

CODIFIED ORDINANCES OF PERRY

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CHAPTER 410
Uniform Traffic Code

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CROSS REFERENCES

Traffic rules and regulations in home rule cities - see M.C.L.A. Sec. 117.4h

Traffic rules and regulations generally - see M.C.L.A. Secs. 257.601 et seq., 257.634 et seq.

Uniform Traffic Code - see M.C.L.A. Secs. 257.951 et seq.

Traffic Violations Bureau - see TRAF. Ch. 412

Operation generally - see TRAF. Ch. 468

Operation on school property - see TRAF. Ch. 472

Junk vehicles - see GEN. OFF. 678.04

410.01 ADOPTION BY REFERENCE.

The Uniform Traffic Code for Cities, Townships and Villages promulgated by the Director of State Police and published in the 1979 edition of the Michigan Administrative Code, and amendments as published in Quarterly Supplement No. 5 to the 1979 edition of the Michigan Administrative Code, in accordance with Act 62 of the Public Acts of 1956, as amended (M.C.L.A. 257.951 to 257.954, as amended), is hereby adopted by reference, save and except such portions as may be hereinafter amended or deleted.

(Ord. 173. Passed 7-7-81.)

410.02 DEFINITIONS.

References in the Uniform Traffic Code for Michigan Cities, Townships and Villages to "governmental unit" shall mean the City.

(Ord. 185. Passed 5-3-83.)

410.03 AMENDMENTS.

The following sections and subsections of the Uniform Traffic Code for Cities, Townships and Villages are hereby amended or deleted as set forth and additional sections and subsections are added as indicated.

Sec. 2.5a. Abandoned vehicle procedures. (Amended)

(1) As used in this section, "abandoned vehicle" means a vehicle which has remained on public property or private property for a period of 48 hours after a police agency or other governmental agency designated by the police agency has affixed a written notice to the vehicle.

(2) If a vehicle has remained on public or private property for a period of time so that it appears to the police agency to be abandoned, the police agency shall do all of the following:

(a) Determine if the vehicle has been reported stolen;
(b) Affix a written notice to the vehicle. The written notice shall contain the following information:

(i) The date and time the notice was affixed.
(ii) The name and address of the police agency taking the action.
(iii) The name and badge number of the police officer affixing the notice.
(iv) The date and time the vehicle may be taken into custody and stored, at the owner's expense, or scrapped if the vehicle is not removed.

(v) The year, make and vehicle identification number of the vehicle, if available.

(3) If the vehicle is not removed within 48 hours after the date the notice was affixed, the vehicle is deemed abandoned and the police agency may have the vehicle taken into custody.

(4) A police agency which has a vehicle taken into custody shall do all of the following:

(a) Recheck to determine if the vehicle has been reported stolen;
(b) Within 24 hours after taking the vehicle into custody, enter the vehicle as abandoned into the law enforcement information network;

(c) Within 7 days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first-class mail or personal service, notice that the vehicle has been deemed abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:

(i) The year, make and vehicle identification number of the vehicle, if available;

- (ii) The location from which the vehicle was taken into custody;
- (iii) The date on which the vehicle was taken into custody;
- (iv) The name and address of the police agency which had the vehicle taken into custody;
- (v) The business address of the custodian of the vehicle;
- (vi) The procedure to redeem the vehicle;
- (vii) The procedure to contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees;
- (viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action;
- (ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or to the proceeds of the sale.

(5) The registered owner may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing thereon. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting with the court the towing and storage bond in an amount equal to the accrued towing and storage fees. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner for the accrued towing and storage fees.

(6) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(7) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle and the police agency for its accrued costs.

(8) Not less than 20 days after the disposition of the hearing described in subsection (5) hereof, or, if a hearing is not requested, not less than 20 days after the date of the notice, the police agency shall offer the vehicle for sale at a public sale pursuant to section 2.5g.

(9) If the ownership of a vehicle which has been deemed abandoned under this section cannot be determined, either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at a public sale, pursuant to section 2.5g, not less than 30 days after public notice of the sale has been published.

