a parking violation except as provided in the statute. There is no dispute that defendant is a disabled person, that her vehicle properly displayed the requisite identification showing her to be disabled, and that she was cited for multiple parking violations.
>
> * * *
>
> "We find that MCL 257.675(6) precludes defendant from being held liable because she is a disabled person and was cited, not for violating the Vehicle Code, but for violating a local time-restriction parking ordinance not contemplated by MCL 257.675(6) as constituting an exception to the liability exemption for disabled persons." *City of Monroe, supra* at 449, 453.

A law enforcement agency or a local unit of government may implement a program to authorize persons other than police officers, who successfully complete a program of training to issue citations for violations of MCL 257.674(1)(s) and substantially corresponding local ordinances. See MCL 257.675d.

A "disabled person" or a "person with disabilities" is defined by the Motor Vehicle Code as "a person who is determined by a physician, a physician assistant, or an optometrist as specifically provided in this section licensed to practice in this state to have 1 or more of the following physical characteristics:

> "(a) Blindness as determined by an optometrist, a physician, or a physician assistant.
>
> "(b) Inability to walk more than 200 feet without having to stop and rest.
>
> "(c) Inability to do both of the following:
>
> (*i*) Use 1 or both legs or feet.

(*ii*) Walk without the use of a wheelchair, walker, crutch, brace, prosthetic, or other device, or without the assistance of another person.

"(d) A lung disease from which the person's forced expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or from which the person's arterial oxygen tension is less than 60 mm/hg of room air at rest.

"(e) A cardiovascular condition that causes the person to measure between 3 and 4 on the New York heart classification scale, or that renders the person incapable of meeting a minimum standard for cardiovascular health that is established by the American heart association and approved by the department of public health.

"(f) An arthritic, neurological, or orthopedic condition that severely limits the person's ability to walk.

"(g) The persistent reliance upon an oxygen source other than ordinary air." MCL 257.19a(a)–(g).

"Disabled person" parking violations designated as civil infractions include disregarding a disabled person parking sign and failing to properly display the disabled person identification, plate, or tab, MCL 257.674(1)(s); parking in an identified access aisle or access lane adjacent to a disabled person parking space and parking that interferes with use of a curb-cut or ramp by persons with disabilities, MCL 257.674(1)(t)–(u).

MCL 257.674(1)(s) provides that a vehicle shall not be parked* in "a parking space clearly identified by an official sign as being reserved for use by disabled persons that is on public property or private property available for public use, unless the individual is a disabled person as described in section 19a or unless the individual is parking the vehicle for the benefit of a disabled person."

*Except if necessary to avoid conflict with other traffic or in compliance with the law or the directions of a police officer or traffic-control device.

MCL 257.674(1)(t) and (u) prohibit a vehicle from parking in the following places, except when it is necessary to avoid conflict with other traffic or in compliance with the law or directions of a police officer or traffic control:

"(t) In a clearly identified access aisle or access lane immediately adjacent to a space designated for parking by persons with disabilities.

"(u) On a street or other area open to the parking of vehicles that results in the vehicle interfering with the use of a curb-cut or ramp by persons with disabilities."

Violations of MCL 257.674(1)(s) written under state law require an "official sign." Violations written under a local ordinance require a sign meeting the specifications in the manual of uniform traffic control devices.

> **Note**: Defendant may argue that notice of disabled person parking was improperly marked, or that a sign was improperly posted. Requirements for proper marking and posting are found in the Michigan Manual of Uniform Traffic Control Devices available from the Michigan Department of Transportation. An excerpt from the manual is available online at www.michigan.gov/documents/mmutcd_part_6_16693_7.pdf (last visited June 29, 2005).

To park in a disabled person parking space, one of the following shall be displayed on the vehicle:

> "(*i*) A certificate of identification or windshield placard issued under section 675 to a disabled person.
>
> "(*ii*) A special registration plate issued under section 803d to a disabled person.
>
> "(*iii*) A similar certificate of identification or windshield placard issued by another state to a disabled person.
>
> "(*iv*) A similar special registration plate issued by another state to a disabled person.
>
> "(*v*) A special registration plate to which a tab for persons with disabilities is attached issued under this act." MCL 257.674(1)(s)(*i*)–(*v*).

There are several other disabled person parking offenses designated as misdemeanors. See MCL 257.675(15)–(17) and Chapter 3.

D. Unattended Vehicle

"A person shall not allow a motor vehicle to stand on a highway unattended without engaging the parking brake or placing the vehicle in park and stopping the motor of the vehicle. If the vehicle is standing upon a grade, the front wheels of the vehicle shall be turned to the curb or side of the highway." MCL 257.676(1).

E. Parking Within 500 Feet of Fire Apparatus Stopped in Answer to a Fire Alarm

MCL 257.679(1) states:

> "The driver of a vehicle other than a vehicle on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or driver [sic] into or park the vehicle within 500 feet where fire apparatus has stopped in answer to a fire alarm."

The statute says "shall not follow . . . or park. "Following" is reported to the Secretary of State; "parking" is not. MCL 257.732(1)(a) and MCL 257.732(16)(a).

F. Civil Sanctions for Parking, Stopping, or Standing violations

1. Standard Civil Sanctions for Parking, Stopping, or Standing Violations

Except as noted in sub-subsection (2), below, the general rules for assessing a civil fine and costs apply to parking, stopping, or standing violations. See Section 1.20 of this volume for a discussion of the general rules governing the assessment of a civil fine and costs.

2. Special Civil Sanction Provisions for Disabled Person Parking Violations

A person responsible for a violation of MCL 257.674(1)(s) shall be fined not less than $100.00 or more than $250.00 plus costs. MCL 257.907(2). The defendant must be ordered to pay taxable costs for violations of MCL 257.674(1)(s). MCL 257.907(4).

G. Licensing Sanctions for Parking, Stopping, or Standing Violations

No points are assessed for parking, stopping, or standing violations. The finding of responsibility is not reported to the Secretary of State. MCL 257.732(16)(a).

However, *following* within 500 feet of a fire apparatus* is a moving violation, and two points are assessed by the Secretary of State. MCL 257.320a(1)(s). The finding of responsibility is reported to the Secretary of State.

*See Section 2.4(E), above.

H. Issues

In cases not involving a leased vehicle, "proof that the particular vehicle described in the citation . . . was parked in violation of the ordinance or state statute, together with proof from the secretary of state that the defendant named in the citation . . was at the time of the violation the vehicle's registered owner, creates in evidence a presumption that the vehicle's registered owner was the person who parked or placed the vehicle at the point where and at the time that the violation occurred." MCL 257.675a.

*A police officer may issue a citation to the vehicle's operator if he or she is present. MCL 257.675c(4).

In cases not involving a leased vehicle, a vehicle's registered owner at the time of the violation is "prima facie responsible" for a parking violation designated as a civil infraction. MCL 257.675c(1). "Instead of requiring the local governmental unit issuing the ticket to identify and pursue the particular driver who violated the parking law, the Legislature has created a rebuttable prima facie case based on vehicle registration." *Ford Motor Co v City of Detroit*, 254 Mich App 626, 629 (2003).* A vehicle's owner "may assert as an affirmative defense that the vehicle in question, at the time of the violation, was in the possession of a person whom the owner had not knowingly permitted to operate the vehicle." MCL 257.675c(2). A vehicle's owner may also rebut a prima facie case established under MCL 257.675c(1) with "evidence that someone else is responsible for the violation." *Ford Motor Co, supra* at 630 (the affirmative defense specified in §675c is not the only method of rebutting a prima facie case).

In cases involving leased vehicles, the leased vehicle's owner may shift liability for a parking violation to the lessee "if the leased vehicle owner furnishes proof that the vehicle described in the citation . . . was in the possession of, custody of, or was being operated or used by the lessee or renter of the vehicle at the time of the violation." MCL 257.675b(1).

For vehicle leases or rentals of 30 days or less, the leased vehicle owner may avoid liability be providing, within 30 days after receiving notice of the violation, the following information to the court clerk or parking violations bureau:

> "(a) The lessee's or renter's name, address, and operator's or chauffeur's license number.
>
> "(b) A copy of the signed rental or lease agreement or an expedited rental agreement without signature as part of a master rental agreement, including proof of the date and time the possession of the vehicle was given to the lessee or renter and the date and time the vehicle was returned to the leased vehicle owner or the leased vehicle owner's authorized agent under the agreement." MCL 257.675b(2)(a)–(b).

The leased vehicle owner is liable for the violation if the owner does not provide the required information within 30 days, or if the court or parking violations bureau "proceeds against the lessee or renter of the vehicle and the lessee or renter of the vehicle is not . . . found responsible for the violation." MCL 257.675b(3)(a)–(b).

A vehicle's registered owner or a leased vehicle owner who is found responsible for a parking violation may recover damages from the person who actually illegally parked the vehicle. MCL 257.675c(3). A registered owner or leased vehicle owner may also indemnify himself or herself in a written agreement. *Id.* See also *Ford Motor Co, supra* at 633 (long-term lessor may recover damages or indemnify itself in a lease agreement).

2.5 Railroad Crossings

A. Statutes for Railroad Crossings

MCL 257.667(1)–(2) state:

> "(1)When a person driving a vehicle approaches a railroad grade crossing under any of the following circumstances, the driver shall stop the vehicle not more than 50 feet but not less than 15 feet from the nearest rail of the railroad, and shall not proceed until the driver can do so safely:
>
> > "(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train.
> >
> > "(b) A crossing gate is lowered or a flagman gives or continues to give a signal. . . .
> >
> > "(c) A railroad train approaching within approximately 1,500 feet of the highway crossing gives a signal audible from that distance, and the train by reason of its speed or nearness to the crossing is an immediate hazard.
> >
> > "(d) An approaching train is plainly visible and is in hazardous proximity to the crossing."
>
> "(2) A person shall not drive a vehicle through, around, or under a crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed or against the direction of a police officer."

