

STATE:  
General Reference:

**MICHIGAN**  
Michigan Compiled Laws Annotated

Basis for a DWI Charge:

Standard DWI Offense:	1) Visibly impaired by intoxicating liquor §257.625(3) 2) Under the influence of intoxicating liquor §257.625(1)(a)
Illegal Per Se Law (BAC/BrAC):	≥ <b>0.10</b> <sup>1&amp;2</sup> §257.625(1)(b) <u>Persons Under 21 Years Old. Any Bodily Alcohol Content</u> <sup>3</sup> §257.625(6)
Presumption (BAC/BrAC):	A BAC/BrAC/UrAC > <b>0.07</b> but < <b>0.10</b> <sup>1&amp;2</sup> is a presumption of impairment. A BAC/BrAC/UrAC ≥ <b>0.10</b> <sup>1&amp;2</sup> is a presumption of driving while under the influence. §257.625a(9)(b) & (c)
Types of Drugs/Drugs and Alcohol:	Under the <u>influence</u> of or <u>visibly impaired</u> by (1) A <b>Controlled Substance</b> or (2) a Combination of Liquor and a Controlled Substance. §§257.625(1)(a) & (3)
Other:	For Commercial Motor Vehicle Operators, see p. 3-245.

Chemical Breath Tests for Alcohol Concentration:

Preliminary Breath Test Law:	<b>Yes</b> §257.625a(2) For CMV operators, see §§257.319d & 257.625a(4).
Implied Consent Law:	
Arrest Required (Yes/No):	<b>Yes</b> §257.625c(1)(a)
Implied Consent Law Applies to Drugs (Yes/No):	<b>Yes</b> §257.625c(1)
Refusal to Submit to Chemical Test Admitted into Evidence:	<b>Yes Limited</b> (Criminal cases) In driving while under the influence/illegal per se cases, evidence of a refusal to submit to a chemical test may be admitted but <u>only</u> "for the purpose of showing that a test was offered to the defendant, but not as evidence in determining innocence or guilt of the defendant." §257.625a(10) <b>Special Note:</b> Following a refusal to submit to a chemical test under the implied consent law, a test (for alcohol concentration or controlled drugs) can be required via a court order. §§257.625a(6)(b)(iv) & <i>People v. Wurm</i> , 404 N.W.2d 235 (Mich.App. 1987)
Other Information:	

Chemical Tests of Other Substances for Alcohol Concentration Which Are Authorized Under the Implied Consent Law:

Blood:	<b>Yes</b> §257.625c(1)
Urine:	<b>Yes</b> §257.625c(1)
Other:	<b>None</b>

<sup>1</sup>This State's illegal per se law also makes it an offense to operate a motor vehicle with either a breath or urine alcohol concentration of 0.10 or more.

<sup>2</sup>Standards: Grams of alc. per 100 milliliters of blood, grams of alc. per 210 liters of breath or grams of alc. per 67 milliliters of urine. §§257.625(1)(b) & (6)(a), 257.625a(9)(b) & (c) and 257.625g(4)

<sup>3</sup>The term "any bodily alcohol content" means either (1) a BAC/BrAC/UrAC of ≥ **0.02** but ≤ **0.07** (For Standards, see Footnote No. 2 above.) or (2) "[a]ny presence of alcohol within a person's body resulting from the consumption of intoxicating liquor, other than consumption of intoxicating liquor as a part of a generally recognized religious service or ceremony." §257.625(6)(a) & (b)

**MICHIGAN**

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):  
Anti-Plea Bargaining Statute (Yes/No):

**No**  
**Limited** A person under 21 years old, who is charged with either with driving while under the influence, driving while visibly impaired or illegal per se offenses under §257.625(1) & (3), cannot enter a plea of either guilty or *nolo contendere* to driving with "any bodily alcohol content" under §257.625(6). §257.625(15)

Pre-Sentencing Investigation Law (PSI)  
(Yes/No):

**Yes<sup>1</sup>** Alcohol & Drug (Screening & Assessment Required) §257.625b(5)

Sanctions for Refusal to Submit to a Chemical Test:

Refusal to Take a Preliminary Breath Test:  
Criminal Sanctions (Fine/Jail):  
Administrative Licensing Action  
(Susp/Rev):

**None**

**None** However, if a person <21 yrs old refuses to submit to a PBT, 2 points are assigned to their driving record. §257.320a(1)(o) (After 10/1/2000, see §257.320a(I)(o).)