Sec. 2.5b. Abandoned scrap vehicle procedures. (Added)

(1) As used in this section:

(a) "Registered abandoned scrap vehicle" means a vehicle which meets all of the following requirements:

(i) Is on public or private property;

(ii) Is seven or more years old;

(iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe, as required by section 5.71, would exceed the fair market value of that vehicle;

(iv) Is currently registered in the state or displays current year registration plates from another state;

(v) Is not removed within 48 hours after a written notice as described in section 2.5a(2)(b) is affixed to the vehicle.

(b) "Unregistered abandoned scrap vehicle" means a vehicle which meets all of the following requirements:

(i) Is on public or private property;

(ii) Is 7 or more years old;

(iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe, as required by section 5.71, would exceed the fair market value of that vehicle;

(iv) Is not currently registered in this state and does not display current year registration plates from another state;

(v) Is not removed within 48 hours after a written notice as described in section 2.5a(2)(b) is affixed to the vehicle.

(2) A police agency may have an unregistered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:

(a) Determine if the vehicle has been reported stolen;

(b) Take 2 photographs of the vehicle;

(c) Make a report to substantiate the fact that the vehicle is an unregistered abandoned scrap vehicle. The report shall contain the following information:

(i) The year, make and vehicle identification number, if available;
(ii) The date of abandonment;
(iii) The location of abandonment;
(iv) A detailed listing of the damage or the missing equipment;
(v) The reporting officer's name and title;
(vi) The location where the vehicle is being held.
(d) Within 24 hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.

(3) Within 24 hours, excluding Saturdays, Sundays and legal holidays, after taking the vehicle into custody, the police agency shall complete a release form and release the vehicle to the towing service or to a used vehicle parts dealer or vehicle scrap metal processor, who or which shall then transmit that release form to the secretary of state and apply for a certificate of title or a certificate of scrapping. Upon receipt of the release form and application, the secretary of state shall issue a certificate of title or a certificate of scrapping.

(4) The release form described in subsection (3) hereof shall be furnished by the secretary of state and shall include a certification executed by the applicable police agency when the abandoned scrap vehicle is released. The certification shall state that the police agency has complied with all the requirements of paragraphs (2)(b) and (c) hereof.

(5) The secretary of state shall retain the records relating to an abandoned scrap vehicle for not less than 2 years. The 2 photographs taken pursuant to paragraph (2)(b) hereof shall be retained by the police agency for not less than 2 years. After the certification of scrapping has been issued, a certificate of title for the vehicle shall not be issued again.

(6) A police agency may have a registered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:

- (a) Determine if the vehicle has been stolen.
- (b) Take 2 photographs of the vehicle;
- (c) Make a report to substantiate the vehicle as a registered abandoned scrap vehicle. The report shall contain the following information:
 - (i) The year, make and vehicle identification number, if available.
 - (ii) The date of abandonment.
 - (iii) The location of abandonment.
 - (iv) A detailed listing of the damage or the missing equipment.
 - (v) The reporting officer's name and title.
 - (vi) The location where the vehicle is being held.

(d) Within 24 hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.

(e) Within 7 days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first-class mail or personal service, notice that the vehicle has been deemed abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:

- (i) The year, make and vehicle identification number of the vehicle, if available.
- (ii) The location from which the vehicle was taken into custody.
- (iii) The date on which the vehicle was taken into custody.
- (iv) The name and address of the police agency which had the vehicle taken into custody.
- (v) The business address of the custodian of the vehicle.
- (vi) The procedure to redeem the vehicle.
- (vii) The procedure to contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees.
- (viii) A form petition which the owner may file in person or by mail with the specified court, which petition requests a hearing on the police agency's action.
- (ix) A warning that failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the termination of all rights of the owner and the secured party to the vehicle.

(7) The registered owner of a registered abandoned scrap vehicle may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing thereon. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the court in an amount as determined by the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(8) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(9) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(10) Not less than 20 days after the disposition of the hearing described in subsection (7) hereof, or, if a hearing is not requested, not less than 20 days after the date of the notice described in paragraph 6(e) hereof, the police agency shall follow the procedures established in subsections (3) to (5) hereof.