Certain grade crossings may be designated as "stop" crossings and "yield" crossings; and if so designated, appropriate signs are to be erected to notify drivers. A driver's duties depend on the designation. MCL 257.668(1)–(2).

Stop crossings — "[T]he driver of a vehicle shall stop not more than 50 feet but not less than 15 feet from the railway tracks. The driver shall then traverse the crossing when it may be done in safety." MCL 257.668(1).

Yield crossings — "Drivers of vehicles approaching a yield sign at the grade crossing of a railway shall maintain a reasonable speed based upon existing conditions and shall yield the right-of-way." MCL 257.668(2).

B. Railroad Crossing Violations:

Railroad crossing violations include:

- avoiding lowered gates—MCL 257.667(2);
- disobeying a railroad stop sign—MCL 257.668;
- disregarding a crossing gate or signal—MCL 257.667; and
- school bus failing to stop at railroad crossing—MCL 257.1857.

C. School Bus at Railroad Crossing

"[T]he driver of a school bus, before crossing a railroad track at grade, shall stop the vehicle within 50 feet but not less than 15 feet from the nearest rail, activate hazard warning lights, turn off all interior switches including fans, heaters, and radios, open the passenger door and driver-side window, and while stopped shall listen and look in both directions along the track for an approaching train and for signals indicating the approach of a train, and shall not proceed until the driver can do so safely. . . ." MCL 257.1857(1).

The driver of a school bus does not need to stop in any of the following circumstances:

- where an officer or a traffic-control signal directs traffic to proceed, MCL 257.1857(2);
- at an abandoned track (e.g., track is covered or removed; signs, signals, and other warning devices are removed), MCL 257.1857(3); or
- on a freeway or limited access highway protected by a clearly visible, inactivated signal, gate, or barrier, MCL 257.1857(4).

D. Civil Sanctions for Railroad Crossing Violations

The general rules for assessing a civil fine and costs apply to railroad crossing violations. See Section 1.20 of this volume for a discussion of the general rules governing the assessment of a civil fine and costs.

E. Licensing Sanctions for Railroad Crossing Violations

For violations of MCL 257.667(1) for stopping too close to a railroad crossing, the Secretary of State will assess two points. The finding of responsibility is reported to the Secretary of State. In assessing points, the Secretary of State has interpreted "[a]ll other moving violations" to include railroad crossing violations. MCL 257.320a(1)(s).

For failure to obey a traffic control device or enforcement official at a railroad crossing, the Secretary of State will assess three points. MCL 257.320a(1)(p). The finding of responsibility is reported to the Secretary of State.

2.6 Right-of-Way or Failure to Yield

When adjudicating right-of-way cases, the court should consider which driver had the lawful right-of-way and whether or not failure to yield right-of-way caused evasive action to avoid an accident or resulted in an accident. The court should disregard whether or not a collision actually occurred and which vehicle first struck the other: this is not necessary to support a finding of responsibility.

A. Right-of-Way Statutes

MCL 257.649(1)–(5) state:

> "(1) The driver of a vehicle approaching an intersection shall yield the right of way to a vehicle which has entered the intersection from a different highway.
>
> "(2) When 2 vehicles enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.
>
> "(3) The right of way rules declared in subsections (1) and (2) are modified at through highways and otherwise as stated in this chapter.
>
> "(4) The driver of a vehicle approaching a yield sign, in obedience to the sign, shall slow down to a speed reasonable for the existing conditions and shall yield the right of way to a vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time the driver would be moving across or within the intersection. However, if required for safety to stop, the driver shall stop before entering the crosswalk on the near side of the intersection or, if there is not a crosswalk, at a clearly marked stop line; but if there is not a crosswalk or a clearly marked stop line, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.
>
> "(5) The driver of a vehicle traveling at an unlawful speed* shall forfeit a right of way which the driver might otherwise have under this section."

*See Section 2.8, below, for information on speeding violations.

In Michigan, there is no right-of-way shift (in some states, if one driver forfeits the right-of-way, the other driver automatically gains it).

*See Section 2.9, below, for information regarding who has the right-of-way at controlled intersections.

The right-of-way rules* are modified at through highways and at controlled intersections (signed or signaled).

B. Right-of-Way or Failure to Yield Violations:

Right-of-way or failure to yield violations include:

- failing to keep to the right half of the traveled portion of roadway when passing vehicle going in opposite direction, MCL 257.635(1);
- failing to obey stop, yield, or merge signs, MCL 257.671(3);
- failing to stop at stop sign, MCL 257.649(6);
- failing to yield at yield sign, MCL 257.649(4);
- failing to yield from private drive or alley, MCL 257.652(1);
- failing to yield to emergency vehicles, MCL 257.653;
- failing to yield to funeral processions, MCL 257.654;
- failing to yield to oncoming traffic when merging onto highway, MCL 257.649(7);
- failing to yield to pedestrians, MCL 257.612;
- failing to yield to vehicle on the right at an uncontrolled intersection, MCL 257.649(2);
- failing to yield to vehicle that has already entered an intersection, MCL 257.649(1); and
- turning left at intersection into oncoming traffic, MCL 257.650.

C. Issues in Case Law for Right-of-Way or Failure to Yield Violations

The driver who has the right-of-way need only exercise reasonable or due care under the circumstances. *Placek v City of Sterling Heights*, 405 Mich 638, 669 (1979).

♦ **Failing to stop at stop sign, MCL 257.649(6)**

"Where . . . a stop sign is placed a considerable distance from the stop intersection, it is generally recognized that the sign serves only to notify motorists of the approaching highway intersection. It does not signify the exact spot at which vehicles are required to stop." The driver is required by statute "to stop 'at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.' . . . He [or she]

need only stop within a fair range of points all of which might be found 'nearest' the intersection." *People v McIntosh*, 23 Mich App 412, 415, 417 (1970).

"[T]raffic violations are strict liability offenses, in which the motorist's negligence or lack of intent to commit the infraction is irrelevant." *People v Jones*, 132 Mich App 368, 370–71 (1984). Defendant's inability to stop at a sign due to icy road conditions is irrelevant.

- **Failing to yield to emergency vehicles, MCL 257.653**

The right-of-way given to an emergency vehicle is narrowly construed. "[T]he driver of an emergency vehicle must proceed 'with due regard for the safety of all persons using the highway.' . . . What is required is reasonable care for the safety of others under all circumstances." *Grabowski v Selman*, 25 Mich App 128, 131 (1970).

Other drivers are under a statutory duty to yield the right-of-way to an emergency vehicle. This duty is qualified by explicit statutory language and by judicial construction. "Defendant had a right, under permission of the green light, to cross the intersection unless, by the reasonable exercise of the senses of sight and hearing, he [or she] should have noticed or heard warning to the contrary." *Keevis v Tookey*, 42 Mich App 283, 287 (1972), citing *City of Lansing v Hathaway*, 280 Mich 87, 89 (1937).

- **Failing to yield to funeral processions, MCL 257.654**

A special regulation relating to motor vehicles will prevail over a general one. The special statute giving a funeral procession the right-of-way when going to any place of burial prevails over the general statute regulating traffic by traffic-control device. This is true only if the vehicle displays a flag as described in the statute. *Mentel v Monroe Public Schools*, 47 Mich App 467, 469 (1973).

- **Failing to yield from private drive or alley, MCL 257.652**

The sudden emergency doctrine applies where a person is placed in danger as the result of an unusual or unexpected event such as a sudden icy condition that prevents stopping before entry on a public roadway. Such an event would excuse failure to comply with the statutory requirement that a vehicle come to a full stop before entering a public roadway from a private driveway. *Vsetula v Whitmyer*, 187 Mich App 675, 681 (1991).

- **Turning left at intersection into oncoming traffic, MCL 257.650**

After entering an intersection under a favorable green light, a driver is not required to stop and wait in the intersection for a change in the traffic light before completing the turn. However, the driver is required to see that the turn

can be done in safety, using due care under all the circumstances. *Neander v Clampett*, 344 Mich 292, 295 (1955).

In limited circumstances, a left-turning motorist may acquire the right-of-way over oncoming traffic. *Donhorst v VanYork*, 23 Mich App 704, 709 (1970). In *Donhorst,* the plaintiff was turning left at an intersection when an oncoming vehicle hit him. The plaintiff argued that the oncoming vehicle accelerated in an attempt to get through the light before it changed to red. The defendant argued that the plaintiff was required to wait for the light to change to red before making the left turn and because the plaintiff did not wait to turn, he was without the right-of-way and was therefore contributorily negligent as a matter of law. The Court of Appeals, citing *Neander v Clampett*, 344 Mich 292 (1955), found no statutory or ordinance authority for the argument that a left turning vehicle must wait for a light to turn red. *Donhorst, supra* at 709.

- **Forfeiture of right-of-way, MCL 257.649(5)**

"The apparent legislative intent . . . was to make the forfeiture provision applicable to all right-of-way provisions. . . ." *Holloway v Cronk*, 76 Mich App 577, 581 (1977).

Exception: "[T]he forfeiture provision . . . did not apply where a vehicle traveling on a trunk line highway at an unlawful speed collides with a vehicle entering an intersection after stopping at a red flashing signal." *Sabo v Beatty*, 39 Mich App 560, 563 (1972), citing *Silkworth v Fitzgerald*, 279 Mich 349 (1937).

Exception: The driver on an arterial highway, the favored driver, "has a right to assume that drivers on subordinate highways will yield him [or her] the right of way; he [or she] is not bound to anticipate negligent acts on the part of those approaching the arterial highway. However, he [or she] has the duty and obligation to exercise reasonable care for his [or her] own protection, and simply because he [or she] is on an arterial highway does not mean he [or she] can disregard the rights of others or drive roughshod over those approaching the highway in a reasonable manner. He [or she] has the continuing duty to exercise reasonable care under the circumstances to avoid a collision." *Noyce v Ross*, 360 Mich 668, 677–78 (1960).