Other:

Civil infraction-Fine not more than **\$100** §§257.625a(2)(d), 257.741 et seq. & 257.907 Note: It is a misdemeanor for a CMV operator to refuse to submit to a PBT. See DWI Offenses and Commercial Motor Vehicles on p. 3-245. §§257.319d & 257.625a(4)

Refusal to Take Implied Consent Chemical Test:  
Criminal Sanction (Fine/Jail):  
Administrative Licensing Action  
(Susp/Rev):

**None**

1st refusal-6 mo susp Note: A restricted/hardship license may be issued. 2nd and subsequent refusals (w/n 7 yrs)-**1 yr susp** (mand) §§257.323c and 257.625f(1) & (4)

Other:

See "Other" under Pre-DWI Conviction Licensing Action on p. 3-244.

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:  
Imprisonment:  
Term (Day, Month, Years,  
Etc.):

See the Special Note below and Child Endangerment/Embryo/Miscarriages on p. 3-244.

1) Driving while visibly impaired: (1) 1st off (Misd)-Not more than **93 dys**; 2nd off (w/n 7 yrs) (Misd)-**5 dys to 1 yr**; 3rd or sub off (w/n 10 yrs) (felony)-**1 to 5 yrs<sup>2</sup>** §257.625(10)

2) Driving while under the influence/Illegal per se: 1st off (Misd)-Not more than **93 dys**; 2nd off (w/n 7 yrs) (Misd)-**5 dys to 1 yr**; 3rd and sub off (w/n 10 yrs) (felony)-**1 to 5 yrs<sup>2</sup>** §257.625(8)

<sup>1</sup>For offenses where a defendant may be sentenced to prison for more than 1 yr or where an offense is a felony, a victim has a right to submit a statement and have it made a part of the pre-sentence investigation report. §§780.763 & 780.764

<sup>2</sup>A person, who commits a 2nd felony offense, is subject to the provisions of the general criminal habitual offender law. Under this law, such an offender's imprisonment sanction may be enhanced by not more than 1½ times the longest term prescribed for a 1st felony off. §769.10(1)(a) & *People v. Bewersdorf*, 475 N.W.2d 231 (Mich. 1991)

**Special Note:** For the purpose of sanction enhancement, a "prior offense" includes a prior conviction for any drunk driving offense and for a previous conviction for either negligent homicide, manslaughter or murder related to any drunk driving offense. §257.625(23)

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Mandatory Minimum Term:	<p>3) <u>Any DWI offense</u> where there is a "serious impairment of a body function"<sup>1</sup>-Felony-not more than <b>5 yrs</b><sup>2</sup> §257.625(5)</p> <p>4) <u>Persons Under 21 Years Old. Any Bodily Alcohol Content-2nd or sub off</u> (w/n 7 yrs) (Misd)-<b>93 dys</b> §257.625(11)</p> <p>1) <u>Driving while visibly impaired: 1st off-None; 2nd off</u> (w/n 7 yrs)-<b>5 dys (w/48 con hrs)</b><sup>3</sup>; <u>3rd or sub off</u> (w/n 10 yrs)-<b>if probation is granted, 30 dys to 1 yr w/48 con hrs</b><sup>4</sup> §257.625(10)</p> <p>2) <u>Driving while under the influence/Illegal per se: 1st off-None; 2nd off</u> (w/n 7 yrs)-<b>5 dys (w/48 con hrs)</b><sup>3</sup>; <u>3rd or sub off</u> (w/n 10 yrs)-<b>if probation is granted, 30 dys to 1 yr w/48 con hrs</b><sup>4</sup> §257.625(8)</p> <p>3) <u>Any DWI offense</u> where there is a "serious impairment of a body function"-None</p> <p>4) <u>Persons Under 21 Years Old. Any Bodily Alcohol Content-None</u></p>
Fine: Amount (\$ Range):	<p>1) <u>Driving while visibly impaired-1st off</u>-Not more than <b>\$300</b>; <u>2nd off</u> (w/n 7 yrs)-<b>\$200 to \$1,000</b>; <u>3rd or sub off</u> (w/n 10 yrs)-<b>\$500 to \$5,000</b> §257.625(10)</p> <p>2) <u>Driving while under the influence/illegal per se: 1st off-\$100 to \$500; 2nd off</u> (w/n 7 yrs)-<b>\$200 to \$1,000</b>; <u>3rd or sub off</u> (w/n a 10-yrs)-<b>\$500 to \$5,000</b> §257.625(8)</p> <p>3) <u>Any DWI offense</u> where there is a "serious impairment of a body function"-<b>\$1,000 to \$5,000</b> §257.625(5)</p> <p>4) <u>Persons Under 21 Years Old. Any Bodily Alcohol Content-1st off</u>-Not more than <b>\$250</b>; <u>2nd and sub off</u> (w/n 7 yrs)<sup>1</sup>-Not more than <b>\$500</b> §257.625(11)</p>
Mandatory Min. Fine (\$):	<p>1) <u>Driving while visibly impaired-1st off-None; 2nd off</u> (w/n 7 yrs)-<b>\$200</b> (possible); <u>3rd or sub off</u> (w/n 10 yrs)-<b>\$500</b><sup>5</sup> (possible)</p> <p>2) <u>Driving while under the influence/illegal per se: 1st off-\$100</u> (possible)<sup>5</sup>; <u>2nd off-\$200</u> (possible)<sup>5</sup>; <u>3rd off-\$500</u> (possible)<sup>5</sup></p> <p>3) <u>Any DWI offense</u> where there is a "serious impairment of a body function"-None</p> <p>4) <u>Persons Under 21 Years Old. Any Bodily Alcohol Content-None</u></p>
Other Penalties: Community Service:	<p>1) <u>Driving while visibly impaired-1st off</u> (Misd)-Not more than <b>45 dys</b>; <u>2nd off</u> (w/n 7 yrs) (Misd)-<b>30 dys (mand) to 90 dys</b> in lieu of imprisonment; <u>3rd or sub off</u> (w/n 10 yrs) (felony)-<b>60 dys (mand) to 180 dys</b> (Provided probation is granted. This sanction is in addition to the mand 30 dy jail sentence.)<sup>6</sup> §257.625(10)</p>