Sec. 2.5c. Vehicle removed from private property. (Added)

(1) When a vehicle is removed from private property at the direction of a person other than the registered owner of the vehicle or a police agency, the custodian of the vehicle shall immediately notify the police agency from whose jurisdiction the vehicle was towed. The custodian shall supply that information which is necessary for the police agency to enter the vehicle into the law enforcement information network.

(2) Upon receipt of the notification described in subsection (1) hereof, the police agency shall immediately do all of the following:

- (a) Determine if the vehicle has been reported stolen;
- (b) Enter the vehicle into the law enforcement information network.

(3) The owner of the vehicle removed as described in subsection (1) hereof may obtain release of the vehicle by paying the accrued towing and storage fees to the custodian of the vehicle. Upon release of the vehicle, the custodian shall notify the police agency of the disposition of the vehicle.

(4) If the vehicle described in subsection (1) hereof is not claimed by the owner within 7 days after the police agency has been notified by the custodian that it has been taken into custody, the vehicle is deemed abandoned and the procedures prescribed in section 2.5a(4)(c) to (9) shall apply.

Sec. 2.5d. Vehicle removed by police. (Added)

(1) A police agency or a governmental agency designated by the police agency may provide for the immediate removal of a vehicle from public or private property to a place for safekeeping, at the expense of the registered owner of the vehicle, in any of the following circumstances:

(a) If the vehicle is in such a condition that the continued operation of the vehicle upon the highway would constitute an immediate hazard to the public.

(b) If the vehicle is parked or standing upon the highway in such a manner as to create an immediate public hazard or an obstruction of traffic.

(c) If a vehicle is parked in a posted tow away zone.

(d) If there is reasonable cause to believe that the vehicle or any part of the vehicle is stolen.

(e) If the vehicle must be seized to preserve evidence of a crime, or when there is a reasonable cause to believe that the vehicle was used in the commission of a crime.

(f) If removal is necessary in the interest of public safety because of fire, flood, storm, snow, natural or man-made disaster or other emergency.

(g) If the vehicle is hampering the use of private property by the owner or person in charge of that property or is parked in a manner which impedes the movement of another vehicle.

(2) A police agency which authorizes the removal of a vehicle under subsection (1) hereof shall do all of the following:

(a) Check to determine if the vehicle has been reported stolen.

(b) Within 24 hours after removing the vehicle, enter the vehicle into the law enforcement information network if the vehicle has not been redeemed. This paragraph does not apply to a vehicle that is removed from the scene of a motor vehicle traffic accident.

(c) If the vehicle has not been redeemed within 10 days after moving the vehicle, send to the registered owner and the secured party, as shown by the records of the secretary of state, by first-class mail or personal service, a notice that the vehicle has been removed. However, if the police agency informs the owner or operator of the vehicle of the removal and the location of the vehicle within 24 hours after the removal, and if the vehicle has not been redeemed within 30 days and upon complaint from the towing service, the police agency shall send the notice within 30 days after the removal. The notice shall be on a form furnished by the secretary of state. The notice form shall contain the following information:

(i) The year, make and vehicle identification number of the vehicle, if available.

(ii) The location from which the vehicle was taken into custody.

(iii) The date on which the vehicle was taken into custody.

(iv) The name and address of the police agency which had the vehicle taken into custody.

(v) The location where the vehicle is being held.

(vi) The procedure to redeem the vehicle.

(vii) The procedure to contest the fact that the vehicle was properly removed or the reasonableness of the towing and daily storage fees.

(viii) A form petition which the owner may file in person or by mail with the specified court, which petition requests a hearing on the police agency's action.

(ix) A warning that failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or to the proceeds of the sale, or to both the vehicle and the proceeds.

(3) The registered owner may contest the fact that the vehicle was properly removed or the reasonableness of the towing fees and daily storage fees by requesting a hearing thereon. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain the release of the vehicle by posting a towing and storage bond with the court in an amount equal to the accrued towing and storage fees. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly removed, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(4) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(5) If the owner does not redeem the vehicle or request a hearing within 20 days, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle prior to the date of the sale.