D. Civil Sanctions for Right-of-Way or Failure to Yield Violations

The general rules for assessing a civil fine and costs apply to right-of-way and failure to yield violations. See Section 1.20 of this volume for a discussion of the general rules governing the assessment of a civil fine and costs.

E. Licensing Sanctions for Right-of-Way or Failure to Yield Violations

Two points are assessed for right-of-way or failure to yield violations. The finding of responsibility is reported to the Secretary of State. In assessing points, the Secretary of State has interpreted "[a]ll other moving violations" to include right-of-way or failure to yield violations. MCL 257.320a(1)(s).

2.7 Safety Belt Violations

These violations include child restraint and safety belt violations. Both child restraint and safety belt violations can be enforced as a primary action. In other words, a driver may be stopped solely because the officer can see that the driver's child is not properly restrained, or that the driver or front-seat passenger is not wearing his or her safety belt.

> **Note**: MCL 257.710e(5) provides that "[i]f after December 31, 2005 the office of highway safety planning certifies that there has been less than 80% compliance with the safety belt requirements of this section during the preceding year, then 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."

A. Child Restraint Violations

The child restraint statute, MCL 257.710d(1), states:

> "[E]ach driver transporting a child less than 4 years of age in a motor vehicle shall properly secure that child in a child restraint system that meets the standards prescribed in 49 C.F.R. 571.213."

> **Note**: Whether a child is properly secured, whether a child restraint system is federally approved, or whether a safety belt is properly adjusted and fastened are determined by the federal motor vehicle safety standards under Title 49 of the Code of Federal Regulations. See 49 CFR 571.

"Properly secure" means that children less than 20 pounds (infants) must face the rear of the vehicle. Federal motor vehicle safety standards require the manufacturer to label the car seat and include printed instructions. 49 CFR 571.213, §§5.5–5.6.

Exceptions:

"The secretary of state may exempt . . . a class of children from the requirements of this section, if the secretary of state determines that the use of the child restraint system . . . is impractical because of physical unfitness, a medical problem, or body size. . . ." MCL 257.710d(6).

"This section does not apply to any child being nursed." MCL 257.710d(2).

"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." MCL 257.710d(3).

B. Failing to Wear Safety Belt

1. Statute

MCL 257.710e(3) states:

> "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 710d. If there are more passengers than safety belts available for use, and all safety belts are being utilized in compliance with this section, the driver of the motor vehicle is in compliance with this section."

"Properly adjusted and fastened" is defined by the federal motor vehicle safety standards. 49 CFR 571.208, §4.1.1.3.1(a).

> "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 pickup 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." MCL 257.710e(4).

2. Exceptions

This section shall not apply to the driver or passenger of:

- a motor vehicle made before January 1, 1965;
- a bus, including a school bus;
- a motorcycle;
- a moped;
- a motor vehicle if the driver or passenger possesses a doctor's certificate stating that the person is unable to wear a safety belt because of a physical or medical reason;
- a motor vehicle not required by federal law to have safety belts;
- a commercial or U.S. postal vehicle that frequently stops for pickup and delivery of goods and services; or
- a motor vehicle operated by a rural carrier for the U.S. postal service while working. MCL 257.710e(1)–(2).

C. Civil Sanctions for Safety Belt Violations

1. Standard Civil Sanctions for Safety Belt Violations

Except as noted in sub-subsection (2), below, the general rules for assessing a civil fine and costs apply to safety belt violations. See Section 1.20 of this volume for a discussion of the general rules governing the assessment of a civil fine and costs.

2. Special Civil Sanctions for Safety Belt Violations

Child restraint violations. The civil fine for child restraint violations shall not exceed $10.00. The court may not order the defendant to pay costs. MCL 257.907(2).

The court shall waive the civil fine if the defendant, before the appearance date on the citation, supplies the court with evidence of acquisition, purchase, or rental of a proper child seating system. MCL 257.907(12).

Failing to wear a safety belt. The civil fine and costs for failing to wear safety belt shall be $25.00. MCL 257.907(2).

D. Licensing Sanctions for Safety Belt Violations

For child restraint violations, no points are assessed. The finding of responsibility is not reported to the Secretary of State. MCL 257.710d(5). For

safety belt violations, no points are assessed. MCL 257.710e(13). The finding of responsibility is not reported to the Secretary of State. MCL 257.732(16)(e).

2.8 Speed Violations

In Michigan, there are three types of speed laws:

- basic speed laws;
- absolute speed laws; and
- prima facie speed laws.

A. Basic Speed Laws

"A person driving a vehicle on a highway shall drive at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface, and width of the highway and of any other condition then existing. A person shall not drive a vehicle upon a highway at a speed greater than that which will permit a stop within the assured, clear distance ahead." MCL 257.627(1).

The statute identifies two concepts: careful and prudent speed and assured clear distance ahead. Underlying the concept of careful and prudent speed is the premise of ordinary care, e.g., the rate of speed that the average person would conclude to be proper, considering all conditions. The court should consider these conditions in rendering a decision. Some of the considerations include:

- weather (rain, wind, snow, etc.);
- time of day (day or night);
- road surface (rough, wet, icy, etc.);
- sight limitations (hills, curves, parked cars, etc.);
- traffic volume (pedestrians, other types of vehicles); and
- vehicle type (stopping distance or braking capacity).

The concept of assured clear distance ahead is typically applied to accident cases because the collision itself is evidence of the inability to stop within a clear distance ahead. The ability to stop as a measurement of speed is contingent on several factors, including:

- driver's perception and reaction time;
- road surface conditions; and

- the vehicle's braking capacity.

♦ **Careful and prudent speed, MCL 257.627(1)**

"The rate of speed [of an automobile] must always be reasonable and proper, having due regard to existing conditions at the time and place, the lives and safety of the public being the test." *Patterson v Wagner*, 204 Mich 593, 602 (1919).

The driver "must always have regard for the situation, and must drive his [or her] car in a reasonably safe manner so as not to endanger the persons [or] property of others, and if to accomplish this it is necessary to drive at a lesser speed than the maximum provided by statute, he [or she] must do so." *Bade v Nies*, 239 Mich 37, 39 (1927).

"Speed may be unreasonably slow as well as unreasonably rapid." *Szost v Dykman*, 252 Mich 151, 153 (1930).

♦ **Assured clear distance ahead, MCL 257.627(1)**

"The 'assured clear distance' rule . . . is not confined . . . to the ability to observe fixed objects ahead; it includes moving objects as well." *Buchel v Williams*, 273 Mich 132, 137 (1935).

The assured clear distance rule also applies when there is a collision with objects not part of the road, but the rule does not apply where the collision is caused by running into a hole or bump in the road. *Marek v City of Alpena*, 258 Mich 637, 642 (1932).

"[A] driver is not in violation of the assured-clear-distance-ahead rule . . . if he [or she] has been driving so as to be able to stop within the assured clear distance ahead but that assured clear distance ahead is suddenly and unexpectedly invaded by another vehicle coming from one side at a time and place such that the first driver cannot avoid a collision with it." *Hoag v Fenton*, 370 Mich 320, 325–26 (1963), citing *Cole v Barber*, 353 Mich 427 (1958) and *Barner v Kish*, 341 Mich 501 (1954).

♦ **Doctrine of sudden emergency**

The doctrine of sudden emergency avoids the harshness of the assured clear distance statute. It applies "if there is any evidence which would allow a jury to conclude that an emergency existed within the meaning of that doctrine." *Wright v Marzolf*, 34 Mich App 612, 613–14 (1971).

The doctrine of sudden emergency is a limited exception to the rule that a violation of the assured clear distance statute constitutes negligence per se. "Not every difficulty that a motorist encounters is a condition that will[, under the sudden emergency doctrine,] excuse his [or her] liability. The condition must be extraordinary and 'totally unexpected.'" *Spillars v Simons*, 42 Mich

App 101, 105–06 (1972). Another person's failure to signal for a turn is not an unexpected emergency that would bring into play the doctrine of sudden emergency.

This is an expression of the doctrine of sudden emergency in its classic form: "One who suddenly finds himself [or herself] in a place of danger, and is required to act without time to consider the best means that may be adopted to avoid the impending danger, is not guilty of negligence if he [or she] fails to adopt what subsequently and upon reflection may appear to have been a better method, unless the emergency in which he [or she] finds himself [or herself] is brought about by his [or her] own negligence." *Walker v Redbeuhr*, 255 Mich 204, 206 (1931), and *Paton v Stealy*, 272 Mich 57, 62 (1935).

B. Absolute Speed Laws

Absolute speed limits are determined two ways: First, the absolute speed limits may be set by traffic control order as a result of a speed study based on engineering and traffic investigations. This is rare. All absolute speed limits must be set in compliance with statute guidelines (road design features, accident history, pedestrian crossings, etc.) made public record, filed with the county clerk, and posted to put motorists on notice.

Second, the Legislature has determined absolute maximum speeds for certain areas and certain motor vehicles. Absolute speed laws do not require special sign posting. If the defendant is charged with violating an absolute speed law, the only question to be answered is whether the defendant was in fact exceeding the absolute speed limit. Examples include:

- 55 mph—all highways where maximum speed limit is not otherwise fixed, MCL 257.628(3);
- 45 mph—work zones* due to highway construction, maintenance, or surveying, MCL 257.627(9);
- 70 mph—on all freeways. MCL 257.628(9). The statute permits the state Department of Transportation to designate up to 170 miles of freeway on which the speed limit may be lower than 70 mph. *Id*. MCL 257.628(9) establishes the minimum speed on all freeways at 45 mph, unless otherwise posted or made necessary for safe operation.
- 55 mph—motor vehicles pulling trailers weighing over 750 lbs, MCL 257.627(5);
- 50 mph—school bus (55 mph on a limited access highway or freeway), MCL 257.627(7) and MCL 257.627b; and
- 55 mph—tractors, trucks, or combinations weighing over 10,000 lbs (35 mph when reduced loads are enforced), MCL 257.627(6).