<sup>1</sup>A "serious impairment of a body function" includes, but is not limited to, (1) the loss or use of a limb, eye, or ear, (2) loss or substantial impairment of a bodily function, (3) serious disfigurement, (4) a comatose state for more than 3 dys, (5) brain damage, (6) skull or other serious bone fracture or (7) subdural hemorrhage or hematoma. §257.625(5)

<sup>2</sup>A person, who commits a 2nd felony offense, is subject to the provisions of the general criminal habitual offender law. Under this law, such an offender's imprisonment sanction may be enhanced by not more than 1½ times the longest term prescribed for a 1st felony off. §769.10(1)(a) & *People v. Bewersdorf*, 475 N.W.2d 231 (Mich. 1991)

<sup>3</sup>The law appears to authorize a sentence of community service in addition to or in lieu of imprisonment. §257.625(8)(b) & (10)(b)

<sup>4</sup>This sanction appears mandatory. The law provides that a term of imprisonment for this offense cannot be suspended. I.e., an offender cannot be sentenced to community service in lieu of imprisonment. §257.625(8)(d) & (10)(d)

<sup>5</sup>See *Wayne City Prosecutor v. Wayne Circuit Judge*, 397 N.W.2d 274 (Mich.App. 1986).

<sup>6</sup>**Comment:** In cases where probation is granted for a 3rd or subsequent offense, the law does not appear to allow for the substitution of community service for the minimum mandatory term of imprisonment.

MICHIGAN

Sanctions Following a Conviction for a DWI Offense:  
(continued)

- 2) Driving while under the influence/illegal per se 1st off-Not more than **45 dys**; 2nd off-30 (mand) to 90 dys in lieu of imprisonment; 3rd or sub off-60 dys (mand) to 180 dys in addition to mand imprisonment (Provided probation is granted. This sanction is in addition to the mand 30 dy jail sentence.) See Footnote No. 6 on p. 3-243. §257.625(8)
- 3) Any DWI offense where there is a "serious impairment of a body function"-None
- 4) Persons Under 21 Years Old, Any Bodily Alcohol Content-1st off-Not more than **45 dys**; 2nd and sub off (w/n 7 yrs)-Not more than **60 dys** §257.625(11) See the Special Note on p. 3-242.

