

Michigan's Super Drunk Law

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Where We've Been

September 1897



The first drunk-driving arrest was made. The man arrested was George Smith, a London taxi driver who slammed his cab into a building while under the influence of alcohol. Smith ended up pleading guilty and paid a fine of 25 shillings.

Where We've Been

1910



Became the first state to adopt a DUI law. California soon followed.



Where We've Been

1910

Early laws simply prohibited driving while intoxicated, requiring proof of a state of intoxication with no specific definition of what level of inebriation qualified.



Where We've Been

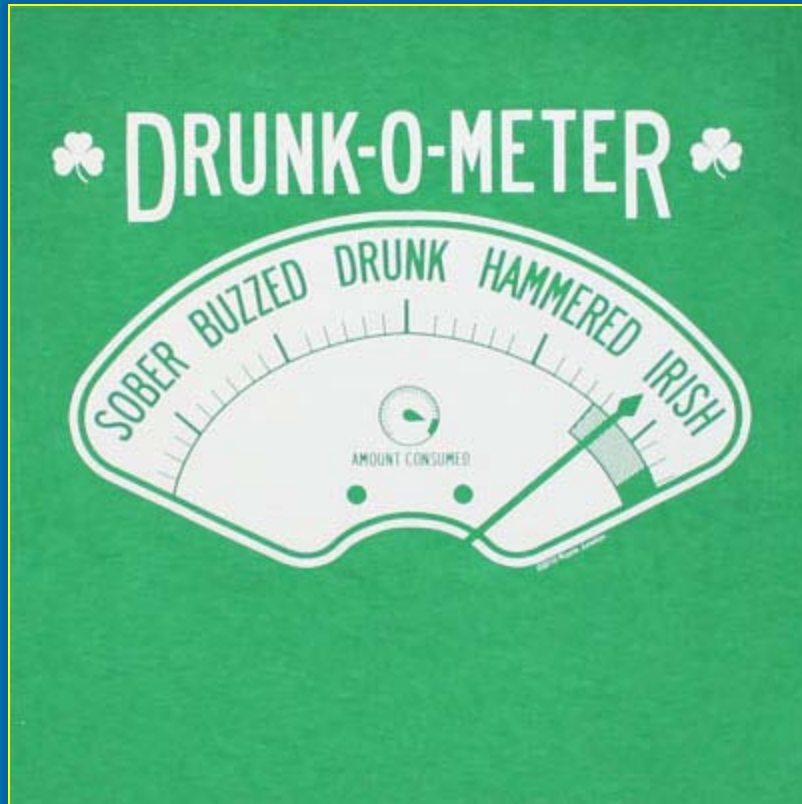
1917

As early as 1917 in Michigan, there has been some criminal offense related to operating a moving conveyance of one type or another while under the influence of alcohol.



Where We've Been

1936



Dr. Rolla Harger, a professor of toxicology and biochemistry, patented the Drunkometer. This balloon like device, which people breathed in to, was used to determine whether or not someone was inebriated.

Where We've Been

1948



Michigan makes first marked changes including the first implied consent law.

Where We've Been

1953



Robert Borkenstein, a former police captain and university professor who helped develop the Drunkometer, invented the Breathalyzer. This machine used chemical oxidation and photometry to determine alcohol concentration.

Where We've Been

1967



In 1967, Ohio began to issue special license plates to DUI offenders. However, judges rarely enforced the plates, so in 2004, the plates became mandated by state law to all DUI offenders.

Where We've Been

1970s



People begin to be made aware of the dangers of drinking and driving. During this time lawmakers and police officers began to get tougher on drunk drivers.

Where We've Been

1980s



Let's **ELIMINATE** Drunk Driving

The Mothers Against Drunk Drivers, or MADD, was founded by a California woman named Candy Lightner after her 13-year-old daughter was killed on her way home from a school carnival by a drunk driver. The driver had three previous DUI convictions and was out on bail from a hit-and-run arrest two days earlier.

Where We've Been

1980s

Prior to increased emphasis on drinking and driving in the 1980s, standards of .10-.15% were in place.



Where We've Been



First modern major Michigan DUI law revision creating current OWI paradigm and removing license sanctions from courts.