*MCL 257.79d defines "work zone" as the phrase is used in MCL 257.627(9).

C. Prima Facie Speed Laws

State, county, and local lawmakers are granted authority by statute to set prima facie speed limits on roads maintained by the state transportation commission, the county road commission, the city, or the village. A prima facie speed limit is determined by the Legislature, county, or local municipality to be a reasonable and safe maximum or minimum speed. That speed limit is determined to be the reasonable, safe, and prudent speed under conditions found to exist.

Prima facie evidence is evidence that would, if not contested, establish a fact. If it is shown that the defendant exceeded a prima facie speed limit, that showing is sufficient unless the defendant can prove, by a preponderance of the evidence, that the local ordinance regulating the speed of motor vehicles is unreasonable. This is different from an absolute speed limit case in which the only question to answer is whether the defendant was in fact exceeding the absolute speed limit. Example of prima facie speed limits include:

- 25 mph—business districts, residential areas, and public parks, MCL 257.627(2);
- 15 mph—mobile home parks, MCL 257.627(4); and
- 25 mph—school zones (in force not less than 30 minutes but no more than one hour before and after the regularly scheduled school session), MCL 257.627a(2).

1. Business Districts, Residential Districts, and Public Parks

MCL 257.627(2)(a)–(b) state:

> "(2) Subject to subsection (1)* and except in those instances where a lower speed is specified in this chapter, it is prima facie lawful for the driver of a vehicle to drive at a speed not exceeding the following, except when this speed would be unsafe:
>
> > "(a) 25 miles an hour on all highways in a business or residence district as defined in this act.
> >
> > "(b) 25 miles an hour in public parks unless a different speed is fixed and duly posted."

*Subsection (1) governs basic speed laws. See Section 2.8(A), above.

2. Mobile Home Parks

MCL 257.627(4) states:

> "The driver of a vehicle in a mobile home park as defined in . . . MCL 125.2302, shall drive at a careful and prudent speed, not greater than a speed which is reasonable and proper, having due regard for the traffic, surface, width of the roadway, and all other

conditions existing, and not greater than a speed which will permit a stop within the assured clear distance ahead. It is prima facie unlawful for the driver of a vehicle to drive at a speed exceeding 15 miles an hour in a mobile home park as defined in . . . MCL 125.2302."

3. School Zones

MCL 257.627a(2) states:

> "Except as provided in subsection (4),* the prima facie speed limit in a school zone, which shall be in force not less than 30 minutes but not more than 1 hour before the first regularly scheduled school session until school commences and from dismissal until not less than 30 minutes but not more than 1 hour after the last regularly scheduled school session, and during a lunch period when students are permitted to leave the school, shall be 25 miles an hour, if permanent signs designating the school zone and the speed limit in the school zone are posted at the request of the school superintendent. The signs shall conform to the Michigan manual of uniform traffic control devices."

*Subsection (4) gives local authorities the power to increase or decrease the prima facie speed limit within a school zone under their jurisdiction.

D. Speed Violations

Speed violations include:

- exceeding authorized speed, MCL 257.628;
- exceeding prima facie or posted speed limit, MCL 257.629(6);
- exceeding speed limit, MCL 257.627–257.629;
- exceeding speed limit in work zone, MCL 257.627(9);
- exceeding speed limit in mobile home park, MCL 257.627(4);
- exceeding speed limit in school zone, MCL 257.627a;
- exceeding speed limit on limited-access freeway, MCL 257.629c;
- exceeding statewide speed limits, MCL 257.628;
- speeding, energy emergency, MCL 257.629b;
- violating basic speed law (driving too fast or too slow), MCL 257.627; and
- violating freeway speed law (driving below minimum speed), MCL 257.628.

E. Civil Sanctions for Speed Violations

1. Standard Civil Sanctions for Speed Violations

Except as noted in sub-subsection (2), below, a civil fine and costs apply to speed violations. See Section 1.20 of this volume for a discussion of the general rules governing the assessment of a civil fine and costs.

2. Special Civil Sanctions for Speed Violations

The Motor Vehicle Code provides a minimum civil fine for violating the maximum speed limit on a limited access freeway on which the maximum speed limit is 55 mph or more:

1–5 mph over—$10.00

6–10 mph over—$20.00

11–15 mph over—$30.00

16–25 mph over—$40.00

26 mph or more over—$50.00

MCL 257.629c(1). However, this schedule does not apply to a person driving a passenger vehicle drawing another vehicle or trailer, or to a person driving a school bus. MCL 257.629c(2).

F. Licensing Sanctions for Speed Violations

a. Violation of basic speed law — two points, MCL 257.320a(1)(s).

The finding of responsibility is reported to the Secretary of State.

b. Failure to drive minimum speed on freeway (MCL 257.628(5))— two points, MCL 257.320a(1)(s).

The finding of responsibility is reported to the Secretary of State.

c. Speed violations exceeding the lawful maximum:

- by 10 mph or less — two points, MCL 257.320a(1)(o);
- by more than 10 mph, but not more than 15 mph — three points, MCL 257.320a(1)(m);
- by more than 15 mph — four points, MCL 257.320a(1)(h).

The finding of responsibility is reported to the Secretary of State.

Speed violations established by executive order issued during a state of energy emergency have the same point schedule. MCL 257.320a(7).

The finding of responsibility is reported to the Secretary of State.

d. Notwithstanding the assessment of points above, the Motor Vehicle Code further sets out a point schedule for violating the maximum speed limit on a limited access freeway that has a maximum speed limit of 55 miles per hour or more:

1–5 mph over—0 points

6–10 mph over—1 points

11–15 mph over—2 points

16–25 mph over—3 points

26 mph or more over—4 points

MCL 257.629c(1). The finding of responsibility is reported to the Secretary of State.

e. Speed violations in work zone exceeding the lawful maximum (MCL 257.627(9)):

- by 10 mph or less — three points, MCL 257.320a(1)(n).
- by more than 10 mph but not more than 15 mph — four points, MCL 257.30a(1)(*l*).
- by more than 15 mph — five points, MCL 257.320a(1)(g).

The finding of responsibility is reported to the Secretary of State.

G. Evidence in a Speed Case

Evidence in a speed case may be presented by testimony of the defendant, the complaining officer, or a witness, or by physical evidence. The court must determine whether that evidence is admissible. Although the rules of evidence are not observed in a civil infraction case, the court must still determine whether the evidence is relevant and the witness competent.

"[A]dmissions made by a driver to a police officer are admissible in any court proceeding." *People v Chandler*, 75 Mich App 585, 590 (1976).

Frequently, officers will appear in court offering physical evidence used to determine speed. This physical evidence may include speed calculations from speed measurement devices such as radar, laser, and visual average speed computer and recorder (VASCAR). It may also include speed calculations

based on the length of skidmarks or tire tracks. Police officers can derive speed estimates based on evidence collected regarding the length of skidmarks or tire tracks, the tire-roadway fraction interaction, and the types and condition of roadways (surface grade, wet, dry, etc.). Speed determinations are valid only if the officer had proper training and experience.

1. Estimates of Speed

"[A witness] need not qualify as an expert in order to testify as to matters one learns through ordinary observation, such as the rate of speed at which a vehicle is going, provided a witness is fully interrogated as to the knowledge upon which his [or her] judgment is based . . . ." *Hicks v Bacon*, 26 Mich App 487, 493 (1970), citing *Stehouwer v Lewis*, 249 Mich 76, 81 (1929).

"An opinion of the speed of a vehicle based on sound alone is properly excluded." *Green v Richardson*, 69 Mich App 133, 140 (1976).

The testimony of the investigating officer must include "a sufficient basis and connecting link between the tire tracks and defendant's car to render admissible testimony concerning tracks observed . . . ." *Wilhelm v Skiffington*, 360 Mich 348, 351 (1960).

The competency of testimony as to speed is not determined by specific distance or time but by causal connection or contact with the accident. *Hicks v Bacon*, 26 Mich App 487, 493 (1970), citing *Bryant v Brown*, 278 Mich 686, 688 (1937). In *Hicks*, the Court reviewed several previous Supreme Court decisions where a witness's testimony regarding the speed of a vehicle was not admitted because the witness only observed the vehicle for a short distance before the accident. The Court also reviewed several cases where the Supreme Court upheld the admission of a witness's testimony regarding speed when the witness observed the vehicle for 40 feet before an accident. In conclusion the Court of Appeals held,

> "Any attempt to reconcile these cases is futile. Probably the better rule is that of the *Stehouwer* [*v Lewis*, 249 Mich 76 (1929)] and *Bryant* [*v Brown*, 278 Mich 686 (1937)] decisions; i.e., that speed testimony should be admitted where the jury is made aware of the witness's opportunity to observe so that the admission of such testimony is not made contingent upon specific times or distances and the weight to be given this testimony is for the jury to decide." *Hicks, supra* at 494.

"[E]stimates of speed based solely on opinions of the force of impact are not admissible. . . ." *Hicks v Bacon*, 26 Mich App 487, 494 (1970), citing *Jackson v Trogan*, 364 Mich 148 (1961), and *Hinderer v Ann Arbor RR Co*, 237 Mich 232 (1927). However, estimates of speed based upon the observation of the speeding vehicle and the resulting force of the collision is admissible. *Hicks, supra*, at 494-95.

2. Speed Measuring Devices

♦ **Radar**

Radar (actually an acronym for "radio detection and ranging") operates on the Doppler principle: the frequency of radio waves changes in direct proportion to the speed of an object. It is a radio device that merely detects the presence of a moving object and determines its speed. Radar sends and receives a signal; it can be detected by the driver of the vehicle whose speed is being measured if the driver has a radar detector. See MJI's *New Magistrate Traffic Adjudication Manual, 4th Edition* (MJI, 2003), Unit 6, for more discussion.

In a speed case involving moving radar (the officer's vehicle is moving rather than still), the following seven guidelines must be met in order to allow speed readings from a radar speedmeter into evidence. It must be shown that:

1) The officer operating the device has adequate training and experience in its operation.