Restitution  
(eg Victim's Fund)  
Other:

**Yes<sup>1</sup>**  
**Assessments.** A person convicted of a crime must pay the following assessments. For a felony, the assessment is **\$60** and for a misdemeanor it is **\$50**. §780.905  
**Costs of Prosecution.** For any drunk driving offense listed above, an offender may be required to pay the costs of prosecution. §§257.625(12) & 769.1f(1)  
**EMS Costs.** For any drunk driving offense listed above, an offender may be required to pay the emergency response costs incurred by State or a local government as a result of such offense. §179.1f(1)

Administrative Licensing Actions:  
Pre-DWI Conviction Licensing Action:  
Administrative Per Se Law:  
Other:

**None**  
**Special Note:** Under §257.625g, if a driver either refuses to submit to a chemical test or if they submit to such test which indicates an "unlawful alcohol content"<sup>2</sup>, their license is confiscated and destroyed by the police. A temporary license is issued and is valid until the conclusion of the DWI criminal proceedings.

<sup>1</sup>The State has a victims' compensation fund and, in addition, provides for direct compensation to victims by the defendant via court ordered restitution. §§18.351 et seq., 771.3(2)(d) and Act 341, Public Acts of 1993

<sup>2</sup>An "unlawful alcohol content" means either (1) a person under 21 yrs old was operating motor vehicle with a BAC/BrAC/UrAC ≥0.02. (2) a person with a CDL was operating a CMV with a BAC/BrAC/UrAC ≥0.04 or (3) a person was operating any motor vehicle with a BAC/BrAC/UrAC ≥0.10. For standards, see Footnote No. 2 on p. 3-241. §257.625g(4)

**Child Endangerment/Embryo/Miscarriages.** I. For any regular drunk driving off while carrying a passenger <16 yrs old. 1st off (misd)-Jail-5 yrs (with either 48 con hrs (mand) in jail or 30 (mand) to 90 dys community service) to 1 yr; fine-\$200 to \$1,000; and, lic susp-180 dys (90 dys mand); sub off (w/n 7 yrs)(felony)-Imprisonment-1 to 5 yrs or, w/probation, 30 dys (48 con hrs mand) to 1 yr in jail and community service for 60 to 180 dys; fine-\$500 to \$5,000 §257.625(7)(a) II. For a violation of the 0.02 law by a person <21 yrs while carrying a passenger <16 yrs old: 1st off-Jail-Not more than 93 dys; community service-not more than 60 dys; fine-not more than \$500; and, lic susp-180 dys (90 dys mand); sub off (w/n 7 yrs of a prior off or w/n 10 yrs of 2 prior offs)-Jail 5 dys (48 con hrs mand) to 1 yr; community service for 30 to 90 dys; fine-\$200 to \$1,000 §257.625(7)(b) III. For violations under I or II, either vehicle **forfeiture** or **immobilization** as if the offense was a drunk driving offense. See Vehicle Impoundment/Confiscation on p. 3-246 for further details. §§257.319(8)(e) & 257.625(7) IV. A person commits a felony if they cause great bodily harm or serious or aggravated injury to an **embryo or fetus** while driving under the influence of alcohol/drugs or illegal per se. The sanctions for this offense are an imprisonment term of not more than 5 yrs and/or a fine of \$1,000 to \$5,000. §750.90d(b) V. A person commits a felony if they cause a **miscarriage or stillbirth** while driving under the influence of alcohol/drugs or illegal per se. The sanctions for this offense are an imprisonment term of not more than 15 yrs and/or a fine of \$2,500 to \$10,000. §750.90d(a) VI. For IV and V, there may be a minimum jail sentence via the State's Sentencing Guidelines under Chapter 777.

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Post DWI Conviction Licensing Action:  
Type of Licensing Action  
(Susp/Rev):

See Footnote No. 1 below and Child Endangerment/Embryo or Fetus p. 3-244.

1) Driving while visibly impaired: 1st off-Susp; 2nd off (w/n 7 yrs)-Rev; 3rd off (w/n 10 yrs)-Rev

2) Driving while under the influence/illegal per se: 1st off-Susp; 2nd off (w/n 7 yrs)-Rev; 3rd off (w/n 10 yrs)-Rev

3) Any DWI offense where there is a "serious impairment of a body function"-Rev

4) Persons Under 21 Years Old. Any Bodily Alcohol Content-1st off-Susp; a violation of this prohibition where there has been 2 violations of any other drunk driving law provision-Rev; in addition, for any offense where there has been a prior rev w/n 7 yrs-Rev

Citations for the above actions: §§257.303(2) & (4) and 257.319(8)

Term of License Withdrawal  
(Days, Months, Years, etc.):