(6) Not less than 20 days after the disposition of the hearing described in subsection (3) hereof, or, if a hearing is not requested, not less than 20 days after the date of the notice described in paragraph (2)(c) hereof, the police agency shall offer the vehicle for sale at a public sale, unless the vehicle is redeemed. The public sale shall be held pursuant to section 2.5g.

(7) If the ownership of the vehicle which has been removed under this section cannot be determined, either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at a public sale, pursuant to section 2.5g, not less than 30 days after public notice of the sale has been published.

Sec. 2.5e. Abandoned vehicle; jurisdiction of court. (Added)

(1) The district court, a municipal court or the Common Pleas Court of the City of Detroit shall have jurisdiction to determine if a police agency has acted properly in processing a vehicle under sections 2.5a, 2.5b(6) to (10), 2.5c and 2.5d.

(2) The court specified in the notice prescribed in section 2.5a(4)(c), 2.5b(6), 2.5c(4) or 2.5d(2)(c) shall be the court which has territorial jurisdiction at the location from where the vehicle was removed or deemed abandoned. Venue in the district court shall be governed by section 8312 of Act 236 of the Public Acts of 1961, as amended, being M.C.L.A. 600.8312.

(3) If the owner fails to pay the accrued towing and storage fees, the towing and storage bond posted with the court to secure the release of the vehicle under section 2.5a, 2.5b, 2.5c or 2.5d shall be used to pay the towing and storage fees.

Sec. 2.5f. Abandoned vehicle; duties of court. (Added)

(1) Upon receipt of a petition prescribed in section 2.5a, 2.5b, 2.5c or 2.5d, signed by the owner of the vehicle which has been taken into custody, the court shall do both of the following:

(a) Schedule a hearing within 30 days for the purpose of determining whether or not the police agency acted properly.

(b) Notify the owner and the police agency of the time and place of the hearing.

(2) At the hearing specified in subsection (1) hereof, the police agency shall have the burden of showing, by a preponderance of the evidence, that it has complied with the requirements of this act in processing the abandoned vehicle or the vehicle removed pursuant to section 2.5d.

(3) After the hearing, the court shall make a decision which shall include 1 or more of the following:

(a) A finding that the police agency complied with the procedures established for the processing of an abandoned vehicle or a vehicle removed under section 2.5d, and an order providing for a period of 20 days after the decision for the owner to redeem the vehicle. If the owner does not redeem the vehicle within 20 days, the police agency shall dispose of the vehicle pursuant to section 2.5b or 2.5g.

(b) A finding that the police agency did not comply with the procedures established for the processing of an abandoned vehicle or a vehicle removed pursuant to section 2.5d. After making such a finding, the court shall issue an order directing that the vehicle be immediately released to the owner and that the police agency is responsible for the accrued towing and storage charges.

(c) A finding that the towing and daily storage fees were reasonable.

(d) A finding that the towing and daily storage fees were unreasonable and issue an order directing an appropriate reduction.

Sec. 2.5g. Abandoned vehicle; public sale. (Added)

(1) A public sale for a vehicle which has been deemed abandoned under section 2.5a or 2.5c or removed under section 2.5d shall be conducted in the following manner:

(a) It shall be under the control of the police agency or agent of the police agency.

(b) It shall be open to the public and consist of open auction bidding or bidding by sealed bids. If sealed bids are received, the person submitting the bid shall receive a receipt for the bid from the police agency or agent of the police agency.

(c) Except as provided by sections 2.5a(9) and 2.5d(7), the sale shall be held not less than 5 days after public notice of the sale has been published.

(d) The public notice shall be published at least once in a newspaper having a general circulation within the County. The public notice shall give a description of the vehicle for sale and shall state the time, date and location of the sale.

(2) The money received from the public sale of the vehicle shall be applied in the following order of priority:

(a) Towing and storage charges.

(b) Expenses incurred by the police agency.

(c) To the secured party, if any, in the amount of the debt outstanding on the vehicle.

(d) Remainder to the owner. A reasonable attempt shall be made to mail the remainder to the registered owner. If delivery of the remainder cannot be accomplished, the remainder shall become the property of the unit of government that the police agency represents.