2) The radar device was in proper working condition and properly installed in the patrol vehicle at the time of the issuance of the citation.

3) The radar device was used in an area where road conditions were such that there was a minimal possibility of distortion.

4) The input speed of the patrol vehicle was verified and the speedometer of the patrol vehicle was independently calibrated.

5) The speedmeter was retested at the end of the shift in the same manner that it was tested before the shift and the speedmeter was serviced by the manufacturer or other professional as recommended.

6) The particular radar operator was able to establish that the target vehicle was within the operational area of the beam at the time the reading was displayed.

7) The particular unit has been certified for use by an agency with some demonstrable expertise in the area.

People v Ferency, 133 Mich App 526, 542–44 (1984).

The requirement that a speedmeter be serviced *as recommended* "does not preclude the possibility that *no* service may be recommended." *City of Adrian v Strawcutter*, 259 Mich App 142, 145 (2003). The defendant in *Strawcutter* argued that evidence obtained from the radar speedmeter used to cite him for speeding was improperly admitted because the speedmeter had not been

> serviced for approximately 13 months, and the police officer was unaware of any servicing guidelines recommended by the speedmeter's manufacturer. *Id*. at 143. On appeal, the circuit court found that the officer's lack of knowledge about the manufacturer's service requirements constituted a failure to comply with the requirements of *People v Ferency*. *Id*. at 144. The Michigan Court of Appeals disagreed and affirmed the district court's finding that the defendant was responsible for a speeding violation. *Id*. at 145. According to the *Strawcutter* Court, "[the police officer] complied with the relevant servicing requirements under *Ferency*: no servicing was recommended and no servicing was performed." *Id*.

The Michigan Office of Highway Safety Planning established the Michigan Radar Task Force in 1979 and later changed the name to the Michigan Speed Measurement Task Force. They approved a "Standard for the Procurement of Speed-Measurement Equipment" in July of 2000. Copies are available from the Michigan Speed Measurement Task Force and on its website at www.michigan.gov/documents/sm_std_11134_7.pdf (last visited June 29, 2005).

The Michigan Speed Measurement Task Force has also prepared the "Guidelines for the Adjudication of Radar Speeding Cases." Copies are available from the Michigan Speed Measurement Task Force and on its website at www.michigan.gov/documents/ADJUDICATIONOFRADARSPEEDING_CASES_11138_7.pdf (last visited June 29, 2005).

The following are the recommended guidelines:

> "1. The Michigan Speed Measurement Task Force recommends that the guidelines listed in the Court of Appeals ruling [in *People v Ferency*, 133 Mich App 526 (1984)] be considered valid for both stationary-mode and moving-mode radar citations.
>
> "2. The Michigan Speed Measurement Task Force recommends that speed-measuring radar evidence be admissible in court only if the radar device used was <u>certified</u>, as determined by the Michigan Speed Measurement Task Force.
>
> "3. The Michigan Speed Measurement Task Force recommends that it is <u>not necessary</u> to have radar devices periodically recertified because a properly trained radar operator will be able to determine when a specific device is malfunctioning.
>
> "4. The Michigan Speed Measurement Task Force recommends that speed measuring radar device evidence be admissible in court only if the radar operator was <u>certified</u> [by] the Michigan Commission On Law Enforcement Standards at the time the radar speed reading was made.

"5. Only if the radar device and radar operator were each properly certified should issues related to this particular case be addressed in order to determine if the specific facts warrant that the defendant be held responsible. Specific points that should be covered, once the certification issues have been dispensed with, include:

"a. Was the radar device in proper working order? And when was this verification done?

"b. Was the patrol vehicle's speedometer independently calibrated? And, if so, when was it last calibrated?

"c. What mode of operation was used (e.g., stationary or moving)?

"d. Was the radar device being used in an area where road conditions or environmental conditions might have led to spurious display readings?

"e. What was the nature of the roadway (i.e., type of roadway, general visibility, terrain, visual obstructions, and volume of traffic flow)?

"f. What was the target-tracking history (i.e., visual observations of the target, operational area of the radar beam, characteristics of the Doppler-audio signal, display readings, and correlation between the patrol speed display window reading and the reading from the patrol vehicle's speedometer -- the latter only being needed during moving-mode operation).

"In summary, the Michigan Speed Measurement Task Force recommends that the defendant be held responsible for the speeding infraction if the following three conditions are met: first, the radar device was certified as determined by the Michigan Speed Measurement Task Force; second, the radar operator was certified by the Michigan Commission on Law Enforcement Standards; and third, the preponderance of the forensic evidence related to this specific case indicates that the speeding infraction did occur as stated by the radar operator."

- **Visual Average Speed Computer and Recorder (VASCAR)**

VASCAR operates on the time-distance principle. It is a computer device that allows the officer to enter a precisely measured distance and the time it took the target vehicle to travel that same distance. The computer then calculates the average speed of the target vehicle. VASCAR does not send or receive a signal; therefore, it cannot be detected by the driver of the vehicle whose

speed is being measured. See MJI's *New Magistrate Traffic Adjudication Manual, 4th Edition* (MJI, 2003), Reference Section, pp 45–54, for more information.

There are no appellate cases on the admissibility of VASCAR. Although the rules of evidence are not observed in a civil infraction case, the court must still determine whether the evidence is relevant and the witness competent.

- **Laser**

Laser operates on the time-distance principle. It emits an invisible infrared light beam that measures both speed and distance. Laser does send and receive a signal, but it is much more difficult to detect than radar.

There are no appellate cases on the admissibility of laser. Although the rules of evidence are not observed in a civil infraction case, the court must still determine whether the evidence is relevant and the witness competent.

2.9 Stop and Go, Signs and Signals

The state of Michigan has adopted a uniform system of traffic control devices. MCL 257.608. This means, insofar as is practical, that the design, shape, and color scheme of Michigan traffic signs, signals, and guideposts will be uniform with those in other states.

> **Note**: Defendant may argue that a sign was improperly posted or a signal was improperly placed. Requirements for proper marking and posting are found in the Michigan Manual of Uniform Traffic Control Devices. It is available from the Michigan Department of Transportation, Traffic and Safety Division or online at www.michigan.gov/documents/mmutcd_part_6_16693_7.pdf (last visited June 29, 2005).

A. Stop Signs

MCL 257.649(6) states:

> "Except when directed to proceed by a police officer, the driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection, or if there is not a crosswalk shall stop at a clearly marked stop line; or if there is not a crosswalk or a clearly marked stop line, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After having stopped, the driver shall yield the right of way to a vehicle which has entered the intersection from another highway or which is approaching so closely on the highway as to

constitute an immediate hazard during the time when the driver would be moving across or within the intersection."

"Where . . . a stop sign is placed a considerable distance from the stop intersection, it is generally recognized that the sign serves only to notify motorists of the approaching highway intersection. It does not signify the exact spot at which vehicles are required to stop." The driver is required by statute "to stop 'at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.' . . . He [or she] need only stop within a fair range of points all of which might be found 'nearest' the intersection." *People v McIntosh*, 23 Mich App 412, 415, 417 (1970).

"[A] stop sign is a direction, not merely a caution, to drivers entering a through street to stop." *Rife v Colestock*, 297 Mich 194, 197 (1941).

A stop sign is a warning of possible danger at an intersection. It imposes a duty on the driver, before attempting to cross or turn at the intersection, to stop the vehicle at a point from which approaching traffic can be seen. After stopping, the driver has a duty to make proper observation before entering the intersection and to keep the vehicle under control as to enable him or her to stop at once if observation discloses approaching vehicles. The driver stopped at a stop sign must yield the right-of-way to a vehicle approaching on the cross street. *Shoniker v English*, 254 Mich 76, 80–81 (1931).

"The purpose of a stop street is to afford traffic on it a preference. It is the duty of one arriving at such street not only to stop but so to remain until a reasonable opportunity to proceed appears. It would be contrary to all custom, general understanding, and the purpose of a stop street, to hold . . . that, after stopping, the driver immediately acquires the right of way as against all vehicles on the stop street which have not reached the intersection." *Leader v Straver*, 278 Mich 234, 236 (1936).

The driver who is traveling on the favored street or highway may assume that a driver approaching a stop sign will stop. The driver who is traveling on the favored street or highway may act on that assumption unless he or she, in the exercise of reasonable care, has knowledge or reason to believe otherwise. *McGuire v Rabaut*, 354 Mich 230, 234–37 (1958).

"[T]raffic violations are strict liability offenses, in which the motorist's negligence or lack of intent to commit the infraction is irrelevant." Defendant's inability to stop at a sign due to icy road conditions is irrelevant. *People v Jones*, 132 Mich App 368, 370–71 (1984).

B. Traffic Lights or Signals

When traffic is controlled by traffic control lights or signals, at least one light or signal shall be located over the traveled portion of the roadway to give drivers a clear indication of the right-of-way assignment from their normal

position approaching the intersection. Traffic lights and signals shall exhibit different colored lights successively, one at a time, or with arrows. MCL 257.612(1).

1. Solid Green

"[P]roceed straight through or turn right or left unless a sign at that place prohibits either turn. . . . [Y]ield the right of way to other vehicles and pedestrians lawfully within the intersection or an adjacent crosswalk at the time the signal is exhibited." MCL 257.612(1)(a).

- A driver approaching an intersection equipped with a traffic light has a duty to look for the green light and to see that the intersection is clear before attempting to cross. *Travis v Eisenlord*, 256 Mich 264, 266 (1931).
- The changing of a light from red to green does not authorize a driver to proceed through an intersection without reasonable regard for the circumstances open to his or her view. *Smarinsky v Markowitz*, 265 Mich 412, 414 (1933).

2. Solid Yellow

"[S]top before entering the nearest crosswalk at the intersection or at a limit line when marked, but if the stop cannot be made in safety, a vehicle may be driven cautiously through the intersection." MCL 257.612(1)(b).