Where We've Been

2003



Next Major Michigan revision, this time lowering the legal limit and further increasing some sanctions.

Where We've Been

2010

Michigan Super Drunk
Law goes into effect
October 31, 2010.



Where are we Now?



SUPER DRUNK

- Michigan drivers with a bodily alcohol content (BAC) of .17 or greater will face significantly enhanced penalties

To Whom Does Law Apply?

- These newly enhanced sanctions are applicable only to first time high BAC offenders. Second and subsequent offense license and punitive sanctions remain unchanged regardless of the driver's BAC.

One Year Treatment

- These newly enhanced sanctions are applicable only to first time high BAC offenders. Second and subsequent offense license and punitive sanctions remain unchanged regardless of the driver's BAC.

One Year Treatment

- Now, the only time such treatment will not be mandatory is if the driver is convicted of a traditional “low BAC” first offense.





Enhanced Punitive Sanctions

- In addition to treatment, a high BAC driver will also be exposed to an array of enhanced punitive sanctions. These sanctions include an increase in fines from \$200.00 - \$700.00, and an increase in the potential jail time from 93 days to 180 days

Enhanced License Sanctions

- Upon notice of a conviction under the new law for a high BAC offense the Secretary of State will suspend driving privileges for one year.



Enhanced License Sanctions

- The first 45 days of this suspension is a “hard” suspension, meaning no driving is allowed. During the remaining 320 days the offender is entitled to restricted privileges, but only if they pay to have a breath alcohol ignition interlock device (BAIID) placed on their car during this period

Enhanced License Sanctions

- The statute also provides that multiple offenders who have had their driver license revoked may only have a restricted license with a BAID for one year, and the BAID may only be removed by “departmental order.” MCL § 257.322(9)

Operating Without BAIID

- The new amendments also create a second new offense related to the monitoring of the BAIID. Accordingly, any violation of the driving restrictions imposed, or operating or attempting to operate a BAIID equipped vehicle with a BAC of 0.025 or greater results in a doubling of the license penalty.

Operating Without BAIID

- Thus, offenders who violate their license restrictions in this way will have a second set of identical driver license sanctions imposed, meaning a new 45 day period of no driving followed by 320 days of restricted driving with the BAIID.

Details Regarding BAIID

- While the pre-amendment law provided for the use of a BAIID under other circumstances, including as a condition of bond or probation, several amendments have also been made relative to this device.

Details Regarding BAIID

- For example, approved devices are now specifically defined as those that meet or exceed the specifications appearing on the 1992 Federal Register conforming products list.

Details Regarding BAIID

- These devices use “alcohol-specific electrochemical fuel sensor technology,” and the statute requires that certain “anticircumvention” technology be employed.

Details Regarding BAIID

- Once installed, a typical BAIID requires a driver to blow into the device when they first start their car, and then retest within the first 5 to 15 minutes. The BAIID will not allow the car to be started if it detects a BAC of .025 or greater.

Details Regarding BAIID

- When driving for longer periods of time the driver must also test about twice every hour. The device records the date and time of each test and any violation is reported to the monitoring agency.

Details Regarding BAIID

- If a BAC of greater than .025 is detected during operation a “warning signal” will be emitted, and after coming to a complete stop the car cannot be re-started until the driver has a BAC of less than .025.

Details Regarding BAIID



- A person required to have an ignition interlock cannot operate a vehicle not equipped with an ignition interlock

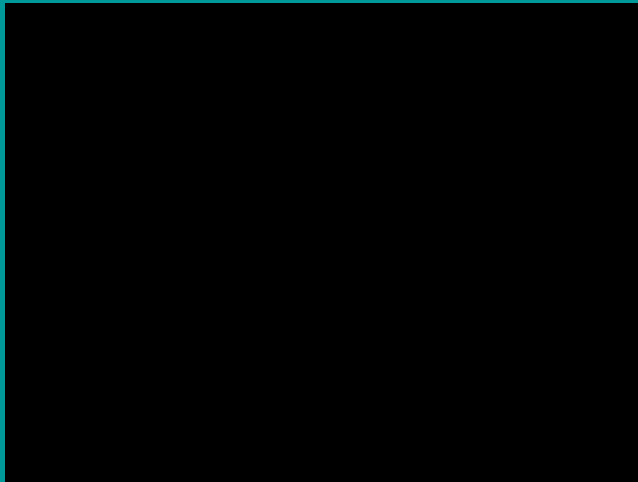
Non-BAIID Vehicle

- The amended law also provides for impoundment where a person required to have a BAIID is stopped in a car without one will have. If this “non-BAIID” vehicle is individually or jointly owned, the vehicle registration plate will be confiscated and destroyed.