1) Driving while visibly impaired: 1st off-90 dys (If the offense involved driving while impaired by a controlled substance or a controlled substance and alcohol-180 dys); 2nd off- not less than 1 yr; any subsequent offense where there has been a prior rev w/n 7 yrs-not less than 5 yrs §§257.303(2) & (4) and 257.319(8)

2) Driving while under the influence/illegal per se: 1st off-180 dys; 2nd off-not less than 1 yr; sub off where there has been a prior rev w/n 7 yrs-not less than 5 yrs §§257.303(2) & (4) and 257.319(8)

3) Any DWI offense where there is a "serious impairment of a body function"-1st off-not less than 1 yr; any subsequent offense where there has been a prior rev w/n 7 yrs-not less than 5 yrs §§257.303(2) & (4)

4) Persons Under 21 Years Old. Any Bodily Alcohol Content-1st off-30; sub off (w/n 7 yrs)-90 dys; a violation of this prohibition where there has been 2 violations of any other drunk driving law provision-not less than 1 yr; for any offense where there has been a prior rev w/n 7 yrs-not less than 5 yrs §§257.303(2) & (4) and 257.319(8)

<sup>1</sup>Licensing action under the point system. Vehicle manslaughter or driving while under the influence/illegal per se-6 points. Driving while impaired-4 points. Twelve (12) points in two (2) years may result in suspension/revocation. A susp cannot be longer than one (1) year. §§257.320(1)(d), (2) & (4) and 257.320a(1)(a), (b) & (f)

**DWI Offenses and Commercial Motor Vehicles (CMV)/Commercial Driver's Licenses (CDL):** A person's privilege to operate a CMV is suspended for 1 yr (mand) (3 yrs (mand) if transporting hazardous materials) if, while driving a CMV, they (1) have violated the law that prohibits CMV operation with a BAC/BrAC/UrAC  $\geq 0.04$ , (2) have violated the provisions of the drunk driving law (§257.625(1), (3), (4), (5), (6) or (7)) or (3) have refused to submit to a chemical test for alcohol concentration or the presence of controlled substances. For either (1) a subsequent violation or (2) a combination of two or more violations of any of the above listed items, a revocation for not less than 10 yrs (10 yrs mand). Under §257.625m, a person, who operates a CMV with a BAC/BrAC/UrAC  $\geq 0.04$  but  $< 0.07$ , commits a criminal offense: 1st off (Misd)-Jail-Not more than 93 days and/or fine of not more than \$300 and license susp for 90 dys (a restricted license is available for all of this period); 2nd off (w/n 7 yrs) (Misd)-Imprisonment for not more than 1 yr and/or a fine of not more than \$1,000 and license rev for 1 yr (mand); and, 3rd off (w/n 10 yrs) (felony)-Imprisonment to 5 yrs or probation w/county jail from 30 dys to 1 yr (w/48 con hrs) with 60 to 180 dys of community (the minimum imprisonment and/or community service are mand) and/or a fine of \$500 to \$5,000 and license rev for 5 yrs (mand). In addition, a CMV operator who has a BAC/BrAC/UrAC  $\geq 0.015$  must be placed "out-of-service" for 24 hours. Finally, it is a misdemeanor for a person to refuse to submit to a preliminary breath test (PBT) while operating a CMV; the sanctions for this offense are imprisonment for not more than 93 dys and/or a fine of not more than \$100. Note: The standards for BAC, BrAC and UrAC are respectively as follows: Grams of alc. per 100 milliliters of blood, grams of alc. per 210 liters of breath or grams of alc. per 67 milliliters of urine. §§257.1c, 257.4b, 257.7a, 257.303(2) & (4), 257.312e, 257.319(8)(f), 257.319b, 257.319d, 257.625a(5) and 257.625m See II under **Special Vehicle Sanctions** on p. 3-246.

MICHIGAN

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Mandatory Minimum Term of  
Withdrawal:

1) Driving while visibly impaired: 1st off-None (A restricted/hardship license may be issued.); 2nd off-1 yr; any subsequent offense where there has been a prior rev w/n 7 yrs-5 yrs) §§257.303(2) & (4) and 257.319(8) -

2) Driving while under the influence/illegal per se: 1st off-30 dys (A restricted hardship license may be issued after this period of time.); 2nd off-1 yr; any subsequent offense where there has been a prior rev w/n 7 yrs-5 yrs

3) Any DWI offense where there is a "serious impairment of a body function"-1st off-1 yr; any subsequent offense where there has been a prior rev w/n 7 yrs-5 yrs §§ 257.303(2) & (4)