3. Solid Red

MCL 257.612(1)(c)(*i*) states:

> "[S]top before entering the crosswalk on the near side of the intersection or at a limit line when marked or, if there is no crosswalk or limit line, before entering the intersection, and . . . remain standing until a green indication is shown, except as provided in subparagraph (*ii*)."

Subparagraph (*ii*) provides the following exceptions:

- Right turn on solid red: After stopping, the driver may make a right turn from any one-way or two-way street into a two-way street or into a one-way street carrying traffic in the direction of the right turn, unless otherwise prohibited, and yielding the right-of-way to other vehicles and pedestrians lawfully using the intersection. MCL 257.612(1)(c)(*ii*).
- Left turn on solid red: After stopping, the driver may make a left turn from any one-way or two-way street into a one-way street carrying traffic in the direction of the left turn, unless otherwise prohibited, and yielding the right-of-way to other vehicles and

pedestrians lawfully using the intersection. MCL 257.612(1)(c)(*ii*).

4. Flashing Red (Stop Signal)

*See Section 2.9(A), above, for rules governing the right-of-way at a stop sign.

"[S]top before entering the nearest crosswalk at an intersection or at a limit line when marked and . . . proceed . . . subject to the rules applicable after making a stop at a stop sign." MCL 257.614(1)(a).*

5. Flashing Yellow (Caution Signal)

"[P]roceed through the intersection or past the signal only with caution." MCL 257.614(1)(b).

6. Red and Yellow Arrows

"Red arrow and yellow arrow indications have the same meaning as the corresponding circular indications, except that they apply only to drivers of vehicles intending to make the movement indicated by the arrow." MCL 257.612(1).

C. Stop and Go, Sign and Signal Violations

Stop and go, sign and signal violations include:

- disregarding stop sign, MCL 257.649;
- disregarding flashing red or flashing yellow signal, MCL 257.614;
- disregarding yellow or amber signal, MCL 257.612;
- disregarding stop and go light, MCL 257.612;
- right turn on red light without stopping, MCL 257.612;
- avoiding traffic control device, MCL 257.611; and
- failing to stop leaving private driveway, MCL 257.652.

D. Civil Sanctions for Stop and Go, Sign and Signal Violations

The general rules for assessing a civil fine and costs apply to stop and go, and sign and signal violations. See Section 1.20 of this volume for a discussion of the general rules governing the assessment of a civil fine and costs.

E. Licensing Sanctions for Stop and Go, Sign and Signal Violations

Three points. Disobeying a traffic signal or stop sign is a three-point violation. The finding of responsibility is reported to the Secretary of State. MCL 257.320a(1)(p). Violations of MCL 257.611 (avoiding a traffic control device) are assigned two points.

Two points are assessed for avoiding traffic control devices and failing to stop leaving a private driveway. In assessing points, the Secretary of State has interpreted "[a]ll other moving violations" to include these violations. MCL 257.320a(1)(s).

2.10 Turning and Signaling

Turning at street corners and intersections requires greater caution on the part of the driver than at less congested places on the streets and highways. The driver must use an appropriate signal (hand and arm, or mechanical or electrical device) visible to approaching drivers, both in oncoming vehicles and those approaching from the rear. Both the driver negotiating a turn and the driver of any approaching vehicle should use care commensurate with the obvious conditions regardless of which has the right-of-way when making the turn. *Benson v Tucker*, 252 Mich 385, 187 (1930).

A. Right turn

General rule: "Both the approach for a right turn and a right turn shall be made as close as practical to the right-hand curb or edge of the roadway." MCL 257.647(1)(a).

However, local authorities may place markers, signs, or signals that require and direct a different course for the approach and turn than that specified in this section. MCL 257.647(1)(e).

B. Left turn

General rule: "Approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line in a manner as not to interfere with the progress of any streetcar, and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered." MCL 257.647(1)(b).

From a two-way to a one-way: "Approach for a left turn . . . shall be made in that portion of the right half of the roadway nearest the center line and clear of existing car tracks in use, and by passing to the right of the center line where it enters the intersection." MCL 257.647(1)(c).

From a one-way to a two-way: "Approach for a left turn . . . shall be made as close as practicable to the left curb or edge or the roadway and by passing to the right of the center line of the roadway being entered." MCL 257.647(1)(c).

From a one-way to a one-way: "[B]oth the approach for a left turn and a left turn shall be made as close as practicable to the left-hand curb or edge of the roadway." MCL 257.647(1)(d).

Local authorities may place markers, signs, or signals that require and direct a different course for the approach and turn than that specified in this section. MCL 257.647(1)(e).

In *Lindsley v Burke,* 189 Mich App 700 (1991), the Court of Appeals held that when one driver signals another to proceed, it is a question of fact whether the signaling driver is merely waiving his or her right-of-way or is indicating that all is clear ahead. This decision overruled *Peka v Boose*, 172 Mich App 139, 143 (1988), which held that a hand motion signified nothing more than permission to cross in front of the signaling driver's car and could not be relied on as assurance that all was clear ahead.

C. Signal Requirements for Turning

"The driver of a vehicle . . . upon a highway, before stopping or turning from a direct line, shall first see that the stopping or turning can be made in safety and shall give a signal as required in this section." MCL 257.648(1).

> **Note**: The statute seems to leave room for broad interpretation of the word "turning" by adding "from a direct line." Although there is no case law construing this statute, a court may interpret this to include a signaling requirement for lane change. It is impossible to change lanes without turning from a direct line.

"A signal required in this section shall be given either by means of the hand and arm . . . or by a mechanical or electrical signal device which conveys an intelligible signal or warning to other highway traffic. . . ." MCL 257.648(2).

The appropriate arm signals include:

- Left turn—hand and arm extended horizontally;
- Right turn—hand and arm extended upward; and
- Stop or decrease speed—hand and arm extended downward.

MCL 257.648(2)(a)–(c).

D. Turning and Signaling Violations

Turning and signaling violations include:

- failing to signal or improper signal, MCL 257.648;
- improper or prohibited right or left turn, MCL 257.647 and MCL 257.648;
- improper turn from wrong lane, MCL 257.647;
- left turn in front of moving traffic, MCL 257.650;
- limited access highway, driving across median, MCL 257.644; and
- prohibited turn on red after stop, MCL 257.612(1)(c)(*ii*).

E. Civil Sanctions for Turning and Signaling Violations

The general rules for assessing a civil fine and costs apply to turning and signal violations. See Section 1.20 of this volume for a discussion of the general rules governing the assessment of a civil fine and costs.

F. Licensing Sanctions for Turning and Signaling Violations

Two points. The finding of responsibility is reported to the Secretary of State. In assessing points, the Secretary of State has interpreted "[a]ll other moving violations" to include turning and signaling violations. MCL 257.320a(1)(s).

2.11 Wrong Side or Wrong Way

A. "Keep to the Right" Rule

With certain exceptions, a driver has a statutory duty to drive on the right half of the highway; however, the statute must be applied in a reasonable manner considering all related facts and circumstances. MCL 257.634.

A motor vehicle must be driven on the right half of the roadway except as follows:

- When overtaking or passing another vehicle, MCL 257.634(1)(a);
- When the right half is closed due to construction, repair, or obstruction, MCL 257.634(1)(b);
- When a vehicle operated by state or local government, or its agent, is engaged in work on the roadway, MCL 257.634(1)(c);

- On a roadway divided into three marked lanes for traffic, MCL 257.634(1)(d) and MCL 257.642; or
- On a one-way roadway, MCL 257.634(2).

B. Exceptions to the "Keep to the Right" Rule

A defendant may justify driving on the wrong side of the road by showing that the other side was practically impassable or appeared unsafe, the vehicle skidded, or there was a sudden emergency:

- The other side was practically impassable or appeared unsafe.

  A driver may drive on the wrong side of the road, around parked cars, provided he or she exercises reasonable care in doing so. *Rosen v Beh*, 272 Mich 487, 492 (1935).

  Because of construction and resurfacing operations, directions were given by a watchman diverting traffic to use the portion of a road normally used by traffic in the opposite direction. *Smith v Whitehead*, 342 Mich 542, 544, 546 (1955).

- The vehicle skidded.

  A driver may be excused from compliance with the statutes requiring him or her to keep to the right side of the highway where he or she is driving at a prudent speed for icy conditions and suddenly hits a patch of ice causing the automobile to skid across the center line. *Young v Flood*, 182 Mich App 538, 544 (1990).

- There was a sudden emergency.

  The sudden emergency doctrine applies where the driver is confronted with a situation that is "unusual" or "unsuspected." "Unusual" means different from the everyday traffic routine confronting a motorist. "Unsuspected" means appearing so suddenly that the normal expectations of due and ordinary care are modified. *Vander Laan v Miedema*, 385 Mich 226, 231–32 (1980).

  Icy patches on Michigan roads can be unsuspected. *Young, supra* at 543.

  The defendant suddenly fainted or became unconscious immediately before driving on the wrong side of the road, so that the car moving to the wrong side of the road was not a voluntary act. However, if the driver had reason to believe that he or she would faint or become unconscious, the condition, or feeling, would be closely analogous to a driver continuing to drive while being in a sleepy condition. *Soule v Grimshaw*, 266 Mich 117, 119–20 (1934).

C. One-Way and Two-Way Traffic

"[A] roadway designated and signposted for 1-way traffic shall be driven only in the direction designated." MCL 257.641(2).

"Drivers of vehicles proceeding in opposite directions shall pass each other to the right, each giving to the other not less than 1/2 of the main traveled portion of the roadway as nearly as possible." MCL 257.635(1).

When traveling at night on an unmarked road, it is the duty of the driver to make a reasonable allowance for possible inaccuracy in judgment as to where the median line is located and whether the driver's vehicle is entirely on the proper side of the road. *Lijewski v Wrzesinski*, 328 Mich 129, 135–36 (1950).