(3) If there are no bidders on the vehicle, the police agency may do 1 of the following:

(a) Turn the vehicle over to the towing firm to satisfy charges against the vehicle;

- (b) Obtain title to the vehicle for the police agency, or the unit of government the police agency represents, by doing the following:
- (i) Paying the towing and storage charges.
 - (ii) Applying for title to the vehicle.
 - (c) Hold another public sale pursuant to subsection (1) hereof.
- (4) A person who acquires ownership of a vehicle under subsection (1) or (3) hereof, which vehicle has been designated as a distressed vehicle, shall make application for a salvage certificate of title within 15 days after obtaining the vehicle.
- (5) Upon disposition of the vehicle, the police agency shall cancel the entry into the law enforcement information network.

Sec. 5.15 Operating under the influence of liquor (O.U.I.L.). (Amended)

- (1) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this City if either of the following applies:
- (a) The person is under the influence of intoxicating liquor, a controlled substance, or a combination of intoxicating liquor and a controlled substance.
 - (b) The person has an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- (2) The owner of a vehicle or a person in charge or in control of a vehicle shall not authorize or knowingly permit the vehicle to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within this City by a person who is under the influence of intoxicating liquor, a controlled substance or a combination of intoxicating liquor and a controlled substance, who has an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or whose ability to operate the motor vehicle is visibly impaired due to the consumption of intoxicating liquor, a controlled substance, or a combination of intoxicating liquor and a controlled substance.
- (3) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this City when, due to the consumption of intoxicating liquor, a controlled substance, or a combination of intoxicating liquor and a controlled substance, the person's ability to operate the vehicle is visibly impaired. If a person is charged with violating subsection (1), a finding of guilty under this subsection may be rendered.

- (4) A person who is less than 21 years of age, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this City if the person has any bodily alcohol content. As used in this subsection "any bodily alcohol content" means either of the following:
- (a) An alcohol content of not less than 0.02 grams or more than 0.07 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
 - (b) Any 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.
- (5) A person, whether licensed or not, shall not operate a vehicle in violation of subsection (4) while another person who is less than 16 years of age is occupying the vehicle. A person who violates this subdivision is guilty of a misdemeanor punishable as follows:
- (a) Community service for not more than 60 days.
 - (b) A fine of not more than \$500.00.
 - (c) Imprisonment for not more than 93 days.
- In the judgment of sentence under this section, the court may, unless the vehicle is ordered forfeited under MCL 257.625(b), order vehicle immobilization as provided in MCL 257.904(d).
- (6) If a person is convicted for violating subsection (1), the person is guilty of a misdemeanor punishable by one or more of the following:
- (a) Community service for not more than 45 days.
 - (b) Imprisonment for not more than 93 days.
 - (c) A fine of not less than \$100.00 or more than \$500.00.
- (7) A person who is convicted of violating subsection (2) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not less than \$100.00 or more than \$500.00, or both.
- (8) A person who is convicted of violating subsection (3) is guilty of a misdemeanor punishable by one or more of the following:
- (a) Community service for not more than 45 days.
 - (b) Imprisonment for not more than 93 days.
 - (c) A fine of not more than \$300.00.
- (9) If a person is convicted of violating subsection (4), all of the following apply:
- (a) Except as otherwise provided in subsection (b), the person is guilty of a misdemeanor punishable by one or more of the following:
 - (i) Community service for not more than 45 days.
 - (ii) A fine of not more than \$250.00.

- (b) If the violation occurs within 7 years of 1 or more prior convictions, the person may be sentenced to 1 or more of the following:
- (i) Community service for not more than 60 days.
 - (ii) A fine of not more than \$500.00.
 - (iii) Imprisonment for not more than 93 days.
- (10) In addition to imposing the sanctions prescribed under this section, the court may order the person to pay the costs of the prosecution under the Code of Criminal Procedure, 1927 PA 175, MCL 760.1 to 776.22.
- (11) A person sentenced to perform community service under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.
- (12) If a person is charged with a violation of subsection (1), (3) or (5), or MCL 275.625(m), the court shall not permit the defendant to enter a plea of guilty or nolo contendere to a charge of violating subsection (4) in exchange for dismissal of the original charge. This subsection does not prohibit the court from dismissing the charge upon the prosecuting attorney's motion.
- (13) Except as otherwise provided in subsection (15), if a person is charged with operating a vehicle while under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance in violation of subsection (1), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether the person was under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.
- (14) Except as otherwise provided in subsection (15), if a person is charged with operating a vehicle while his or her ability to operate the vehicle was visibly impaired due to his or her consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance in violation of subsection (3), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether, due to the consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance, the person's ability to operate a motor vehicle was visibly impaired at the time of the violation.