4) Persons Under 21 Years Old. Any Bodily Alcohol Content-1st off-None (A person is eligible for restricted driving privileges.); a violation of this prohibition where there has been 2 violations of any other drunk driving law provision-1 yr; for any offense where there has been a prior rev w/n 7 yrs-5 yrs §§257.303(2) & (4) and 257.319(8)

**Ignition Interlock.** A person, who has had their license revoked for any drunk driving offense, may, after the mand rev period, be issued a restricted license instead of full driving privileges. If a restricted license is issued, the driver is limited to operating motor vehicles that are equipped with an "ignition interlock" device. The initial period for the use of such device is 1 yr. §257.322(6), (7), (8) & (9)

Other:

Rehabilitation:

Alcohol Education:

Alcohol Treatment:

Vehicle Impoundment/Confiscation:

Authorized by Specific

Statutory Authority:

Yes §257.625b(5)

Yes §257.625b(5)

Important. See **Special Vehicle Sanctions** below.

Driving While Impaired, Driving While Under the Influence or illegal Per Se: 2nd or sub off-**Forfeiture** (discretionary) §257.625(8) & (10) and 257.625n

Terms Upon Which Vehicle

Will Be Released:

Other:

**Special Vehicle Sanctions.** Driving While Impaired, Driving While Under the Influence, Illegal Per Se, Death or Injury Drunk Driving Offense or Under Age 21 Drunk Driving Off (driving w/ any alcoholic bodily content): 1st off-**Immobilization**-Not more than 180 dys (discretionary/mand if death or serious injury offenses); 2nd off (w/n 7 yrs)-**Immobilization** (Note: If the veh is not forfeited for the above offs, this sanction applies.)-90 (mand) to 180 dys; 3rd or sub off (w/n 10 yrs)-**Immobilization** (Note: If the veh is not forfeited for above offs, this sanction applies.)-1 yr (mand) to 3 yrs §§257.625(8) & (10) and 257.904d **Special Note:** This sanction does not apply to rental vehicles or to vehicles that are registered in another State. §257.904d(7)(c) II. Driving While Impaired, Driving While Under the Influence, Illegal Per Se, Under Age 21 Offense Drunk Driving Off (driving w/ any alcoholic bodily content) or A Violation of §257.625m by a CMV Operator: 3rd or sub off-Where the offender's license is still suspended or revoked for these offenses-They shall be denied the right to either register a vehicle or to purchase, lease or otherwise acquire a motor vehicle. §257.219(1)(d) & 257.233(6) III. A defendant, who is subject to vehicle immobilization, cannot purchase, lease or otherwise obtain a motor vehicle during the period of immobilization. §257.904e IV. When a law enforcement officer has detained a person for an offense which requires vehicle immobilization, the officer must (1) confiscate the vehicle's license plate and destroy it and (2) issue a temporary plate. The temporary plate is valid until either the charges are dismissed, there is a guilty or *nolo contendere* plea or there is a finding of guilt. §257.904c

Sanctions Following a Conviction for a DWI Offense:  
(continued)

Miscellaneous Sanctions  
Not Included Elsewhere:

See **Sentencing Guidelines** below.

Other Criminal Actions Related to DWI:

Homicide by Vehicle:  
State Has Such a Law:

See **Special Vehicle Sanctions** on p. 3-246 for DWI related death..  
**Yes Felony Any DWI offense related death §257.625(4)<sup>1</sup>**  
**Misd Negligent Homicide-Driving at an immoderate rate of speed, in a careless, reckless or negligent manner but not wilfully or wantonly. §750.324**

Sanctions:  
Criminal Sanction:  
Imprisonment (Term):

See Assessments on p. 3-244.  
**Felony-Not more than 15 yrs<sup>2</sup> §257.625(4) Misd-Not more than 2 yrs §750.324**  
See **Sentencing Guidelines** below.

Mandatory Minimum Term:  
Fine (\$ Range):

**Felony-\$2,500 to \$10,000 §257.625(4) Misd-Not more than \$2,000 §750.324**

Mandatory Minimum Fine:  
Administrative Licensing Action:  
Licensing Authorized and  
Type of Action:  
Length of Term of  
Licensing Withdrawal:

**None**  
**Rev §257.303(2)(b), (f) & (e)**  
**1st off-Not less than 1 yr; 2nd or sub. off (w/n 7 yrs)-Not less than 5 yrs**  
**§§257.303(4)(a)(i) & (ii)**

Mandatory Action--Minimum  
Length of License  
Withdrawal:

**1st off-1 yr; 2nd or sub. off (w/n 7 yrs)-5 yrs** §§257.303(4)(a)(i) & (ii)

Driving While License Suspended or Revoked  
Where the Basis Was a DWI Offense\*:

See Footnote No. 3 below and Footnote No. 1 on p. 3-243.