D. Wrong Side or Wrong Way Violations

Wrong side or wrong way violations include:

- driving on the wrong side of divided highway, MCL 257.644;
- driving on wrong side of undivided highway, MCL 257.642;
- driving the wrong way on a one-way road, MCL 257.641;
- entering freeway improperly, MCL 257.645;
- failing to keep to the right, MCL 257.634; and
- failing to keep to the right half of the roadway when passing vehicle going in opposite direction, MCL 257.635.

E. Civil Sanctions for Wrong Side or Wrong Way Violations

The general rules for assessing a civil fine and costs apply to wrong side or wrong way violations. See Section 1.20 of this volume for a discussion of the general rules governing the assessment of a civil fine and costs.

F. Licensing Sanctions for Wrong Side or Wrong Way Violations

Two points. The finding of responsibility is reported to the Secretary of State. In assessing points, the Secretary of State has interpreted "[a]ll other moving violations" to include wrong side or wrong way violations. MCL 257.320a(1)(s).

2.12 Careless Driving

A. Statute

> "A person who operates a vehicle upon a highway or a frozen public lake, stream, or pond or other place open to the general public including an area designated for the parking of vehicles in a careless or negligent manner likely to endanger any person or property, but without wantonness or recklessness, is responsible for a civil infraction." MCL 257.626b.

B. Civil Sanctions for Careless Driving

The general rules for assessing a civil fine and costs apply to careless driving. See Section 1.20 of this volume for a discussion of the general rules governing the assessment of a civil fine and costs.

C. Licensing Sanctions for Careless Driving

Three points. The finding of responsibility is reported to the Secretary of State. MCL 257.320a(1)(m).

D. Issues

*See Section 3.49 of this volume.

The difference between reckless driving,* a misdemeanor, and careless driving, a civil infraction, is the degree of negligence. The court should consider the manner of operating the vehicle, not the results. Reckless driving requires gross negligence, which is defined as driving in "willful or wanton disregard for the safety of persons or property." MCL 257.626(a). Careless driving requires ordinary negligence, which is defined as operating a motor vehicle in a "negligent manner likely to endanger any person or property, but without wantonness or recklessness." MCL 257.626b.

> **Note**: If the prosecuting attorney, in a plea bargain, decides to reduce the charge from reckless driving to careless driving, it is necessary to dismiss the misdemeanor charge and to have another citation issued for a civil infraction to which the defendant will then plead responsible.

2.13 Permitting Minor to Ride in Pickup Truck Bed

A. Statute

MCL 257.682b(1) states:

> "Except as provided in this section, an operator shall not permit a person less than 18 years of age to ride in the open bed of a pickup truck on a highway, road, or street in a city, village, or township at a speed greater than 15 miles per hour."

B. Exceptions

MCL 257.682b(1) does not apply to the operator of any of the following:

> "(a) A motor vehicle operated as part of a parade pursuant to a permit issued by the governmental unit with jurisdiction over the highway or street.
>
> "(b) A military motor vehicle.
>
> "(c) An authorized emergency vehicle.
>
> "(d) A motor vehicle controlled or operated by an employer or an employee of a farm operation, construction business, or similar enterprise during the course of work activities.
>
> "(e) A motor vehicle used to transport a search and rescue team to and from the site of an emergency." MCL 257.682b(2).

C. Civil Sanctions for Permitting Minor to Ride in Pickup Truck Bed

The general rules for assessing a civil fine and costs apply to permitting a minor to ride in a pickup truck bed. See Section 1.20 of this volume for a discussion of the general rules governing the assessment of a civil fine and costs.

D. Licensing Sanctions for Permitting Minor to Ride in Pickup Truck Bed

Two points. The finding of responsibility is reported to the Secretary of State. In assessing points, the Secretary of State has interpreted "[a]ll other moving violations" to include permitting a minor to ride in a pickup truck bed. MCL 257.320a(1)(s).

2.14 Failing to Change Address on Registration or Title

A. Statute

MCL 257.228(1) states:

> "If a person, after making application for or obtaining the registration of a vehicle or a certificate of title, moves from the address named in the application as shown upon a registration certificate or certificate of title, the person within 10 days after moving shall notify the secretary of state in writing of the old and new addresses."

B. Civil Sanctions for Failing to Change Address on Registration or Title

The general rules for assessing a civil fine and costs apply to failure to change address violations. See Section 1.20 of this volume for a discussion of the general rules governing the assessment of a civil fine and costs.

C. Licensing Sanctions for Failing to Change Address on Registration or Title

No points. The finding of responsibility is not reported to the Secretary of State. MCL 257.732(16)(b).

2.15 Failing to Stop for School Bus

A. Statute

MCL 257.682(1) and (3) state:

> "(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 an 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.

* * *

"(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."

B. Exception

If the highway "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," and if the driver meets the school bus which has stopped across the dividing space, barrier, or section, he or she is not required to stop. MCL 257.682(2).

C. Civil Sanctions for Failing to Stop for a School Bus

1. Standard Civil Sanctions for Failing to Stop for a School Bus

Except as noted in subsection (2), below, the general rules for assessing a civil fine and costs apply to failing to stop for a school bus violations. See Section 1.20 of this volume for a discussion of the general rules governing the assessment of a civil fine and costs.

2. Special Civil Sanction Provisions for Failing to Stop for a School Bus

The fine assessed shall be at least $100.00 but not more than $500.00. The court must order the defendant to pay taxable costs. MCL 257.907(2) and (4). In addition to the civil fine and costs, the defendant may be ordered to perform community service at a school not to exceed 100 hours for failing to stop for a school bus. MCL 257.682(4).

D. Licensing Sanctions

Three points. The finding of responsibility is reported to the Secretary of State. MCL 257.320a(1)(p).

2.16 Following a Fire Truck Too Closely

A. Statute

"The driver of a vehicle other than a vehicle on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or driver [sic] into or park the vehicle within 500 feet where fire apparatus has stopped in answer to a fire alarm." MCL 257.679(1).

B. Civil Sanctions for Following a Fire Truck Too Closely

The general rules for assessing a civil fine and costs apply to following a fire truck too closely violations. See Section 1.20 of this volume for a discussion of the general rules governing the assessment of a civil fine and costs.

C. Licensing Sanctions for Following a Fire Truck Too Closely

Two points. The finding of responsibility is reported to the Secretary of State. In assessing points, the Secretary of State has interpreted "[a]ll other moving violations" to include following a fire truck too closely. MCL 257.320a(1)(s).

However, the statute says "shall not follow . . . or park." "Following" is reported to the Secretary of State; "parking" is not. MCL 257.679 and MCL 257.732(16)(a).

2.17 Interference With View, Control, or Operation of Vehicle

A. Statute

MCL 257.677(1)–(2) state:

> "(1) A person shall not drive a vehicle when it is loaded, or when there are in the front seat a number of persons, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.
>
> "(2) A passenger in a vehicle or a streetcar shall not ride in a position as to interfere with the driver's or operator's view ahead or to the sides, or to interfere with the driver's or operator's control over the driving mechanism of the vehicle or streetcar."

B. Civil Sanctions for Interference With View, Control, or Operation of Vehicle

The general rules for assessing a civil fine and costs apply to interference with view, control, or operation of vehicle violations. See Section 1.20 of this volume for a discussion of the general rules governing the assessment of a civil fine and costs.

C. Licensing Sanctions

Two points. The finding of responsibility is reported to the Secretary of State. In assessing points, the Secretary of State has interpreted "[a]ll other moving violations" to include interference with view, control, or operating of vehicle. MCL 257.320a(1)(s).

2.18 No Proof of Insurance

A. Statute

> "The owner of a motor vehicle who operates or permits the operation of the motor vehicle upon the highways of this state or the operator of the motor vehicle shall produce . . . , upon the request of a police officer, evidence that the motor vehicle is insured . . . . [A]n owner or operator of a motor vehicle who fails to produce evidence of insurance under this subsection when requested to produce that evidence or who fails to have motor vehicle insurance for the vehicle . . . is responsible for a civil infraction." MCL 257.328(1).

B. Civil Sanctions for No Proof of Insurance

1. Standard Civil Sanctions for No Proof of Insurance

Except as provided in sub-subsection (2), below, the general rules for assessing a civil fine and costs apply to no proof of insurance violations. See Section 1.20 of this volume for a discussion of the general rules governing the assessment of a civil fine and costs.

2. Special Civil Sanction Provisions for No Proof of Insurance

The fine assessed shall be $50.00 or less. The court may not order the defendant to pay costs. MCL 257.907(2).

MCL 257.328(3) states:

> "(3) If, before the appearance date on the citation, the person submits proof to the court that the motor vehicle had insurance meeting the requirements of . . . the insurance code . . . at the time the violation . . . occurred, all of the following apply:
>
> > "(a) The court shall not assess a fine or costs.
> >
> > "(b) The court shall not cause an abstract of the court record to be forwarded to the secretary of state.
> >
> > "(c) The court may assess a fee of not more than $25.00, which shall be paid to the court funding unit."*

*The court may waive this fee. MCL 257.907(16).

A court may require a defendant to surrender his or her driver's license. If so, the court shall order the license suspended. MCL 257.328(4) states:

> "If an owner or operator of a motor vehicle is determined to be responsible for a violation of subsection (1), the court in which the civil infraction determination is entered may require the person to surrender his or her . . . license unless proof that the vehicle has insurance meeting the requirements of . . . MCL 500.3101 and 500.3102, is submitted to the court. If the court requires the license to be surrendered, the court shall order the secretary of state to suspend the person's license. The court shall immediately destroy the license and shall forward to the secretary of state an abstract of the court record . . . ."

Driver Responsibility Fee. If an abstract is posted that a person has been determined responsible for a violation of MCL 257.328, the Secretary of State shall assess a $200.00 driver responsibility fee each year for two consecutive years. MCL 257.732a(2)(d).