- (15) A special verdict described in subsections (13) and (14) is not required if a jury is instructed to make a finding solely as to either of the following:
- (a) Whether the defendant was under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.
 - (b) Whether the defendant was visibly impaired due to his or her consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.
- (16) If a jury or court finds under subsection (13), (14) or (15) that the defendant operated a motor vehicle under the influence of or while impaired due to the consumption of a controlled substance or a combination of a controlled substance and an intoxicating liquor, the court shall do both of the following:
- (a) Report the finding to the Secretary of State.
 - (b) On a form or forms prescribed by the State Court Administrator, forward to the Department of State Police a record that specifies the penalties imposed by the court, including any term of imprisonment, and any sanction imposed under MCL 257.625(n) or MCL 257.904(d).
- (17) Except as otherwise provided by law, a record described in subsection (16)(b) is a public record and the Department of State Police shall retain the information contained on that record for not less than 7 years.
- (18) In a prosecution for a violation of subsection (4), the defendant bears the burden of proving that the consumption of intoxicating liquor was a part of a generally recognized religious service or ceremony by a preponderance of the evidence.
- (19) If a person refuses a chemical test offered pursuant to MCL 257.625(a)(6) or submits to a chemical test or a chemical test is performed pursuant to a court order and the test reveals an unlawful alcohol content, the peace officer who requested the person to submit to the test shall do all of the following:
- (a) On behalf of the Secretary of State, immediately confiscate the person's license or permit to operate a motor vehicle and, if the person is otherwise eligible for a license or permit, issue a temporary license or permit to the person. The temporary license or permit shall be on a form provided by the Secretary of State.
 - (b) Except as provided in subsection (2), immediately do all of the following:
 - (i) Forward a copy of the written report of the person's refusal to submit to a chemical test required under MCL 257.625(d) to the Secretary of State.

- (ii) Notify the Secretary of State by means of the law enforcement information network that a temporary license or permit was issued to the person.
 - (iii) Destroy the person's driver's license or permit.
- (20) If a person submits to a chemical test offered pursuant to MCL 257.625(a)(6) that requires an analysis of blood or urine and a report of the results of that chemical test is not immediately available, the peace officer who requested the person to submit to the test shall comply with subsection (19)(a) pending receipt of the test report. If the report reveals an unlawful alcohol content, the peace officer who requested the person to submit to the test shall immediately comply with subsection (19)(b). If the report does not reveal an unlawful alcohol content, the peace officer who requested the person to submit to the test shall immediately notify the person of the test results and immediately return the person's license or permit by first-class mail to the address given at the time of arrest.
- (21) A temporary license or permit issued under this section is valid for 1 of the following time periods:
 - (a) If the case is not prosecuted, for 90 days after issuance or until the person's license or permit is suspended pursuant to MCL 257.625(f), whichever occurs earlier. The prosecuting attorney shall notify the Secretary of State if a case referred to the prosecuting attorney is not prosecuted. The arresting law enforcement agency shall notify the Secretary of State if a case is not referred to the prosecuting attorney for prosecution.
 - (b) If the case is prosecuted, until the criminal charges against the person are dismissed, the person is acquitted of those charges, or the person's license or permit is suspended, restricted, or revoked.
- (22) As used in this section, "unlawful alcohol content" means any of the following, as applicable:
 - (a) If the person tested is less than 21 years of age, 0.02 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
 - (b) If the person tested was operating a commercial motor vehicle within this state, 0.04 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
 - (c) If the person tested is not a person described in subsection (a) or (b), 0.10 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

Sec. 5.15a. Arrest without warrant; preliminary chemical test; chemical tests; presumption; refusal. (Repealed)

(EDITOR'S NOTE: Section 5.15a was repealed by implication by Ordinance 251, passed September 21, 1999. See Section 5.15.)