Sanction:  
Criminal:  
Imprisonment (Term):

I. **1st off (Misd)-Not more than 93 dys; 2nd and sub offs (Misd)-Not more than 1 yr §257.904(1) & (3)**

<sup>1</sup>The Michigan Supreme Court has held that §257.625(4) is constitutional. *People v. Lardie*, 551 N.W.2d 656 (Mich. 1996)  
<sup>2</sup>The imprisonment term is for not more than 20 yrs if the homicide resulted in the death of either a law enforcement officer, firefighter or EMS personnel. §257.625(4)  
<sup>3</sup>A person, who operates a CMV while their CDL privilege is suspended, is subject to the sanctions given above for the offense of driving while suspended or revoked. §257.904 A person, who operates a CMV while under a CDL out-of-service order, commits a misd offense and is subject to an imprisonment term of not more than 90 dys and/or a fine of not more than \$100. §257.319d

\*There is no specific statutory provision on this subject. The sanctions given are for the general offense of operating a motor vehicle while driving privileges are either suspended or revoked.

**Sentencing Guidelines.** The State's sentencing guidelines, Chapter 777, also provide minimum incarceration sanctions for the following driving offenses: (1) Driving while under the influence/illegal per se either (a) causing death/serious injury, (b) with a minor or (c) for a 3rd offense; (2) impaired driving for a 3rd offense; (3) driving without a license causing death/serious injury; (4) driving while under the influence/illegal per se causing either a miscarriage/stillbirth or aggravated injury to embryo/fetus; and, (5) negligent vehicle homicide. These minimum sanctions are based on (1) the seriousness of the offense, (2) the blood alcohol level at the time of the offense and/or (3) the number of prior criminal offenses (felonies/misdemeanors). However, these sanctions do not replace the mandatory ones found in other provisions of the law.

MICHIGAN

Other Criminal Actions Related to DWI: (continued)\

Mandatory Minimum Term of Imprisonment:	II. If the offense resulted in <b>death</b> of another person (felony)-Not more than <b>15 yrs</b> §257.904(4)
Fine (\$ Range):	III. If the offense resulted in <b>serious impairment of a body function</b> (felony)-Not more than <b>5 yrs</b> §257.904(5)
Mandatory Minimum Fine:	See <b>Sentencing Guidelines</b> on p. 3-247. I. <u>1st off</u> -Not more than <b>\$500</b> ; <u>2nd and sub offs</u> -Not more than <b>\$1,000</b> §257.904(1) & (3) II. If the offense resulted in <b>death</b> of another person (felony)- <b>\$2,500 to \$10,000</b> §257.904(4) III. If the offense resulted in <b>serious impairment of a body function</b> - <b>\$1,000 to \$5,000</b> §257.904(5) See Assessments on p. 3-244. I. <b>None</b> II. If the offense resulted in <b>death</b> of another person (felony)- <b>\$2,500</b> (appears to be mand) §257.904(4) III. If the offense resulted in <b>serious impairment of a body function</b> - <b>\$1,000</b> (appears to be mand) §257.904(5)
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	For <u>all</u> of the above offenses-Susp or rev <sup>1</sup> §257.904(10)
Length of Term of License Withdrawal Action:	The original license susp or rev is extended for a like period.
Mandatory Term of License Withdrawal Action:	The original license susp or rev is extended a like period.
Other:	See <b>Other Sanctions</b> below.
<u>Habitual Traffic Offender Law:</u>	
State Has Such a Law (Yes/No):	No
Grounds for Being Declared an Habitual Offender:	
Term of License Rev While Under Habitual Offender Status:	
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	
Mandatory Minimum Term of Imprisonment:	
Fine (\$ Range):	
Mandatory Minimum Fine (\$):	
Licensing Actions (Specify):	

<sup>1</sup>For a 1st or subsequent offense, the registration plates of the vehicle involved in the offense shall also be "cancelled". §257.904(3)(a) & (b) Also, vehicle impoundment for not more than 120 dys. §257.904b