C. Licensing Sanctions for No Proof of Insurance

No points are entered on a driver's record for a violation of MCL 257.328. MCL 257.328(7). A finding of responsibility for a violation of MCL 257.328(1) is not reported to the Secretary of State if the defendant complies with MCL 257.328(3) by providing proof to the court that the motor vehicle was insured at the time of the citation. A finding of responsibility is reported to the Secretary of State if the defendant obtained insurance subsequent to the time of the violation. MCL 257.732(16)(f).

If suspension of the driver's license is ordered by the court, it shall be for a period of 30 days (to begin the date the driver is determined to be responsible for the civil infraction) or until proof of insurance is submitted to the Secretary of State along with a $25.00 service fee, whichever occurs later. MCL 257.328(4).

D. Issues

There are four different offenses in Michigan dealing with an owner's obligation to have no-fault automobile insurance. Because these offenses are often confused with one another, they are listed here in order of severity:

- failing to produce evidence of insurance is a civil infraction under MCL 257.328(1).
- forging proof of insurance is a 90-day misdemeanor under MCL 257.905.
- producing false evidence of insurance is a one-year misdemeanor under MCL 257.328(6).
- operating a motor vehicle without insurance is a one-year misdemeanor under MCL 500.3102(2).

2.19 No Proof of Registration

A. Statute

MCL 257.223(1) states:

> "Upon receipt of a registration certificate, the owner shall write his or her signature thereon with pen and ink in the space provided. A registration certificate shall at all times be carried in the vehicle to which it refers or shall be carried by the person driving or in control of the vehicle, who shall display the registration certificate upon demand of a police officer."

B. Civil Sanctions for No Proof of Registration

1. Standard Civil Sanctions for No Proof of Registration

Except as noted in sub-subsection (2), below, the general rules for assessing a civil fine and costs apply to no proof of registration violations. See Section 1.20 of this volume for a discussion of the general rules governing the assessment of a civil fine and costs.

2. Special Civil Sanction Provisions for No Proof of Registration

The court shall waive the civil fine and costs on receipt of certification by a law enforcement agency that the defendant, before the appearance date on the citation, has produced a valid registration certificate that was valid on the date the violation occurred. MCL 257.907(15).

C. Licensing Sanctions for No Proof of Registration

No points. The finding of responsibility is not reported to the Secretary of State. MCL 257.732(16)(b).

2.20 Invalid or No Registration Plate

A. Statute

MCL 257.255(1) states:

> "[A] person shall not operate, nor shall an owner knowingly permit to be operated, upon any highway, a vehicle required to be registered under this act unless there is attached to and displayed on the vehicle, as required by this chapter, a valid registration plate issued for the vehicle by the department for the current registration year. A registration plate shall not be required upon any wrecked or disabled vehicle, or vehicle destined for repair or junking, which is being transported or drawn upon a highway by a wrecker or a registered motor vehicle."*

*This statute was amended by 2003 PA 9, effective September 1, 2003. Prior to this amendment, a violation of subsection (1) was a misdemeanor.

B. Civil Sanctions for Invalid or No Registration Plate

The general rules for assessing a civil fine and costs apply to invalid or no registration plate violations. See Section 1.20 of this volume for a discussion of the general rules governing the assessment of a civil fine and costs.

C. Licensing Sanctions for Invalid or No Registration Plate

No points. The finding of responsibility is not reported to the Secretary of State. MCL 257.732(16)(c).

D. Issues

"Merely because the driver of an automobile cannot produce evidence of its registration does not, standing by itself, provide a basis for a reasonable belief that it is stolen. Although the law requires a registration certificate to be carried in Michigan-licensed vehicles . . . , noncompliance by honest citizens occurs with such frequency that it is not reasonable to believe an automobile to be stolen from that alone." *People v Marshall*, 25 Mich App 376, 379 (1970).

Use of a special registration plate on a vehicle other than the vehicle for which the plate was issued is a misdemeanor. The Secretary of State shall confiscate the plate of any person who is in violation. MCL 257.803c. These special

registration plates include both personalized plates and veterans plates. See MCL 257.802–257.804 for descriptions of these specialized plates.

2.21 Operating a Vehicle in Violation of Graduated Licensing Requirements

In 1996, the legislature passed Public Act 387, which completely redesigned the driver education and licensing system for young and first-time drivers. The statute created a graduated licensing system, shifted most of the responsibility for training drivers to commercial driver training schools, and eliminated the requirements that school districts offer driver education courses.

The statute also decriminalized these provisions by providing that a person who violates these requirements is responsible for a civil infraction. MCL 257.310e(11) and (14).

A. Statute

- **Level 1 graduated licenses:**

MCL 257.310e(3)–(4) state:

> "(3) Except as otherwise provided in section 303,* a person who is not less than 14 years and 9 months of age may be issued a level 1 graduated licensing status to operate a motor vehicle if the person has satisfied all of the following conditions:
>
> > "(a) Passed a vision test and met health standards as prescribed by the secretary of state.
> >
> > "(b) Successfully completed segment 1 of a driver education course as that term is defined in section 1 of the driver education and training schools act, 1974 PA 369, MCL 256.601, including a minimum of 6 hours of on-the-road driving time with the instructor.
> >
> > "(c) Received written approval of a parent or legal guardian."
>
> "(4) A person issued a level 1 graduated licensing status may operate a motor vehicle only when accompanied either by a licensed parent or legal guardian or, with the permission of the parent or legal guardian, a licensed driver 21 years of age or older. Except as otherwise provided in this section, a person is restricted to operating a motor vehicle with a level 1 graduated licensing status for not less than 6 months."

*Section 303 provides limitations on issuing a license. For example, the person must be able to read road signs in English.

- **Level 2 graduated licenses**

MCL 257.310e(5)–(7) state:

> "(5) A person may be issued a level 2 graduated licensing status to operate a motor vehicle if the person has satisfied all of the following conditions:
>
> > "(a) Had a level 1 graduated licensing status for not less than 6 months.
> >
> > "(b) Successfully completed segment 2 of a driver education course as that term is defined in section 1 of the driver education and training schools act, 1974 PA 369, MCL 256.601.
> >
> > "(c) Not incurred a moving violation resulting in a conviction or civil infraction determination or been involved in an accident for which the official police report indicates a moving violation on the part of the person during the 90-day period immediately preceding application.
> >
> > "(d) Presented a certification by the parent or guardian that he or she, accompanied by his or her licensed parent or legal guardian or, with permission of the parent or legal guardian, any licensed driver 21 years of age or older, has accumulated a total of not less than 50 hours of behind-the-wheel experience including not less than 10 nighttime hours.
> >
> > "(e) Successfully completed a secretary of state approved performance road test. The secretary of state may enter into an agreement with another public or private person or agency, including a city, village, or township, to conduct this performance road test. This subdivision applies to a person 16 years of age or over only if the person has satisfied subdivisions (a), (b), (c), and (d).
>
> "(6) A person issued a level 2 graduated licensing status under subsection (5) shall remain at level 2 for not less than 6 months and shall not operate a motor vehicle within this state from 12 midnight to 5 a.m. unless accompanied by a parent or legal guardian or a licensed driver over the age of 21 designated by the parent or legal guardian, or except when going to or from employment.
>
> "(7) The provisions and provisional period described in subsection (4) or (6) shall be expanded or extended, or both, beyond the

periods described in subsection (4) or (6) if any of the following occur and are recorded on the licensee's driving record during the provisional periods described in subsection (4) or (6) or any additional periods imposed under this subsection:

> "(a) A moving violation resulting in a conviction, civil infraction determination, or probate court disposition.
>
> "(b) An accident for which the official police report indicates a moving violation on the part of the licensee.
>
> "(c) A license suspension for a reason other than a mental or physical disability.
>
> "(d) A violation of subsection (4) or (6)."

- **Operating without a graduated license in possession**

  "(14) A person shall have his or her graduated licensing status in his or her immediate possession at all times when operating a motor vehicle, and shall display the card upon demand of a police officer. A person who violates this subsection is responsible for a civil infraction." MCL 257.310e(14).

B. Civil Sanctions for Operating a Vehicle in Violation of Graduated Licensing Requirements

The general rules for assessing a civil fine and costs apply to graduated licensing violations. See Section 1.20 of this volume for a discussion of the general rules governing the assessment of a civil fine and costs.

C. Licensing Sanctions for Operating a Vehicle in Violation of Graduated Licensing Requirements

Two points for operating in violation of level 1 or 2 graduated licensing requirements. MCL 257.320a(1)(r). No points for operating without a graduated license in possession. MCL 257.320a(2). The finding of responsibility is reported to the Secretary of State.

2.22 Failing to Change Address on Driver's License

A. Statute

"An operator or chauffeur who changes his or her residence before the expiration of a license granted under this chapter shall immediately notify the secretary of state of his or her new residence address. . . ." MCL 257.315(1).

"If a person fails to report a change of his or her residence address as required under this section and subsequently there is no response to a notice mailed to the residence address shown by the record of the secretary of state or if the person has provided the secretary of state a mailing address different from his or her residence address and there is no response to a notice mailed to that mailing address, the secretary of state may immediately suspend or revoke his or her license. A person who fails to report a change of his or her residence address is responsible for a civil infraction." MCL 257.315(3).

B. Civil Sanctions for Failing to Change Address on Driver's License

The general rules for assessing a civil fine and costs apply to failing to change address on license violations. See Section 1.20 of this volume for a discussion of the general rules governing the assessment of a civil fine and costs.

C. Licensing Sanctions for Failing to Change Address on Driver's License

No points. The finding of responsibility is not reported to the Secretary of State. MCL 257.732(16)(b).

D. Issues

Reporting a false address change to the Secretary of State is a misdemeanor. MCL 257.315(4) or (5). See Section 3.24 of this volume for a summary of that offense.

"Under the Michigan Vehicle Code, the defendant has a duty to show a correct address on his [or her] operator's license. This duty exists even though the time may not have arrived when the license itself needs to be renewed." *Hamilton v Gordon*, 135 Mich App 289, 294 (1984).