Details Regarding BAID

- A new temporary plate will be issued and the Secretary of State will be notified. This is considered to be an “offending vehicle” sanction, meaning the owner and not necessarily the driver of the car remains liable for all expenses incurred in the removal and storage of the vehicle.

Ignition Interlock



Fewer Local Prosecutors

- Michigan law provides that a village, charter village, township and charter township may create and enforce ordinances with penalties up to 93 days, while cities with populations under 10,000 may create and enforce ordinances with penalties of up to 180 days.

Fewer Local Prosecutors

- However, these cities will be in the minority, because most cities have adopted a charter which would put them into the Home Rule City Act which again limits prosecutions to crimes punishable by up to 93 days.

Fewer Local Prosecutors

- Because a Michigan super drunk can now be incarcerated for up to 180 days, only a small number of city prosecutors will be able to prosecute this new crime. Otherwise, super drunk drivers can only be prosecuted at the state level, i.e., by county prosecutors.



New January Law

- On January 1, 2011, the new DWI/sobriety court interlock program goes into effect.





New January Law

- It is only available to persons who have multiple OWI/Impaired convictions.
- Further, it is available only to those arrested after January 1, 2011 who have access to sobriety court and interlock installed.

New January Law

- It apparently is not available if one of the convictions is for 625(2), (4), (5), (6), or (7), except that if the 625(6) was from another state or local jurisdiction.

New January Law

- The statute allows the SOS to issue a restricted license after 45 days, only after the sobriety court judge verifies to the SOS that the defendant is enrolled in sobriety court and that interlock has been installed in the vehicle.

New January Law

- However, the restricted license is only valid on the vehicle equipped with the interlock device. More importantly, it only permits travel to and from home, work, school, and court ordered treatment

New January Law

- It is important to note that it does not allow travel during the course of business. Additionally, it does not allow travel to court or probation. Also, it only allows travel to court ordered treatment, not treatment that is not court ordered.

New January Law

- The restricted license shall be in effect until the SOS issues an unrestricted license. The unrestricted license cannot issue until the driver successfully completes drug court and the full period of suspension/revocation has elapsed

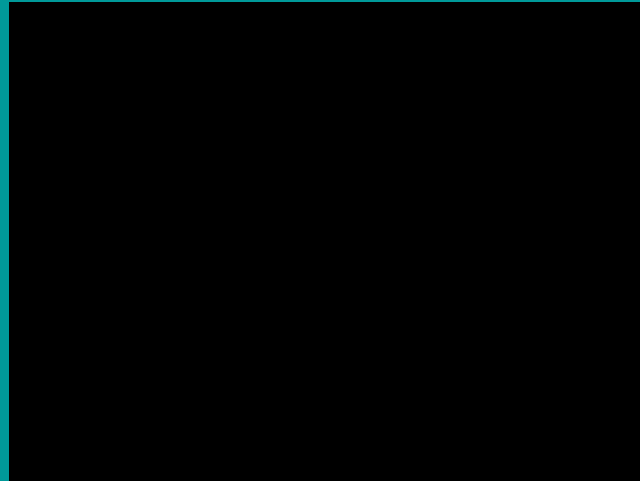
New January Law

- If the driver violates drug court or the interlock period the SOS shall suspend the restricted license and the driver will suffer the full length of the original suspension/revocation period.

New January Law

- Other advantages of the program are that the Driver Responsibility Fee is held in abeyance and not due until the loss of/end of the restricted license period. Additionally, the vehicle is exempt from immobilization and forfeiture.

Where are We Headed?



Final Advice