**Other Sanctions.** I. For a prior off (w/n 7 yrs), vehicle **immobilization** for not more than 180 dys. For 2 or 3 prior offs (w/n 7 yrs), vehicle **immobilization** from 90 to 180 dys (90 dys mand). For 4 or more prior offs (w/n 7 yrs), vehicle **immobilization** from 1 to 3 yrs (1 yr mand). In addition, for any offenses related to either **death** or **serious impairment of a body function**, either vehicle **forfeiture** or **immobilization** for 180 dys (mand). §§257.904(6) & 257.904d(2)  
II. 4th or sub off-While license is in sup/rev status, no right to register a motor vehicle. §259.219.(1)(d)  
III. 4th or sub off-While license is in sup/rev status, no right to purchase, lease or otherwise acquire a motor vehicle. §259.233(d)



Other State Laws Related To Alcohol Use:Laws Requiring BAC Chemical Tests on Persons Killed in TrafficAccidents:

State Has Such a Law (Yes/No):	Yes §257.625a(6)(f)
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes §257.625a(6)(f)
Vehicle Passengers:	No
Pedestrian:	No

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	21 (Year Eff: 1978) §§436.1701(1), 436.1703(1) & 436.1801(2)
Minimum Age (Years) Possession:	21 Employment exemption §436.1703(9)
Minimum Age (Years) Consumption:	21 <sup>1</sup> There is an exemption for religious services. §436.1703(10)

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No):	Yes §436.1801(3) & (10) <sup>2</sup>
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation):	The Dram Shop Law is the exclusive remedy against licensees. §436.1801(10)  Case Law abrogated by the Dram Shop Law <sup>2</sup>
Dram Shop Actions-Social Hosts:	<b>Yes Limited to minors' actions</b> <i>Longstreth v. Gensel</i> , 377 N.W.2d 804 (Mich. 1985), <i>Traylor v. Kopsky</i> , 384 N.W.2d 819 (Mich. App. 1986), & <i>Gardner v. Wood</i> , 414 N.W.2d 706 (Mich. 1987) <sup>3,4,5&amp;6</sup>
Other:	A patron, including a minor patron, (or a relation) cannot maintain an action for damages against a licensee as a consequence of such patron's intoxication. §436.1801(9) and <i>Madejski v. Lotmar Limited</i> , 633 N.W.2d 429 (Mich.App. 2001)

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action:	Misd §§436.1707, 436.1801(2), 436.1901 & 436.1909
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<sup>1</sup>A person <21 yrs old may consume an alcoholic beverages as part of a course at a post secondary educational institution. Also, such a person may purchase, possess or consume alcoholic beverages when participating in law enforcement operations designed to enforce the alcoholic beverage control law's provisions related to minors. §436.1703(9) & (11)

<sup>2</sup>The law applies (1) to damages/injuries caused by visibly intoxicated persons or those under 21 years old and (2) only to retail licensees not wholesalers. *Tennille v. Action Distributing*, 570 N.W.2d 130 (Mich.App. 1997) For abrogated common law cases, see *Jones v. Bourrie*, 120 N.W.2d 236 (Mich. 1963), & *Longstreth v. Fitzgibbon*, 335 N.W.2d 677 (Mich. App. 1983).

<sup>3</sup>Nevertheless, a social host is not liable for the injures caused intoxicated minor guests who commit criminal acts. The court felt that there so no "foreseeability" that such minors would commit a crime and distinguished the *Longstreth* case which involved injures related to the use of motor vehicles by intoxicated minor guests. *Rogalski v. Tavernier*, 527 N.W.2d 73 (Mich.App. 1995)

<sup>4</sup>However, the courts have found no liability to business social hosts who have furnished alcoholic beverages to injury causing adult business guests. *Leszczynski v. Johnson*, 399 N.W.2d 70 (Mich.App. 1986), *Millross v. Plum Hollow Golf Club*, 413 N.W.2d 17 (Mich. 1987), & *Kuehn v. Edward Rose & Sons*, 472 N.W.2d 59 (Mich.App. 1991)

<sup>5</sup>A law enforcement officer, who was injured by an intoxicated person while on duty, cannot maintain a dram shop action against the licensee who served alcoholic beverages to the person. *McCaw v. T&L Operations, Inc.*, 550 N.W.2d 852 (Mich.App. 1996)

<sup>6</sup>The "impairment defense" cannot be used in a social host dram shop case. *Piccolo v. Nix*, 630 N.W.2d 900 (Mich.App. 2001)