Sec. 5.15b. Arraignment; pretrial conference; trial; screening and assessment; prior convictions; suspended and restricted license. (Repealed)

(EDITOR'S NOTE: Section 5.15b was repealed by implication by Ordinance 251, passed September 21, 1999. See Section 5.15.)

Sec. 5.15c. Consent to chemical tests. (Repealed)

(EDITOR'S NOTE: Section 5.15c was repealed by implication by Ordinance 251, passed September 21, 1999. See Section 5.15.)

Sec. 5.15d. Chemical test refusal; court order. (Repealed)

(EDITOR'S NOTE: Section 5.15d was repealed by implication by Ordinance 251, passed September 21, 1999. See Section 5.15.)

Sec. 5.15e. Forfeiture; hearing; priority; penalties. (Repealed)

(EDITOR'S NOTE: Section 5.15e was repealed by implication by Ordinance 251, passed September 21, 1999. See Section 5.15.)

Sec. 5.62a. Driving while license suspended; vehicle immobilization. (Added)

(1) A person whose operator's or chauffeur's license or registration certificate has been suspended or revoked and who has been notified as provided in section MCL 257.212 of that suspension or revocation, whose application for license has been denied or who has never applied for a license, shall not operate a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within this City.

(2) A person shall not knowingly permit a motor vehicle owned by the person to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state by a person whose license or registration certificate is suspended or revoked, whose application for a license has been denied, or who has never applied for a license, except as permitted under this act.

(3) Except as otherwise provided in this section, a person who violates subsection (1) or (2) is guilty of a misdemeanor punishable as follows: for a first violation, by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both. Unless the vehicle was stolen or used with the permission of a person who did not knowingly permit an unlicensed driver to operate the vehicle, the registration plates of the vehicle shall be canceled by the Secretary of State upon notification by a peace officer.

(4) Before a person is arraigned before a district court magistrate or judge on a charge of violating this section, the arresting officer shall obtain the person's driving record from the Secretary of State and shall furnish the record to the court. The driving record of the person may be obtained from the Secretary of State's computer information network.

(5) This section does not apply to a person who operates a vehicle solely for the purpose of protecting human life or property if the life or property is endangered and summoning prompt aid is essential.

(6) A person whose vehicle group designation is suspended or revoked and who has been notified as provided in MCL 257.212 of that suspension or revocation, or whose application for a vehicle group designation has been denied as provided in this act, or who has never applied for a vehicle group designation and who operates a commercial motor vehicle within this state, except as permitted under this act, while any of those conditions exists, is guilty of a misdemeanor punishable, except as otherwise provided in this section, by imprisonment for not less than 3 days or more than 93 days or a fine of not more than \$100.00, or both.

(7) For purposes of this section, a person who never applied for a license includes a person who applied for a license, was denied, and never applied again.

(8) When a peace officer detains the driver of a motor vehicle for a violation of a law of this state or local ordinance for which vehicle immobilization is required, the peace officer shall do all of the following:

- (a) Immediately confiscate the vehicle's registration plate and destroy it.
- (b) Issue a temporary vehicle registration plate for the vehicle in the same form prescribed by the Secretary of State for temporary registration plates issued under MCL 257.226(a) or (b).
- (c) Place the temporary vehicle registration plate on the vehicle in the manner required by the Secretary of State.
- (d) Notify the Secretary of State through the law enforcement network in a form prescribed by the Secretary of State that the registration plate was confiscated and destroyed, and a temporary plate was issued.

(9) A temporary vehicle registration plate issued under subsection (8) is valid until the charges against the person are dismissed, the person pleads guilty or nolo contendere to those charges, or the person is found guilty of or is acquitted of those charges.

(10) A court shall order a vehicle immobilized under MCL 257.904(d) by the use of any available technology approved by the court that locks the ignition, wheels, or steering of the vehicle or otherwise prevents any person from operating the vehicle or that prevents the defendant from operating the vehicle. If a vehicle is immobilized under this section, the court may order the vehicle stored at a location and in a manner considered appropriate by the court. The court may order the person convicted of violating MCL 257.625 or a suspension, revocation, or denial under MCL 257.904 to pay the cost of immobilizing and storing the vehicle.

(11) A vehicle subject to immobilization under this section may be sold during the period of immobilization, but shall not be sold to a person who is exempt from paying a use tax under section 3 (3) (a) of the Use Tax Act, 1937 PA 94, MCL 205.93, without a court order.

(12) A defendant who is prohibited from operating a motor vehicle by vehicle immobilization shall not purchase, lease, or otherwise obtain a motor vehicle during this immobilization period.

(13) A person shall not remove, tamper with, or bypass or attempt to remove, tamper with, or bypass a device that he or she knows or has reason to know has been installed on a vehicle by court order by vehicle immobilization, or operate or attempt to operate a vehicle that he or she knows or has reason to know has been ordered immobilized.

(14) A person who violates any provision of subsection (11), (12) or (13) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.

(15) To the extent that a local ordinance regarding the storage or removal of vehicles conflicts with an order of immobilization issued by the court, the local ordinance is preempted.

(16) If a peace officer stops a vehicle that is being operated in violation of an immobilization order, the vehicle shall be impounded pending an order of a court of competent jurisdiction.

(17) The court shall require the defendant or a person who provides immobilization services to the court under this section to certify that a vehicle ordered immobilized by the court is immobilized as required.

Sec. 5.63b. Production of evidence of insurance. (Added)

- (1) The owner or operator of a motor vehicle who operates or permits its operation upon a street or other area open for travel to the public shall produce, upon the request of any police officer, evidence that the vehicle is insured.
- (2) Every owner or operator of a motor vehicle who fails to produce evidence when requested to do so, or within 72 hours thereafter, is guilty of a civil infraction.
- (3) Every owner or operator of a motor vehicle who knowingly produces false evidence of automobile insurance under this section is guilty of a misdemeanor.

Sec. 5.82. Mandatory child restraints. (Added)

- (1) Except as provided in this section, or as otherwise provided by law, a rule promulgated pursuant to Act 306 of the Public Acts of 1969, as amended, being M.C.L.A. 24.201 to 24.315, as amended, or pursuant to federal regulation, each driver transporting a child in a motor vehicle shall properly secure each child in a child restraint system as follows:
 - (a) Any child less than 1 year of age, in a child restraint system which meets the standards prescribed in 49 C.F.R. 571.213;
 - (b) Any child 1 year of age or more but less than 4 years of age, when transported in the front seat, in a child restraint system which meets the standards prescribed in 49 C.F.R. 571.213;
 - (c) Any child 1 year of age or more but less than 4 years of age, when transported in the rear seat, in a child restraint system which meets the standards prescribed in 49 C.F.R. 571.213, unless the child is secured by a safety belt provided in the motor vehicle.
- (2) This section does not apply to a nonresident driver transporting a child in this state or to any child being nursed.
- (3) 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 section 710b of the Michigan motor vehicle code or under federal law or regulations.
- (4) A person who violates this section is responsible for a civil infraction.
- (5) Points shall not be assessed for a violation of this section.

- (6) The secretary of state may exempt, by rules promulgated pursuant to Act 306 of the Public Acts of 1969, as amended, a class of children from the requirements of this section, if the secretary of state determines that the use of the child restraint system required under subsection (1) hereof is impractical because of physical unfitness, a medical problem or body size. The secretary of state may specify alternate means of protection for children exempted under this subsection. (Ord. 185. Passed 5-3-83; Ord. 186. Passed 7-19-83; Ord. 219. Passed 3-3-92; Ord. 224. Passed 5-4-93; Ord. 226. Passed 9-21-93; Ord. 233. Passed 12-20-94; Ord. 241. Passed 1-16-96; Ord. 246. Passed 5-20-97; Ord. 251. Passed 9-21-99; Ord. 252. Passed 9-21-99.)

EDITOR'S NOTE: BECAUSE OF THE 2000 UPDATING AND REVISION OF THESE CODIFIED ORDINANCES, THE NEXT NUMBERED PAGE IS PAGE 28A.